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Referred: Resources and
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1 IN THE HOUSE BY THE RESOURCES COMMITTEE

2 HOUSE BILL NO. 296

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Prince William Sound Recovery
7 Authority; and providing for an effective date."

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

9 * Section 1. AS 30 is amended by adding a new chapter to read:

10 CHAPTER 35. PRINCE WILLIAM SOUND RECOVERY AUTHORITY.

11 ARTICLE 1. CREATION AND ORGANIZATION.

12 Sec. 30.35.010. PRINCE WILLIAM SOUND RECOVERY AUTHORITY CREATED.

13 There is created within the Office of the Governor the Prince William
14 Sound Recovery Authority.

15 Sec. 30.35.020. STRUCTURE OF THE AUTHORITY. (a) The authority
16 shall be governed by a board of directors consisting of the commis-
17 sioners, or the delegates of the commissioners, of environmental
18 conservation, fish and game, community and regional affairs, and
19 natural resources, and three public members. The public members shall
20 be appointed by the governor and confirmed by the legislature for
21 staggered terms of two years. A public member, upon expiration of the
22 term, continues to hold office until a successor is appointed. A
23 vacancy shall be filled for the balance of the unexpired term. A
24 public member may not have a direct economic interest in the petroleum
25 industry or in the redevelopment of Prince William Sound. However,
26 one public member may have a limited economic interest in the redevel-
27 opment of the sound.

28 (b) Public members of the board receive an honorarium of \$200
29 for each day spent at a meeting of the board or at a meeting of a

1 subcommittee of the board or at a public meeting as a representative
2 of the board. Members of the board are entitled to per diem and
3 travel allowances as provided by law for members of state boards and
4 commissions.

5 (c) The governor shall appoint the executive director of the
6 authority. The authority may employ additional staff. The executive
7 director, hearing officers, and other professional staff of the
8 authority are in the partially exempt service under AS 39.25.120.

9 (d) The governor may remove members of the board for cause.

10 (e) Four members of the board constitute a quorum of the board.
11 Action may be taken by the board at a meeting by the affirmative vote
12 of a majority of the directors.

13 (f) The board shall elect a chair annually and may elect other
14 officers it considers necessary. The board shall meet at the call of
15 the chair or at the request of a majority of members.

16 Sec. 30.35.030. ATTORNEY GENERAL. The attorney general shall
17 act as legal counsel for the authority.

18 Sec. 30.35.040. ADMINISTRATIVE PROCEDURE ACT. The authority may
19 adopt regulations under the Administrative Procedure Act (AS 44.62) to
20 carry out the purposes of this chapter. Hearings held by the author-
21 ity are not subject to AS 44.62.

22 ARTICLE 2. PURPOSE, POWERS, AND DUTIES.

23 Sec. 30.35.100. PURPOSE. The purpose of the authority is to
24 provide an integrated, holistic response to the short-term and long-
25 term consequences, both direct and indirect, of the oil spill in
26 Prince William Sound, on March 24, 1989, to the people, vegetation,
27 fish, shellfish, animals, land, air, and water of the region.

28 Sec. 30.35.110. CONSTRUCTION OF POWERS AND DUTIES. The powers
29 and duties of the authority shall be liberally construed to further

1 the accomplishment of its purposes.

2 Sec. 30.35.120. IDENTIFICATION OF REGION. The authority shall,
3 by regulation, identify the region included within its jurisdiction.
4 The authority shall include within the boundaries the land and water
5 directly affected by the oil spill and may, to accomplish its
6 purposes, include land and water indirectly affected by the spill.

7 Sec. 30.35.130. REMEDIAL PLAN AND PROGRAM. (a) The authority
8 shall prepare, adopt, and revise a long-term optimum remedial plan for
9 the recovery of the region from the effects of the oil spill. In
10 preparing and revising the plan, the authority may undertake evalu-
11 ation studies of the consequences of the spill and may contract with
12 others to prepare studies. The authority shall report to the legisla-
13 ture on the plan and revisions to the plan not later than the 10th day
14 of each legislative session.

15 (b) The authority shall implement the plan through an optimum
16 remedial program.

