



LAWS OF ALASKA

1992

First Special Session

Source

SCS CSHB 596(FIN) am S

Chapter No.

2

AN ACT

Relating to the powers, duties, and operations of certain state agencies, including those of the Alaska Science and Technology Foundation, fees and charges collected by agencies, the disposal or leasing of state land or interests in state land, the management of public recreational land and the management of state parks and recreation areas, vehicle registration, state procurements, the employment assistance and training program fund, contracts relating to prisoners, and the recording of public documents; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: June 22, 1992

Actual Effective Date: Sections 22 and 26 take effect December 31, 1994;

AS 16.05.340(a), as amended by sec. 2, takes effect January 1, 1993;
remainder of Act takes effect July 1, 1992

AN ACT

1 Relating to the powers, duties, and operations of certain state agencies, including those of the Alaska
2 Science and Technology Foundation, fees and charges collected by agencies, the disposal or leasing of
3 state land or interests in state land, the management of public recreational land and the management of
4 state parks and recreation areas, vehicle registration, state procurements, the employment assistance and
5 training program fund, contracts relating to prisoners, and the recording of public documents; and
6 providing for an effective date.

7

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 AS 08.01.065(c) is repealed and reenacted to read:

9 (c) The department shall establish fee levels under (a) of this section so that the total
10 amount of fees collected for an occupation approximately equals the actual regulatory costs for
11 the occupation. The department shall annually review each fee level to determine whether the
12 regulatory costs of each occupation are approximately equal to fee collections related to that
13 occupation. If the review indicates that an occupation's fee collections and regulatory costs are

Chapter 2

not approximately equal, the department shall calculate fee adjustments and adopt regulations under (a) of this section to implement the adjustments. In January of each year, the department shall report on all fee levels and revisions for the previous year under this subsection to the office of management and budget. If a board regulates an occupation covered by this chapter, the department shall consider the board's recommendations concerning the occupation's fee levels and regulatory costs before revising fee schedules to comply with this subsection. In this subsection, "regulatory costs" means costs of the department that are attributable to regulation of an occupation plus

- (1) all expenses of the board that regulates the occupation if the board regulates only one occupation;
- (2) the expenses of a board that are attributable to the occupation if the board regulates more than one occupation.

* Sec. 2. AS 16.05.340(a) is amended to read:

(a) Fees for licenses and tags are as follows:

- (1) Resident sport fishing license \$ 15 [10]

However, the fee is 25 cents for a resident who is blind.

- (2) Resident hunting license 25 [12]
- (3) Resident hunting and trapping license 40 [22]
- (4) Resident trapping license 15 [10]
- (5) Resident hunting and sport fishing license 40 [22]
- (6) Resident hunting, trapping, and sport fishing license 55 [32];

(A) however, the fee is \$5 for an applicant who

- (i) is receiving or has received assistance during the preceding six months under any state or federal welfare program to aid the indigent, or
- (ii) has an annual family gross income of less than \$8,200 for the year preceding application;

(B) a person paying \$5 for a resident hunting, trapping, and sport fishing license must provide proof of eligibility under this paragraph when requested by the departments.

- (7) Nonresident special sport fishing license - valid for the period inscribed on

the license

1	(A) For 14-day license	\$ 30
2	(B) For three-day license	15
3	(C) For one-day license	10
4	(8) Nonresident sport fishing license	50
5	(9) Nonresident hunting license	85
6	(10) Nonresident hunting and sport fishing license	135
7	A nonresident may not take a big game animal without previously purchasing a numbered,	
8	nontransferable, appropriate tag, issued under (15) of this subsection. The tag must be affixed	
9	to the animal immediately upon capture and must remain affixed until the animal is prepared for	
10	storage, consumed, or exported. A tag issued but not used for an animal may be used to satisfy	
11	the tagging requirement for an animal of any other species for which the tag fee is of equal or	
12	less value.	
13	(11) Nonresident hunting and trapping license	\$250
14	(12) Fur dealers	
15	(A) Resident fur dealer biennial license	150
16	(B) Nonresident fur dealer biennial license	500
17	(13) Taxidermists	
18	(A) Resident taxidermy biennial license	200
19	(B) Nonresident taxidermy biennial license	500
20	(14) Aquatic farming triennial license	400
21	(15) Nonresident big game tags	
22	(A) Bear, black, each	225
23	(B) Bear, brown or grizzly, each	500
24	(C) Bison, each	450
25	(D) Caribou, each	325
26	(E) Deer, each	150
27	(F) Elk, each	300
28	(G) Goat, each	300
29	(H) Moose, each	400
30	(I) Sheep, each	425
31	(J) Wolf, each	175

