

FISCAL NOTE

**STATE OF ALASKA
2000 LEGISLATIVE SESSION**

No. 7
Bill Version: SCS CSHB 361 (FIN)
(S) Publish Date: 4-15-00

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 Senate Finance Committee Component No. 2092

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		28.5	28.5	28.5	28.5	28.5
Travel		2.6	2.6	2.6	2.6	2.6
Contractual		7.1	7.1	7.1	7.1	7.1
Supplies		0.5	0.5	0.5	0.5	0.5
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	38.7	38.7	38.7	38.7	38.7

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		38.7	38.7	38.7	38.7	38.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	38.7	38.7	38.7	38.7	38.7

Estimate of any current year (FY2000) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

SCS CSHB 361 (FIN), Work Draft M, 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. Initial changes would take effect July 1, 2001, with additional programs brought in on July 1, 2002.

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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Agency Department of Law

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ANALYSIS CONTINUATION

negotiate contractual service agreements; (3) 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;" and (4) a provision excluding certain interagency charges from fees.

Despite the fact that costs have been reduced by phasing in requirements and reducing the scope of the bill, the proposed changes will still 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. Regulations related costs will be incurred on an ongoing basis as petitions for new regulations continue to be received and as affected natural resource departments change 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 fixed fees, negotiated service agreement contract approvals, and negotiated single fees.

In addition, in the first year that the new fee requirements are effective, FY 2002, we would expect significant litigation clarifying the provisions as to whether a fee is based on actual and reasonable costs, and whether a billing was sufficiently detailed. Extensive discovery and use of experts will be required.

The regulations required during FY 2001 will be for establishment of flat fees for ADEC's wastewater disposal and federal Clean Water Act permit certification programs. It is our understanding that ADEC was already planning comprehensive regulation revisions relating to these programs and that the projects will be rolled together. Further, since we do not expect litigation or contract review expenses to be incurred until FY 2002, the Department of Law will not be seeking additional funding in FY 2001 to implement this bill. However, given the number of regulations and contract review projects expected to result from this bill in subsequent years, as well as related agency advice, we estimate that an additional one-quarter of a full time attorney in the Environmental section will be needed in FY 2002 and subsequent years. There would also be some additional regulatory work for the Legislation and Regulations section associated with the requirements of this bill, but we would expect this work would be merged into other DEC regulation projects to minimize its impact.

Full-time equivalent attorney costs are based on the Civil Division's FY 2001 standard attorney cost schedule (\$93.42/hour x 360.5 hours = \$33,677.91). The hourly rate includes all normal overhead costs, such as clerical support, communications, data processing, lease space costs, supplies, etc. Direct case costs can not be included in the rate, and \$5,000 for expert witness costs and travel is added separately.