17 Sec. 30.35.140. POWERS. The authority may

18 (1) accept gifts, grants, or loans from, and enter into
19 contracts of other transactions regarding them, with any person;

20 (2) enter into contracts with the United States, another
21 state, or a person, and subject to the laws of the United States and
22 subject to the concurrence of the legislature, with a foreign country
23 or its agencies, to carry out its purposes;

24 (3) hold hearings and resolve claims for losses caused
25 directly or indirectly by the oil spill disaster;

26 (4) make grants to further the recovery of the region from
27 the direct and indirect results of the oil spill disaster;

28 (5) perform studies or contract with others to perform
29 studies concerning the causes, appropriate remedies for, and future

1 prevention of oil spill disasters;

2 (6) make recommendations to federal, state, and local
3 governments concerning matters related to its purposes;

4 (7) sue and be sued.

5 Sec. 30.35.150. PUBLIC PARTICIPATION. The authority shall
6 involve the people of the region in the policy decisions respecting
7 its purposes. The authority may establish advisory committees with
8 respect to any facet of its work. Membership on advisory committees
9 may be drawn from individuals, businesses or other groups, and repre-
10 sentatives of local, state, and federal agencies.

11 Sec. 30.35.160. STATE AND FEDERAL COORDINATION. (a) The
12 authority is the state agency responsible for all state activities
13 related to the oil spill disaster. Notwithstanding powers and duties
14 assigned to other state agencies, the authority shall direct the
15 state's response to the disaster and shall prepare the budget request
16 for the money needed by all departments involved in the recovery
17 effort.

18 (b) The authority may make recommendations to the legislature,
19 federal agencies, and to the Congress with respect to all matters
20 relative to its purposes.

21 (c) The authority may enter into a cooperative agreement with an
22 agency of the state, federal, or local government for the administra-
23 tion of its powers or for a project authorized by the authority.

24 Sec. 30.35.170. TRAINING AND EDUCATION PROGRAMS. The authority
25 may offer or sponsor educational and training programs to people
26 affected, directly or indirectly, by the oil spill disaster to assist
27 in alleviating the effects of the oil spill disaster, to encourage
28 recovery from the disaster, and to ensure that the chance of ill
29 effects from future oil spills is reduced or eliminated.

1 Sec. 30.35.180. FISHERIES. If the authority finds that the
2 welfare of a fishery in the state is adversely affected by the oil
3 spill disaster, the authority may recommend to the Alaska Commercial
4 Fisheries Entry Commission that the number of permits issued for a
5 fishery be reduced. If the authority finds that the number of limited
6 entry permits in a fishery is greater than the desirable number of
7 permits because of the effects of the oil spill disaster on that
8 fishery, the authority may make funds available to the commission for
9 the buy-back program for the fishery under AS 16.43.320 or for the
10 rental program for the fishery under AS 16.43.325.

11 Sec. 30.35.190. VOLUNTEERS. The authority may establish a
12 system for the use of volunteers in its rehabilitation and cleanup
13 efforts. The authority is not liable for the negligent, reckless, or
14 intentional acts of a volunteer.

15 Sec. 30.35.200. CLAIMS FOR COMPENSATION. (a) A person who was
16 damaged directly or indirectly by the oil spill disaster may file a
17 written claim for compensation with the authority. The staff of the
18 authority shall investigate the claim and grant or deny compensation
19 for the damages. The claims staff may make a partial award of compen-
20 sation pending final determination of injury. The claimant may appeal
21 the staff decision to the board of directors. The board may delegate
22 its responsibility for appeals to a hearing officer.

23 (b) An appeal shall be conducted on the record under procedures
24 adopted by the board. Hearings are not subject to the Administrative
25 Procedure Act (AS 44.62). A decision of the board may be appealed to
26 the superior court.

27 (c) The authority shall award compensation for damages that were
28 caused directly or indirectly by the oil spill disaster. The state
29 shall be subrogated to a claim of a person awarded compensation under

1 this section to the extent the person is entitled to receive compensa-
2 tion for the same damages. The authority shall seek reimbursement
3 from the third party.