Chapter 2

1 (K) Wolverine, each 175
2 (L) Musk oxen, each 1,100
3 (16) Resident big game tags
4 (A) Bear, brown or grizzly, each \$25
5 The Board of Game may, by regulation effective for not more than one year, eliminate the
6 resident brown or grizzly bear tag and fee for all or a portion of a game management unit.
7 (B) Musk oxen, each 500
8 However, the Board of Game may by regulation reduce or eliminate the fee for a resident big
9 game tag for musk oxen for an open season.
10 (17) Waterfowl conservation tag 5
11 (A) A person may not engage in waterfowl hunting without having the
12 current year's waterfowl tag in the person's actual possession, unless that person
13 (i) qualifies for a \$5 license fee under (6) of this subsection;
14 (ii) is a resident under the age of 16;
15 (iii) is 60 years of age or older and is a resident;
16 (iv) is a disabled veteran eligible for a free license under
17 AS 16.05.341.
18 (B) The Board of Game shall by regulation exempt the requirement of a
19 waterfowl conservation tag for waterfowl hunting in areas of the state not likely to benefit
20 from programs described in AS 16.05.130(b)(2) - (4).
21 (18) Game farming
22 (A) Game mammal or game reptile farming biennial license . . . \$250
23 (B) Game bird farming biennial license 50
24 (19) Nonresident small game hunting license 20
25 (20) Nonresident alien hunting license 300
26 A nonresident alien may not take a big game animal without previously purchasing a numbered,
27 nontransferable, appropriate tag, issued under (21) of this subsection. The tag must be affixed
28 to the animal immediately upon capture and must remain affixed until the animal is prepared for
29 storage, consumed, or exported. A tag issued but not used for an animal may be used to satisfy
30 the tagging requirement for an animal of any other species for which the tag fee is of equal or
31 less value.

1 (21) Nonresident alien big game tags

2 (A) Bear, black, each \$300

3 (B) Bear, brown or grizzly, each 650

4 (C) Bison, each 650

5 (D) Caribou, each 425

6 (E) Deer, each 200

7 (F) Elk, each 400

8 (G) Goat, each 400

9 (H) Moose, each 500

10 (I) Musk oxen, each 1,500

11 (J) Sheep, each 550

12 (K) Wolf, each 250

13 (L) Wolverine, each 250

14 (22) Chitina personal use salmon dip net fishing permit 10

15 **(23) Resident king salmon tag 10**

16 **A resident may not engage in sport fishing for king salmon without having the current**

17 **year's king salmon tag in the resident's actual possession, unless that person**

18 **(A) qualifies for a 25 cent license fee under (1) of this subsection;**

19 **(B) is under the age of 16;**

20 **(C) is 60 years of age or older and has been a resident of the state for**

21 **at least one year;**

22 **(D) is a disabled veteran eligible for a free license under AS 16.05.341;**

23 **or**

24 **(E) qualifies for a \$5 license fee under (6) of this subsection.**

25 **(24) Nonresident king salmon tag \$20**

26 **A nonresident may not engage in sport fishing for king salmon without having the current**

27 **year's king salmon tag in the person's actual possession.**

28 * Sec. 3. AS 18.31.200 is amended by adding a new subsection to read:

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

30 (1) review, approval, and certification of asbestos training certification programs

31 and plans under this section; and

Chapter 2

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

* Sec. 4. AS 28.10.161(b) is amended to read:

(b) Every [AFTER JANUARY 1, 1979, EVERY] passenger vehicle registration plate, except as specifically provided in AS 28.10.181, shall have displayed upon it

(1) the Alaska flag;

(2) the traditional colors of yellow-gold and blue;

(3) the slogan "The Last Frontier";

(4) the registration number assigned to the vehicle for which it is issued;

(5) the name of this state, which may be abbreviated; and

(6) the registration year number or expiration date for which time it is validated;

the registration year number or expiration date may be part of the license plate or contained on a suitable sticker or tab device issued by the department; however, only one sticker or tab device may be issued for each pair of plates and the sticker or tab device must be affixed to the rear plate.

