

FISCAL NOTE

STATE OF ALASKA
2013 LEGISLATIVE SESSION

Bill Version **HB 78**
Fiscal Note Number **1**
(H) Publish Date **1/18/13**

Identifier (file name) LL0750-DEC-WQ-01-17-13
Title Section 404 Wetlands Program
Dept. Affected Environmental Conservation
Appropriation Water
Allocation Water Quality
Sponsor Rules by Request of the Governor
Requester Governor
OMB Component Number 2062

Expenditures/Revenues (Thousands of Dollars)

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

	FY14 Appropriation Requested	Included in Governor's FY14 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	FY14	FY14	FY15	FY16	FY17	FY18	FY19
Personal Services	495.4		883.5	883.5	883.5	883.5	883.5
Travel	22.3		37.6	35.2	35.2	35.2	35.2
Services	879.5		908.2	902.2	902.2	902.2	902.2
Commodities	37.5		25.0	4.0	4.0	10.5	7.9
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	1,434.7	0.0	1,854.3	1,824.9	1,824.9	1,831.4	1,828.8

FUND SOURCE		(Thousands of Dollars)					
1002	Federal Receipts	0.0		0.0	0.0	0.0	0.0
1003	GF Match	0.0		0.0	0.0	0.0	0.0
1004	GF	1,434.7		1,854.3	1,824.9	1,831.4	1,828.8
1005	GF/Prgm (DGF)						
1037	GF/MH (UGF)						
1178	temp code (UGF)						
TOTAL		1,434.7	0.0	1,854.3	1,824.9	1,831.4	1,828.8

POSITIONS							
Full-time	5	0	8	8	8	8	8
Part-time							
Temporary							

CHANGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0	0.0
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Estimated SUPPLEMENTAL (FY13) operating costs 0.0 (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY14) costs 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? Yes
If yes, by what date are the regulations to be adopted, amended, or repealed? 6/30/2015 Discuss details in analysis section.

Why this fiscal note differs from previous version (if initial version, please note as such)

Not applicable, initial version.

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Deputy Commissioner, Dept. of Environmental Conservation

Phone 907-269-7599
Date/Time 1/11/13 1:00 PM
Date 1/11/2013

FISCAL NOTE ANALYSIS #1

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. HB 78

Analysis

Analysis/Assumptions:

Assumption of the Federal Clean Water Act Section 404 dredge and fill permitting program would allow the state to create streamlined processes for more efficient permit issuance, and to reduce redundancy between federal and state programs. Amended and new regulations will be required to comport with federal regulations to implement the 404 program. By the FY 16 budget cycle, there will be a decision point regarding whether to advance with the primacy effort and, if so, the pace of that effort. FY16 and beyond costs assume continued progress leading to a successful application approved by the Environmental Protection Agency, followed by full implementation of the program; these costs may change depending upon progress in FY14 and FY15 and a full analysis of the costs to implement the program. After FY16 and program approval some costs will be offset by program receipts.

FY14

Personal Services:

Three permanent positions for “program development” and to manage a workgroup of permittees that will assist in the analysis of 404 primacy and provide the state with recommendations about primacy; evaluate benefits and consequences of state primacy; conduct a fiscal analysis of the resource needs for state primacy; establish agreements with the EPA and the Corps that include a workplan, timeline, responsibilities, and requirements for the process to obtain state primacy; establish and manage contractor assistance to conduct a gap analysis and draft initial statutes and regulations for program implementation; develop work plan; begin development of program description; apply for wetlands program development grant from EPA; and develop a communications plan. Two permanent positions for “capacity development” to build the State’s knowledge and capability in the 404 permit program; to negotiate with the Corps one or more statewide programmatic general permits that allow the State to implement small, targeted portions of the 404 program; and to establish a workshare agreement with the Corps for sharing staff resources. New positions: Project Coordinator (Anchorage, XE, 23C); Environmental Program Specialist IV (Anchorage, GG, Range 20C); Two Environmental Program Specialists III (Anchorage, GG, Range 18C); One Engineer I (Anchorage, GG, Range 22C). Three positions for 10 months to ramp-up of program.

Travel:

Travel is for workgroup and stakeholder meetings; meetings with EPA Region 10 and Headquarters and the Corps Alaska District and Headquarters; and staff training.