4 Sec. 30.35.210. ENHANCEMENT OR RECOVERY PROJECTS. The authority
5 may award a grant to an applicant for an enhancement or recovery
6 project. The authority shall seek reimbursement for the cost of the
7 project from the persons responsible for the oil spill disaster.

8 ARTICLE 3. FINANCIAL MATTERS.

9 Sec. 30.35.300. PRINCE WILLIAM SOUND RECOVERY ACCOUNT. (a)
10 There is created in the general fund the Prince William Sound recovery
11 account.

12 (b) Notwithstanding any other provision of law, that part of the
13 state's recovery in damages, fines, and civil penalties from the oil
14 spill disaster that is not direct compensation to another state agency
15 for expenses incurred in responding to the oil spill disaster shall be
16 deposited in the account. The legislature may appropriate additional
17 money to the account, including an amount equal to the annual proceeds
18 of the oil spill disaster fee under AS 30.35.310..

19 (c) The account shall be used to carry out the purposes of this
20 chapter. Money from an appropriation made to the fund remaining in
21 the fund at the end of a fiscal year remains available for expenditure
22 in successive fiscal years.

23 (d) Money recovered as a criminal penalty may not be used to
24 fund compensation or a project for which a person, including the
25 state, may recover actual damages.

26 Sec. 30.35.310. OIL SPILL DISASTER FEE. (a) A fee of \$.50 per
27 barrel is imposed on each barrel of crude petroleum oil brought into
28 the Prince William Sound region from another part of the state. The
29 fee is payable to the Department of Revenue on or before June 30 of

1 the taxable year. The department may provide for voluntary prepayment
2 and for payment by installments. AS 43.05 applies to the collection
3 of the fee.

4 (b) When a fee under this section becomes delinquent, a penalty
5 of 10 percent shall be added. Interest on the delinquent fees, exclu-
6 sive of penalty, shall be assessed at a rate of eight percent a year.

7 (c) The fee, interest, and penalties collected with respect to
8 the fee shall be deposited in the general fund. The commissioner of
9 administration shall separately account for the money deposited in the
10 general fund under this section. The annual estimated balance in the
11 account may be used by the legislature to make appropriations to the
12 Prince William Sound recovery account to carry out the purposes of
13 this chapter.

14 ARTICLE 4. SAFETY PROGRAM.

15 Sec. 30.35.400. ENVIRONMENTAL SAFETY. The authority shall
16 prepare an emergency response plan and provide emergency response
17 resources for the region to prevent the occurrence of harm from the
18 shipment of crude petroleum oil. The plan shall take into considera-
19 tion oil discharge contingency plans approved or submitted for appro-
20 val by the Department of Environmental Conservation under AS 46.04.-
21 030. The authority may enter into agreements for the emergency use of
22 the authority's emergency response resources in other locations.

23 ARTICLE 5. GENERAL PROVISIONS.

24 Sec. 30.35.990. DEFINITIONS. In this chapter,

25 (1) "authority" means the Prince William Sound Recovery
26 Authority;

27 (2) "board" means the board of directors of the authority;

28 (3) "oil spill disaster" means the disaster following the
29 discharge of oil from the oil tanker Exxon-Valdez in Prince William

1 Sound beginning on March 24, 1989;

2 (4) "region" means the region identified under AS 30.35.-
3 120.

4 * Sec. 2. AS 16.43 is amended by adding a new section to read:

5 Sec. 16.43.325. PERMIT RENTAL PROGRAM. (a) At the request of
6 the Prince William Sound Recovery Authority and if the commission
7 determines that the optimum number of entry permits is less than the
8 number of entry permits outstanding in a fishery because of the
9 affects of the oil spill disaster, the commission shall establish and
10 administer an entry permit rental program to reduce the entry permits
11 operating within the fishery. The commission may rent a permit from a
12 permit holder at a rate and for a length of time determined by the
13 commission.

14 (b) For each rental program, the commission shall adopt regula-
15 tions providing for the rental of the entry permits at fair market
16 value. The regulations shall establish procedures for the commission
17 to use in determining the length of the rental period. The rental
18 program shall terminate when the number of entry permits is reduced to
19 the optimum.