* Sec. 5. AS 33.30.031(a) is amended to read:

(a) The commissioner shall determine the availability of state correctional facilities suitable for the detention and confinement of persons held under authority of state law or under agreement entered into under (c) of this section. If the commissioner determines that suitable state correctional facilities are not available, the commissioner may enter into an agreement with a public or private agency to provide necessary facilities. Correctional facilities provided through agreement with a public agency for the detention and confinement of persons held under authority of state law may be in this state or in another state. Correctional facilities provided through agreement with a private agency must be located in this state unless the commissioner finds in writing that (1) there is no other reasonable alternative for detention in the state; and (2) the agreement is necessary because of health or security considerations involving a particular prisoner or class of prisoners, or because an emergency of prisoner overcrowding is imminent. The commissioner may not enter into an agreement with an agency unable to provide a degree of custody, care, and discipline similar to that required by the laws of this state.

* Sec. 6. AS 33.30.231 is amended by adding a new subsection to read:

(d) Notwithstanding (a) of this section, the department may contract under AS 36.30 for

1 telephone services for use by a prisoner.

2 * Sec. 7. AS 36.30.100(b) is amended to read:

3 (b) Competitive sealed bidding is not required

4 (1) when the commissioner determines in writing that food, clothing, or medical
5 supplies, or supplies [MATERIALS] for use in laboratory or medical studies may be purchased
6 otherwise to the best advantage of the state;

7 (2) [WHEN RATES ARE FIXED BY LAW OR ORDINANCE;

8 (3)] for the purchase of products or services manufactured or provided by an
9 employment program; or

10 (3) [(4)] for the purchase of products or services provided by the correctional
11 industries program established under AS 33.32 [;

12 (5) FOR PROFESSIONAL SERVICES; OR

13 (6) FOR CONCESSIONS OPERATED ON STATE PROPERTY].

14 * Sec. 8. AS 36.30.320(a) is amended to read:

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

18 * Sec. 9. AS 36.30.850(b) is amended by adding new paragraphs to read:

19 (23) disposals of supplies acquired through foreclosure of loans issued under
20 AS 03.10;

21 (24) purchases of curatorial and conservation services to maintain, preserve, and
22 interpret

23 (A) objects of art; and

24 (B) items having cultural, historical, or archaeological significance to the
25 state;

26 (25) acquisition of confidential seismic survey data necessary for pre-sale oil and
27 gas lease analyses under AS 38.05.180;

28 (26) contracts for village public safety officers;

29 (27) purchases of supplies and services to support the operations of the Alaska
30 state troopers or the division of fish and wildlife protection if the procurement officer for the
31 Department of Public Safety makes a written determination that publicity of the purchases would

Chapter 2

1 jeopardize the safety of personnel or the success of a covert operation;

2 (28) expenditures when rates are set by law or ordinance;

3 (29) construction of new vessels by the Department of Transportation and Public
4 Facilities for the Alaska marine highway system.

5 * Sec. 10. AS 37.10.050 is amended by adding new subsections to read:

6 (d) Each state agency shall annually review fees and charges collected by the agency.
7 By October 1, each state agency shall submit a report to the office of management and budget
8 regarding existing fee levels set by the agency by regulation and adjustments made to fee levels
9 by the agency during the previous fiscal year, and recommended adjustments in fees set by
10 statute that the agency collects. Each year by December 15, the office of management and
11 budget shall submit a report to the Legislative Budget and Audit Committee summarizing the
12 reports and recommendations and the extent to which the fee adjustments have been incorporated
13 in the governor's budget. Within 30 days after the convening of each regular session of the
14 legislature, the committee shall report to the legislature the status of fee regulations and make
15 recommendations for changes in regulations or statutes as appropriate.

16 (e) In this section, "agency" means a board, commission, or agency in the legislative,
17 judicial, or executive branch, but does not include the University of Alaska or a public
18 corporation.

19 * Sec. 11. AS 37.17.030(b) is amended to read:

20 (b) In addition to endowment income, the foundation may receive individual,
21 foundation, or corporate gifts, grants, or bequests. By their terms these may be restricted
22 to a particular purpose [AND OTHER AID]. The foundation may accumulate income, gifts,
23 grants, and bequests [OTHER AID] from any one year and distribute them in a later year.

24 * Sec. 12. AS 37.17.030(c) is amended to read:

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

30 * Sec. 13. AS 37.17.030(d) is amended to read:

31 (d) Except for payments under (c) of this section, the [THE] board of directors shall

1 distribute the income of the endowment through competitive grants under this chapter. The board
2 may disburse money that is received by the foundation for special or general purposes.