Services:

Position support costs, indirect, and public notices for workgroup meetings.

-- \$300.0 professional services contractor assistance for statutory gap analysis, draft regulations, assistance with primacy analysis; workgroup report; and assistance with drafting primacy application.

-- \$187.50 RSA to Department of Law to assist with the Department’s and workgroup’s legal questions; legal assistance with Department’s preparation of a primacy application, including preparation of an Attorney General’s statement; legal assistance with statutes and regulations; negotiations with EPA and the Corps; and potential appeals and judicial challenges relating to federal approval of the state’s primacy application.

-- \$361.8 RSA to Department of Natural Resources for positions to participate with DEC in the program development tasks, including the analysis of the division of duties between agencies under primacy and development of a mitigation program required of State programs; and two positions for State program capacity development in wetlands jurisdictional determinations and permitting procedures.

Commodities:

Position support costs, including furniture and computers (one-time costs for new positions); standard office supplies.

Analysis Continued**FY2015****Personal Services:**

Five positions established in FY2014 will continue with program development tasks including adopting regulations; negotiating primacy MOUs with the EPA, the Corps and the U.S. Fish and Wildlife Service; developing program forms and guidance; continuing to manage a workgroup of permittees that will assist in designing a State program; ongoing negotiations with the EPA and the Corps; managing contractor assistance with development of the program description; applying for wetlands program development grant from EPA; and revising and implementing the communications plan. Three new positions in FY2015 will continue to develop the State's program capacity to issue and manage permits and to ensure compliance with permit conditions; implement statewide programmatic general permits that allow the state to implement targeted portions of the 404 program; implement data systems that provide automation of permits; and participate in a workshare agreement with the Corps for sharing staff resources. Three new positions will be established in FY15: Analyst Programmer IV (Juneau, GG, Range 20C); Engineer Associate II (Anchorage, GG, Range 21C); EPS III (Anchorage, GG, Range 18C). All positions for 12 months.

Travel:

Travel for workgroup/stakeholder meetings; meetings with EPA Region 10 and Headquarters and the Corps Alaska District and Headquarters; staff training; and field work for wetlands jurisdictional determinations and permittee inspections.

Services:

Position support costs for existing new positions, indirect, and public notice for workgroup meetings and draft regulations.

-- \$100.0 professional services contractor assistance for statutory gap analysis, draft regulations, assistance with primacy analysis; workgroup report; and assistance with drafting primacy application. New and amended regulations may be adopted by the end of FY2015. New regulations are required to be adopted to implement the federal program. Amended regulations may be necessary to align existing state regulations with program requirements.

-- \$187.50 RSA to Department of Law to assist with the Department's and workgroup's legal questions; legal assistance with Department's preparation of a primacy application, including preparation of an Attorney General's statement; legal assistance with statutes and regulations; negotiations with EPA and the Corps; and potential appeals and judicial challenges relating to federal approval of the state's primacy application.

-- \$566.7 RSA to Department of Natural Resources (DNR) for positions to participate with DEC in the program development tasks, including development of a mitigation program required of State programs and four positions for State program capacity development in permitting procedures.

Commodities:

Position support costs, including furniture and computers for three new positions (one-time costs for new positions); deletion of FY2014 one-time costs for furniture and computers; ongoing standard office supplies.

FY2016 and Beyond

By the FY16 budget cycle, there will be a decision point regarding whether to advance with the primacy effort and, if so, the pace of that effort. The fiscal note assumes a baseline budget to continue with primacy application efforts and some capacity development work; however, there will be a future determination about the pace of "ramping up" to the full program resources to implement the 404 program under primacy. Once the state assumes primacy, all but 2-3 of the program development positions will transition to program implementation (permitting, inspections, compliance, mitigation, recordkeeping, federal reporting).

Services:

RSA with DOL continues. Once primacy is approved, estimated to be in year 4 or 5, efforts by the DOL will shift to counseling the agencies on implementation of the primacy program, and the nature of Law's work will likely vary based upon the specific projects and dredge and fill permit applications that need state approval. RSA with DNR continues.

Commodities:

Reflects the reduction of FY15 one-time costs for furniture and computers for three positions, computer replacements in FY18 (five positions) and FY19 (three positions).