20 (c) The rental program shall be financed by money made available
21 by the Prince William Sound Recovery Authority.

22 (d) In the section, "oil spill disaster" has the meaning given
23 in AS 30.35.990.

24 * Sec. 3. AS 39.25.120(c) is amended by adding a new paragraph to read:

25 (21) the executive director, hearing officers, and other
26 professional staff of the Prince William Sound Recovery Authority.

27 * Sec. 4. AS 39.50.200(b) is amended by adding a new paragraph to read:

28 (50) Prince William Sound Recovery Authority (AS 30.35.-
29 010);

1 * Sec. 5. AS 44.66.010(a) is amended by adding a new paragraph to read:
2 (17) Prince William Sound Recovery Authority (AS 30.35.010)
3 -- June 30, 1993.

4 * Sec. 6. AS 46.03.770 is amended to read:

5 Sec. 46.03.770. DETENTION OF VESSEL WITHOUT WARRANT AS SECURITY
6 FOR DAMAGES. A vessel that is used in or in aid of a violation of
7 AS 46.03.740 - 46.03.750 may be detained after a valid search by the
8 department, an agent of the department, a peace officer of the state,
9 or an authorized protection officer of the Department of Fish and
10 Game. Upon judgment of the court having jurisdiction that the vessel
11 was used in, or was the cause of, a violation of AS 46.03.740 -
12 46.03.750 with knowledge of its owner or under circumstances indicat-
13 ing that the owner should reasonably have had this knowledge, the
14 vessel may be held as security for payment to the state of the amount
15 of damages assessed by the court under AS 46.03.758, 46.03.760, and
16 46.03.822. If the damages assessed are not paid within 30 days after
17 judgment or final determination of an appeal, the vessel shall be sold
18 at public auction, or as otherwise directed by the court, and the
19 damages paid from the proceeds. The balance, if any, shall be paid by
20 the court to the owner of the vessel. The court shall permit the
21 release of the vessel upon posting of a bond set by the court in an
22 amount not to exceed the maximum amount of damages available under
23 AS 46.03.758, 46.03.760, and 46.03.822. Except as provided in AS 30.-
24 35.300, the [THE] damages received under this section shall be trans-
25 mitted to the proper state officer for deposit in the general fund. A
26 vessel seized under this section shall be returned or the bond exon-
27 erated if no damages are assessed under AS 46.03.758, 46.03.760, or
28 46.03.822.

29 * Sec. 7. AS 46.04.010 is amended to read:

1 Sec. 46.04.010. REIMBURSEMENT FOR CLEANUP EXPENSES. Except as
2 provided in AS 30.35, the [THE] department shall promptly seek reim-
3 bursement under AS 46.03.760(e), AS 46.08.070, or from an applicable
4 federal fund, for the expenses it incurs in cleaning up or containing
5 a discharge of oil. If the department obtains reimbursement for a
6 portion of its expenses from a federal fund, the remainder of the
7 expenses incurred may be recovered under AS 46.03.760(e) or AS 46.08.-
8 070. Except as provided in AS 30.35.300, money [MONEY] received by
9 the department under this section shall be deposited in the general
10 fund and credited to a special account called the "oil and hazardous
11 substance release mitigation account".

12 * Sec. 8. AS 46.08.020(b) is amended to read:

13 (b) Except as provided in AS 30.35.300, money [MONEY] received
14 by the state under (a)(2) and (a)(3) of this section shall be deposit-
15 ed in the general fund and credited to the special account called the
16 "oil and hazardous substance release mitigation account." The legis-
17 lature may annually appropriate to the fund from this account a sum
18 equal to the amount received under (a)(2) and (a)(3) of this section,
19 other than the amount deposited in the Prince William Sound recovery
20 account, during the calendar year preceding the legislative session in
21 which the appropriations are to be made.

22 * Sec. 9. Notwithstanding AS 30.35.020(a), enacted by sec. 1 of this
23 Act, one of the initial public members of the Prince William Sound Recovery
24 Authority shall be appointed for a term of one year.

25 * Sec. 10. This Act takes effect July 1, 1989.