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1 IN THE SENATE

BY FAHRENKAMP

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SENATE BILL NO. 285

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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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."

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

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

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CHAPTER 35. PRINCE WILLIAM SOUND RECOVERY AUTHORITY.

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ARTICLE 1. CREATION AND ORGANIZATION.

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Sec. 30.35.010. PRINCE WILLIAM SOUND RECOVERY AUTHORITY CREATED.

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

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Sec. 30.35.020. STRUCTURE OF THE AUTHORITY. (a) The authority

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shall be governed by a board of directors consisting of the commis-

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sioners, or the delegates of the commissioners, of environmental

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conservation, fish and game, community and regional affairs, and

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natural resources, and three public members. The public members shall

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be appointed by the governor and confirmed by the legislature for

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staggered terms of two years. A public member, upon expiration of the

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term, continues to hold office until a successor is appointed. A

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vacancy shall be filled for the balance of the unexpired term. A

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public member may not have a direct economic interest in the petroleum

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industry or in the redevelopment of Prince William Sound. However,

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one public member may have a limited economic interest in the redevel-

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opment of the sound.

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(b) Public members of the board receive an honorarium of \$200

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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 pur-  
6 poses, 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.

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

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

25 ARTICLE 4. SAFETY PROGRAM.

26 Sec. 30.35.400. ENVIRONMENTAL SAFETY. The authority shall  
27 prepare an emergency response plan and provide emergency response  
28 resources for the region to prevent the occurrence of harm from the  
29 shipment of crude petroleum oil. The plan shall take into

1 consideration oil discharge contingency plans approved or submitted  
2 for approval by the Department of Environmental Conservation under  
3 AS 46.04.030. The authority may enter into agreements for the  
4 emergency use of the authority's emergency response resources in other  
5 locations.

6 ARTICLE 5. GENERAL PROVISIONS.

7 Sec. 30.35.990. DEFINITIONS. In this chapter,

8 (1) "authority" means the Prince William Sound Recovery  
9 Authority;

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

11 (3) "oil spill disaster" means the disaster following the  
12 discharge of oil from the oil tanker Exxon-Valdez in Prince William  
13 Sound beginning on March 24, 1989;

14 (4) "region" means the region identified under AS 30.35.-  
15 120.

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

17 Sec. 16.43.325. PERMIT RENTAL PROGRAM. (a) At the request of  
18 the Prince William Sound Recovery Authority and if the commission  
19 determines that the optimum number of entry permits is less than the  
20 number of entry permits outstanding in a fishery because of the  
21 affects of the oil spill disaster, the commission shall establish and  
22 administer an entry permit rental program to reduce the entry permits  
23 operating within the fishery. The commission may rent a permit from a  
24 permit holder at a rate and for a length of time determined by the  
25 commission.

26 (b) For each rental program, the commission shall adopt regula-  
27 tions providing for the rental of the entry permits at fair market  
28 value. The regulations shall establish procedures for the commission  
29 to use in determining the length of the rental period. The rental

1 program shall terminate when the number of entry permits is reduced to  
2 the optimum.

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

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

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

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

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

11 (50) Prince William Sound Recovery Authority (AS 30.35.-  
12 010);

13 \* Sec. 5. AS 44.66.010(a) is amended by adding a new paragraph to read:

14 (17) Prince William Sound Recovery Authority (AS 30.35.010)

15 -- June 30, 1993.

16 \* Sec. 6. AS 46.03.770 is amended to read:

17 Sec. 46.03.770. DETENTION OF VESSEL WITHOUT WARRANT AS SECURITY  
18 FOR DAMAGES. A vessel that is used in or in aid of a violation of  
19 AS 46.03.740 - 46.03.750 may be detained after a valid search by the  
20 department, an agent of the department, a peace officer of the state,  
21 or an authorized protection officer of the Department of Fish and  
22 Game. Upon judgment of the court having jurisdiction that the vessel  
23 was used in, or was the cause of, a violation of AS 46.03.740 -  
24 46.03.750 with knowledge of its owner or under circumstances indicat-  
25 ing that the owner should reasonably have had this knowledge, the  
26 vessel may be held as security for payment to the state of the amount  
27 of damages assessed by the court under AS 46.03.758, 46.03.760, and  
28 46.03.822. If the damages assessed are not paid within 30 days after  
29 judgment or final determination of an appeal, the vessel shall be sold

1 at public auction, or as otherwise directed by the court, and the  
2 damages paid from the proceeds. The balance, if any, shall be paid by  
3 the court to the owner of the vessel. The court shall permit the  
4 release of the vessel upon posting of a bond set by the court in an  
5 amount not to exceed the maximum amount of damages available under  
6 AS 46.03.758, 46.03.760, and 46.03.822. Except as provided in AS 30.-  
7 35.300, the [THE] damages received under this section shall be trans-  
8 mitted to the proper state officer for deposit in the general fund. A  
9 vessel seized under this section shall be returned or the bond exon-  
10 erated if no damages are assessed under AS 46.03.758, 46.03.760, or  
11 46.03.822.

12 \* Sec. 7. AS 46.04.010 is amended to read:

13 Sec. 46.04.010. REIMBURSEMENT FOR CLEANUP EXPENSES. Except as  
14 provided in AS 30.35, the [THE] department shall promptly seek reim-  
15 bursement under AS 46.03.760(e), AS 46.08.070, or from an applicable  
16 federal fund, for the expenses it incurs in cleaning up or containing  
17 a discharge of oil. If the department obtains reimbursement for a  
18 portion of its expenses from a federal fund, the remainder of the  
19 expenses incurred may be recovered under AS 46.03.760(e) or AS 46.08.-  
20 070. Except as provided in AS 30.35.300, money [MONEY] received by  
21 the department under this section shall be deposited in the general  
22 fund and credited to a special account called the "oil and hazardous  
23 substance release mitigation account".

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

25 (b) Except as provided in AS 30.35.300, money [MONEY] received  
26 by the state under (a)(2) and (a)(3) of this section shall be deposit-  
27 ed in the general fund and credited to the special account called the  
28 "oil and hazardous substance release mitigation account." The legis-  
29 lature may annually appropriate to the fund from this account a sum

1 equal to the amount received under (a)(2) and (a)(3) of this section,  
2 other than the amount deposited in the Prince William Sound recovery  
3 account, during the calendar year preceding the legislative session in  
4 which the appropriations are to be made.

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

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