3 * Sec. 14. AS 38.05.075(a) is amended to read:

4 (a) Except as provided in AS 38.05.035, 38.05.070, 38.05.073, 38.05.079, 38.05.082,
5 38.05.083, 38.05.087, 38.05.102, 38.05.810, [AS 38.05.087] and this section, leasing shall be
6 made at public auction to the highest qualified bidder as determined by the commissioner. In
7 the public notice of a lease to be offered at public auction, the commissioner shall specify
8 a minimum acceptable bid and the lease compensation method. The lease compensation
9 method shall be designed to maximize the return on the lease to the state and shall be a
10 form of compensation set out in AS 38.05.073(m). An aggrieved bidder may appeal to the
11 commissioner within five days for a review of the determination. The leasing shall be conducted
12 by the commissioner and the successful bidder shall deposit at the auction the first year's rental
13 or other lease compensation as specified by the commissioner, or that portion of it that the
14 commissioner requires in accordance with the bid. The commissioner shall require, under
15 AS 38.05.860, qualified bidders to deposit a sum equal to any survey or appraisal costs
16 reasonably incurred by another qualified bidder acting in accordance with the regulations of the
17 commissioner or incurred by the department under AS 38.04.045 and AS 38.05.840. If a
18 bidder making a deposit of survey or appraisal costs is determined by the commissioner to be the
19 highest qualified bidder under this subsection, the deposit shall be paid to the unsuccessful bidder
20 who incurred those costs or to the department if the department incurred the costs. [ANY
21 SURVEY OR APPRAISAL COSTS REASONABLY INCURRED BY A QUALIFIED BIDDER
22 UNDER THE REGULATIONS OF THE COMMISSIONER OR DEPOSITED UNDER THIS
23 SUBSECTION MUST BE CREDITED UNDER THE FIRST AND THEN SUBSEQUENT
24 YEARS' RENTALS.] All costs for survey and appraisal shall be approved in advance in writing
25 by the commissioner. The commissioner shall immediately issue a receipt containing a description
26 of the land or interest leased, the price bid, and the terms of the lease [, AND THE AMOUNT
27 OF ANY CREDIT FOR SURVEY AND APPRAISAL COSTS] to the successful qualified
28 bidder. If the receipt is not accepted in writing by the bidder under this subsection, the
29 commissioner may offer the land for lease again under this subsection. A lease, on a form
30 approved by the attorney general, shall be signed by the successful bidder and by the
31 commissioner within the period specified in the auction notice [30 DAYS AFTER THE

Chapter 2

1 AUCTION].

2 * Sec. 15. AS 38.05.075(f) is amended to read:

3 (f) If, after completion of the procedures required by (e) of this section, the
4 commissioner determines that there is only one qualified bidder, the [THE] commissioner
5 may issue a lease without competitive bidding at the approved, appraised market value of the
6 land determined under AS 38.05.840 or by another form of lease compensation specified by
7 the commissioner from among those set out in AS 38.05.073(m) and designed to maximize
8 the return on the lease to the state [IF, AFTER COMPLETION OF THE PROCEDURES
9 REQUIRED BY (E) OF THIS SECTION, THE COMMISSIONER DETERMINES THAT
10 THERE IS ONLY ONE QUALIFIED BIDDER]. The commissioner may establish terms and
11 conditions for entry to the land pending survey and appraisal of the land. The commissioner
12 shall issue the lease as soon as is practicable following the survey and appraisal of the land
13 subject to the provisions of AS 38.05.035(e).

14 * Sec. 16. AS 38.05.085(c) is amended to read:

15 (c) The lessee shall make advance payments of the annual rent or other form of lease
16 compensation specified by the commissioner or that portion of it [AS] the [DIRECTOR, WITH
17 THE APPROVAL OF THE] commissioner [,] may require.

18 * Sec. 17. AS 38.05.105(a) is amended to read:

19 (a) Each lease shall stipulate that [AT THE CONCLUSION OF THE INITIAL 25-YEAR
20 PERIOD OF THE LEASE AND] at five-year intervals as specified in the lease [OF 10 YEARS
21 THEREAFTER] the annual rent payment or other form of lease compensation specified by the
22 commissioner is subject to adjustment. Changes [CHARGES] or adjustments shall be based
23 primarily on changes in the lease's [AN ADJUSTED] fair market value. However, if the
24 commissioner [DIRECTOR] determines that single-family residential development is the best
25 use of the land, the reappraisal period may be lengthened or the readjustment waived in
26 accordance with regulations adopted by the department. Before a waiver of rent adjustment is
27 issued, the land shall have a current reappraisal. A waiver is valid only if single-family
28 residential development actually occurs. The regulations adopted under this section shall ensure
29 that the state receives a fair return from the land.

