

FISCAL NOTE

Bill Version: CSHB 361 (FIN)
 (H) Publish Date: 3/24/00

STATE OF ALASKA 2000 LEGISLATIVE SESSION

Revision Date/Time (Note if correction) _____ Dept. Affected Law
 Title "...relating to charges for state services;
requiring that fees levied by resource agencies ..." BRU Civil Division
 Sponsor House Finance Committee Component Environmental Law
 Requester House Finance Committee Component No. 2092, 2209
Legislation/Regulations

Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services	85.5	85.5	57.0	57.0	57.0	57.0
Travel	0.4	2.9	2.8	2.8	2.8	2.8
Contractual	13.8	41.3	11.7	11.7	11.7	11.7
Supplies	1.4	1.4	0.9	0.9	0.9	0.9
Equipment	6.5					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	107.5	131.0	72.4	72.4	72.4	72.4

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	107.5	131.0	72.4	72.4	72.4	72.4
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	107.5	131.0	72.4	72.4	72.4	72.4

Estimate of any current year (FY2000) cost: _____

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

HB 361 makes a number of significant changes to the way fees are calculated, billed, and tracked by the Departments of Natural Resources, Environmental Conservation, and Fish and Game. The bill provides for negotiation of reimbursable service agreements and for petitions for narrowly crafted regulatory flat fees from either a single agency or multiple agencies. In addition, HB 361 creates a new appeal process where billings can be appealed to the Office of Management and Budget. These changes would take effect July 1, 2001.

Of particular significance to the Department of Law from a cost perspective are: 1) provisions requiring fees levied by the natural resource agencies for designated regulatory services to be based solely on "actual and reasonable direct costs;" (2) a provision requiring resource agencies, upon request, to

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BILL NO. HB 361

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ANALYSIS CONTINUATION

negotiate contractual reimbursable service agreements; (3) a provision requiring resource agencies to adopt industry and geographically specific regulations establishing fixed fees for "standard designated regulatory services;" (4) a provision requiring monthly bills for "designated regulatory services" that provide for each expenditure "sufficient detail to permit a reasonable person to determine whether the time or cost was an actual and reasonable direct cost;" (5) a provision assigning fee review functions to OMB but failing to provide OMB with authority to adopt regulations; (6) provisions requiring natural resource agencies or OMB to adopt certain fee regulations if specified criteria are met; (7) a provision excluding interagency charges from fees; (8) a provision excluding expenses incurred by employees if the employees do not have education, and experience, similar to what would be expected of a person providing an analogous service in the private sector.

These proposed changes will cause a significant increase in the workload of the Department of Law. The department will need to assist in the development and review of numerous new fee regulations prior to the effective date of the act. Regulations related costs will be incurred on an ongoing basis as petitions for new project specific regulations continue to be received and as affected natural resource departments changes their fees in response to changing costs. The Department of Law will also incur costs as the result of increased need to provide advice to natural resource agencies regarding fees, and reimbursable service agreement (RSA) contract approvals.

In the first year that the new fee requirements are effective, we would expect significant litigation clarifying the provisions as to whether a fee is based on actual and reasonable costs, whether a billing was sufficiently detailed, and whether the persons who provided services had qualifications comparable to what would be expected for an analogous service in the private sector. Extensive discovery and use of experts will be required, particularly on the qualifications issue.

The qualifications issue is also likely to spark an increase in grievances by resource agency employees and could be expected to have some impact on department costs in defending agency personnel actions. Litigation and associated costs are also likely if OMB is forced to review fee appeals without being granted authority to adopt regulations to govern those appeals. These costs are not included in this fiscal analysis.

Given the number of regulations projects expected to result from this bill, as well as related agency advice, we estimate that an additional three-fourths of a full time attorney would be needed in FY 2001. This would be split between the Environmental Section and Legislation and Regulations. During FY 2002, three-fourths of a full time attorney would continue to be necessary; however, with the shift in emphasis from regulations development to litigation, one-fourth of the position would be devoted to the Legislation and Regulations section and one-half to the Environmental section. In subsequent years we would expect to need one-half of an attorney position, split equally between the two sections.

In the second year we would also expect to need approximately \$25,000 for outside experts and approximately \$5,000 for direct case costs. In the third and subsequent years experts and direct case costs are estimated at \$5,000.

Full-time equivalent attorney costs are based on the Civil Division's FY 2001 standard attorney cost schedule (\$93.42/hour x 1442 hours = \$134,712). The hourly rate includes all normal overhead costs, such as clerical support, communications, data processing, lease space costs, supplies, etc. One-time new equipment is not included in the rate (\$6,500), nor direct case costs. These are added separately.