30 * Sec. 18. AS 38.05.860(a) is amended to read:

31 (a) The commissioner [DIRECTOR] may require an applicant seeking the sale, lease,

1 or other disposal of land or an interest in land, other than under an oil and gas or mineral lease,
2 to deposit an amount covering the estimated cost of an appraisal, survey₂ and other costs
3 necessary to offer the land or interest in land, including advertising. All deposited funds not
4 expended shall be refunded to the applicant. If the land or interest in land is awarded [SOLD
5 OR LEASED] to a person other than the applicant making the deposit, the person [PARTY]
6 awarded the land shall pay the total actual cost incurred by the department in making the
7 disposal [OF APPRAISING AND SURVEYING THE LAND, TOGETHER WITH THE TOTAL
8 ACTUAL COST OF ADVERTISING], and the deposit shall be returned to the original applicant.
9 In lieu of requiring the deposit under this subsection, the commissioner may enter into an
10 agreement with an applicant seeking land or an interest in land requiring the applicant to
11 reimburse the department for costs incurred in the disposal if the applicant is awarded the
12 land or interest in land.

13 * Sec. 19. AS 41.21.020(a) is amended to read:

14 (a) The department shall

15 (1) develop a continuing plan for the conservation and maximum use in the public
16 interest of the scenic, historic, archaeological, scientific, biological, and recreational resources of
17 the state;

18 (2) plan for and develop a system of state parks and recreational facilities, to be
19 established as the legislature authorizes and directs;

20 (3) acquire by gift, purchase, or transfer from state or federal agencies, or from
21 individuals, corporations, partnerships or associations, land necessary, suitable and proper for
22 roadside, picnic, recreational₂ or park purposes;

23 (4) [CONTROL,] develop, manage, and maintain state parks and recreational
24 areas;

25 (5) provide for the acquisition, care, management [CONTROL], supervision,
26 improvement, development, extension₂ and maintenance of public recreational land, and make
27 necessary arrangements, contracts₂ or commitments for the improvement and development of land
28 acquired under AS 41.21.010 - 41.21.040; contracting for improvement and development under
29 this paragraph is governed by AS 36.30 (State Procurement Code);

30 (6) adopt, in accordance with this section and the Administrative Procedure Act
31 (AS 44.62), regulations governing the use and designating incompatible uses within the

Chapter 2

1 boundaries of state park and recreational areas to protect the property and to preserve the peace;

2 (7) cooperate with the United States and its agencies and local subdivisions of the
3 state to secure the effective supervision, improvement, development, extension, and maintenance
4 of state parks, state monuments, state historical areas, and state recreational areas, and secure
5 agreements or contracts for the purpose of AS 41.21.010 - 41.21.040;

6 (8) encourage the organization of state public park and recreational activities in
7 the local political subdivisions of the state;

8 (9) provide for consulting service designed to develop local park and recreation
9 facilities and programs;

10 (10) provide clearinghouse services for other state agencies concerned with park
11 and recreation matters;

12 (11) perform other duties as are prescribed by executive order or by law;

13 (12) maintain memorials to Alaska veterans located in state parks; and

14 (13) adopt, in accordance with the Administrative Procedure Act (AS 44.62),
15 regulations governing the use of the Chena River State Recreation Area and designating
16 incompatible uses within the boundaries of the Chena River State Recreation Area in accordance
17 with AS 41.21.490.

18 * Sec. 20. AS 42.05 is amended by adding a new section to read:

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

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

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

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

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

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

8 (e) The commission shall administer the charge imposed under this section. The
9 Department of Revenue shall collect and enforce the charge imposed under this section.

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

13 (g) The commission may adopt regulations under AS 44.62 (Administrative Procedure
14 Act) necessary to administer this section, including requirements and procedures for reporting
15 information and making quarterly payments. The Department of Revenue may adopt regulations
16 under AS 44.62 (Administrative Procedure Act) for investigating the accuracy of filed
17 information, and for collecting required payments.

18 (h) In this section,

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

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

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

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

30 * Sec. 21. AS 42.05.651(a) is amended to read:

31 (a) **During** [AFTER COMPLETION OF] a hearing or investigation held under this

Chapter 2

chapter, the commission may [SHALL] allocate the costs of the hearing or investigation among the parties, including the commission, as is just under the circumstances. In allocating costs, the commission shall consider the regulatory cost charge paid by a utility under AS 42.05.253 and may consider the results, ability to pay, evidence of good faith, other relevant factors, and mitigating circumstances. Notwithstanding an intervening party's ability to pay, if the commission determines that an intervening party has conducted its intervention in a frivolous manner, the commission shall allocate all costs associated with the intervention to that party. The costs allocated may include the costs of any time devoted to the investigation or hearing by hired consultants, whether or not the consultants appear as witnesses or participants. The costs allocated may also include any out-of-pocket expenses incurred by the commission in the particular proceeding. The commission shall provide an opportunity for any person objecting to an allocation to be heard before the allocation becomes final.

* Sec. 22. AS 42.05.651(a) is amended to read:

(a) After completion of [DURING] a hearing or investigation held under this chapter, the commission shall [MAY] allocate the costs of the hearing or investigation among the parties, including the commission, as is just under the circumstances. In allocating costs, the commission [SHALL CONSIDER THE REGULATORY COST CHARGE PAID BY A UTILITY UNDER AS 42.05.253 AND] may consider the results, ability to pay, evidence of good faith, other relevant factors and mitigating circumstances. Notwithstanding an intervening party's ability to pay, if the commission determines that an intervening party has conducted its intervention in a frivolous manner, the commission shall allocate all costs associated with the intervention to that party. The costs allocated may include the costs of any time devoted to the investigation or hearing by hired consultants, whether or not the consultants appear as witnesses or participants. The costs allocated may also include any out-of-pocket expenses incurred by the commission in the particular proceeding. The commission shall provide an opportunity for any person objecting to an allocation to be heard before the allocation becomes final.

* Sec. 23. AS 42.05.661 is amended to read:

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

* Sec. 24. AS 42.06 is amended by adding a new section to read:

1 Sec. 42.06.285. PIPELINE CARRIER REGULATORY COST CHARGE. (a) A pipeline
2 carrier operating in the state shall pay to the commission an annual regulatory cost charge in an
3 amount not to exceed .61 percent of gross revenue derived from operations in the state. A
4 regulatory cost charge may not be assessed on pipeline carrier operations unless the operations
5 are within the jurisdiction of the commission.

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

12 (c) The commission shall administer the charge imposed under this section. The
13 Department of Revenue shall collect and enforce the charge imposed under this section.

14 (d) The commission may adopt regulations under AS 44.62 (Administrative Procedure
15 Act) necessary to administer this section, including requirements and procedures for reporting
16 information and making quarterly payments. The Department of Revenue may adopt regulations
17 under AS 44.62 (Administrative Procedure Act) for investigating the accuracy of filed
18 information, and for collecting required payments.

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

21 * Sec. 25. AS 42.06.610(a) is amended to read:

22 (a) During a proceeding held under this chapter, the commission may [SHALL] allocate
23 the cost of the proceeding among the parties, including the commission, as is just under the
24 circumstances. In allocating costs, the commission shall consider the regulatory cost charge
25 paid directly or indirectly under AS 42.06.285. The costs allocated may include the costs of
26 any time devoted to investigations or hearings by hired consultants, whether or not the
27 consultants appear as witnesses or participants. The commission shall provide an opportunity for
28 any person objecting to an allocation to be heard before the allocation becomes final.

29 * Sec. 26. AS 42.06.610(a) is amended to read:

30 (a) During a proceeding held under this chapter, the commission shall [MAY] allocate
31 the cost of the proceeding among the parties, including the commission, as is just under the

Chapter 2

1 circumstances. [IN ALLOCATING COSTS, THE COMMISSION SHALL CONSIDER THE
2 REGULATORY COST CHARGE PAID DIRECTLY OR INDIRECTLY UNDER AS 42.06.285.]
3 The costs allocated may include the costs of any time devoted to investigations or hearings by
4 hired consultants, whether or not the consultants appear as witnesses or participants. The
5 commission shall provide an opportunity for any person objecting to an allocation to be heard
6 before the allocation becomes final.

7 * Sec. 27. AS 44.21.310(b) is amended to read:

8 (b) The department may

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

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

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

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

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

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

23 * Sec. 28. AS 44.21.410(a) is amended to read:

24 (a) The office of public advocacy shall

25 (1) perform the duties of the public guardian under AS 13.26.360 - 13.26.410;

26 (2) provide visitors and experts in guardianship proceedings under AS 13.26.131;

27 (3) provide guardian ad litem services to children in child protection actions under
28 AS 47.17.030(e) and to wards and respondents in guardianship proceedings who will suffer
29 financial hardship or become dependent upon a government agency or a private person or agency
30 if the services are not provided at state expense under AS 13.26.112;

31 (4) provide legal representation in guardianship proceedings to respondents who

1 are financially unable to employ attorneys under AS 13.26.106(b), to indigent parties in cases
2 involving child custody in which the opposing party is represented by counsel provided by a
3 public agency, to indigent parents or guardians of a minor respondent in a commitment
4 proceeding concerning the minor under AS 47.30.775;

5 (5) provide legal representation and guardian ad litem services under
6 AS 25.24.310; in cases arising under AS 47.15 (Uniform Interstate Compact on Juveniles); in
7 cases involving petitions to adopt a minor under AS 25.23.125(b) or petitions for the termination
8 of parental rights on grounds set out in AS 25.23.180(c)(3); in cases involving petitions to
9 remove the disabilities of a minor under AS 09.55.590; in children's proceedings under
10 AS 47.10.050(a); and in cases involving indigent persons who are entitled to representation under
11 AS 18.85.100 and who cannot be represented by the public defender agency because of a conflict
12 of interests;

13 (6) develop and coordinate a program to recruit, select, train, assign, and supervise
14 volunteer guardians ad litem from local communities to aid in delivering services in cases in
15 which the office of public advocacy is appointed as guardian ad litem;

16 (7) provide guardian ad litem services in proceedings under AS 12.45.046;

17 **(8) establish a fee schedule and collect fees for services provided by the office,**
18 **except as provided in AS 18.85.120 or when imposition or collection of a fee is not in the**
19 **public interest as defined under regulations adopted by the commissioner of administration.**

20 * Sec. 29. AS 44.37.025(c) is amended to read:

21 (c) The department, with the concurrence of the administrative director of courts, may
22 appoint judicial employees to perform services in connection with recording, providing access
23 to, and copying documents in locations where the department has **not otherwise designated a**
24 **public office** [NO EMPLOYEES AVAILABLE] to perform those functions.

25 * Sec. 30. AS 46.15.020(b) is amended to read:

26 (b) The commissioner shall

27 (1) adopt procedural and substantive regulations to carry out the provisions of this
28 chapter, taking into consideration the responsibilities of the Department of Environmental
29 Conservation under AS 46.03 and the Department of Fish and Game under AS 16;

30 (2) keep a public record of all applications for permits and certificates and other
31 documents filed in the commissioner's office; and shall record all permits and certificates and

Chapter 2

1 amendments and orders affecting them and shall index them in accordance with the source of the
2 water and the name of the applicant or appropriator;

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

6 (4) prescribe fees or service charges for any public service rendered;

7 (5) before February 1 of each year, submit a report to the legislature
8 describing the activities of the commissioner under AS 46.15.035 and 46.15.037; the report
9 must include

10 (A) information on the number of applications and appropriations for
11 the removal of water from one hydrological unit to another that were requested and
12 that were granted and on the amounts of water involved;

13 (B) information on the number and location of sales of water
14 conducted by the commissioner and on the volume of water sold;

15 (C) recommendations of the commissioner for changes in state water
16 law; and

17 (D) a description of state revenue and expenses related to activities
18 under AS 46.15.035 and 46.15.037.

19 * Sec. 31. AS 46.15 is amended by adding new sections to read:

20 Sec. 46.15.035. APPROPRIATION OR REMOVAL OF WATER OUT OF
21 HYDROLOGIC UNITS TO OTHER HYDROLOGIC UNITS; WATER CONSERVATION FEE;
22 RESERVATION OF WATER FOR FISH. (a) Water may not be removed from the hydrologic
23 unit from which it was appropriated to another hydrologic unit, inside or outside the state,
24 without being returned to the hydrologic unit from which it was appropriated nor may water be
25 appropriated for removal from the hydrologic unit from which the appropriation is sought to
26 another hydrologic unit, inside or outside the state, without the water being returned to the
27 hydrologic unit from which it is to be appropriated, unless the commissioner

28 (1) finds that the water to be removed or appropriated for removal is surplus to
29 needs within the hydrologic unit from which the water is to be removed or appropriated for
30 removal, including fishing, mining, timber, oil and gas, agriculture, domestic water supply, and
31 other needs as determined by the commissioner;

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

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

4 (b) The commissioner shall establish, by regulation, a water conservation fee for a use
5 of water in which the water is removed from the hydrologic unit from which it was appropriated
6 to another hydrologic unit inside or outside the state, without the water being returned to the
7 hydrologic unit from which it was appropriated. The fee established under this subsection shall
8 be graduated to encourage the conservation of water.

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

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

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

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

28 (4) is not subject to AS 46.15.145;

29 (5) of water does not apply to appropriations of ground water of 5,000 gallons
30 or less a day unless the commissioner, in consultation with the Department of Fish and Game,
31 determines that the appropriation may adversely affect fish habitat in a lake, river, or stream; the

Chapter 2

1 commissioner shall consider multiple appropriations of water for a single related use as a single
2 appropriation for the purposes of this subsection.

3 (d) With respect to rivers and streams described in (c) of this section, the instream flow
4 reservation shall be limited to the portion of the stream, including tributaries to the stream, at and
5 downstream of the point of diversion or withdrawal. With respect to lakes described in (c) of
6 this section, the reservation shall be limited to the lake from which the diversion or withdrawal
7 is made, and the outlet and tributaries to the outlet flowing downstream.

8 (e) In this section,

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

11 (2) "hydrologic unit" means a hydrologic subregion established by the United
12 States Department of the Interior, Geological Survey, on the "Hydrologic Unit Map-1987, State
13 of Alaska."

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, including fishing, mining, timber, oil and gas, agriculture, domestic
21 water supply, and other needs as determined by the commissioner;

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

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

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

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

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

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

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

18 (3) is not subject to AS 46.15.145;

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

24 (d) With respect to rivers and streams described in (c) of this section, the instream flow
25 reservation shall be limited to the portion of the stream, including tributaries to the stream, at and
26 downstream of the point of diversion or withdrawal. With respect to lakes described in (c) of
27 this section, the reservation shall be limited to the lake from which the diversion or withdrawal
28 is made, and the outlet and tributaries to the outlet flowing downstream.

29 (e) In this section,

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

Chapter 2

1 (2) "hydrologic unit" has the meaning given in AS 46.15.035(e).

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

3 * Sec. 32. AS 46.15.133 is amended to read:

4 Sec. 46.15.133. NOTICES; OBJECTIONS. (a) If the commissioner proposes a sale
5 of water or receives [UPON RECEIPT OF] an application for appropriation or removal, the
6 commissioner shall prepare a notice containing the location and extent of the proposed sale,
7 appropriation, or removal, the name and address of the applicant, if applicable, and other
8 information the commissioner considers pertinent. The notice shall state that within 15 days of
9 publication or service of notice, persons may file with the director written objections, stating the
10 name and address of the objector, and any facts tending to show that rights of the objector or the
11 public interest would be adversely affected by the proposed sale, appropriation, or removal.

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

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

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

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

4 (f) The commissioner may, by regulation, designate types of appropriations that are
5 exempt from this section and provide simplified procedures for ruling on the applications. The
6 commissioner may not exempt under this subsection appropriations for removal under
7 AS 46.15.035, appropriations by the state for sale or sales by the state under AS 46.15.037,
8 or removals of water under AS 46.15.035 and 46.15.037.

9 * Sec. 33. Section 3, ch. 95, SLA 1989, is amended to read:

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

21 * Sec. 34. MATERIAL SITES USED FOR TIMBER OPERATIONS. Material sites used for timber
22 operations are subject to regulation under AS 41.17. AS 27.19 does not apply to material sites used for
23 timber operations.

24 * Sec. 35. Section 34 of this Act is repealed July 1, 1994.

25 * Sec. 36. AS 42.05.253, enacted by sec. 20 of this Act, and AS 42.06.285, enacted by sec. 24 of this
26 Act, are repealed December 31, 1994.

27 * Sec. 37. AS 33.30.031(b), AS 38.05.085(a), 38.05.085(b), 38.05.085(g), and 38.05.105(b) are
28 repealed.

29 * Sec. 38. Sections 22 and 26 of this Act take effect December 31, 1994.

30 * Sec. 39. AS 16.05.340(a), as amended by sec. 2 of this Act, takes effect January 1, 1993.

31 * Sec. 40. Except as provided in secs. 38 and 39 of this Act, this Act takes effect July 1, 1992.