

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 25 (CRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered: 5/3/91
Referred: Finance

Sponsor(s): SENATORS ZHAROFF, Sturgulewski

A BILL

FOR AN ACT ENTITLED

1 "An Act concerning the exercise of authority by the state and its municipalities, and the
2 recovery of damages by the state and its municipalities and villages, in matters relating
3 to environmental conservation; relating to the liability of villages for environmental response
4 actions and to state assistance to municipalities and villages for expenses for prevention
5 and abatement of environmental degradation; and providing for an effective date."

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

7 * Section 1. INTENT. The provisions of AS 29.60.500 - 29.60.599, added by sec. 7 of this Act, are
8 not intended by the legislature to confirm long-term benefits on municipalities receiving financial
9 assistance under those provisions.

10 * Sec. 2. AS 29.35.020(b) is amended to read:

11 (b) A municipality may adopt an ordinance to exercise a power authorized by this
12 subsection [PROTECT ITS WATER SUPPLY AND WATERSHED,] and may enforce the
13 ordinance outside its boundaries. Before a [THIS] power authorized by this subsection may

1 be exercised inside the boundaries of another municipality, the approval of the other municipality
2 must be given by ordinance, and before a power authorized by this subsection may be
3 exercised inside a village, as that term is defined by AS 46.08.900, the approval of the
4 village must be given by resolution. A municipality intending to exercise its authority under
5 this subsection shall act by ordinance, and may adopt an ordinance under this subsection
6 to

7 (1) protect its water supply and watershed; or

8 (2) contain, clean up, or prevent the release or threatened release of oil or
9 a hazardous substance that may pose an imminent or substantial threat to persons,
10 property, or natural resources within the municipality's boundaries; however, this
11 paragraph does not authorize a municipality to enforce an ordinance outside its boundaries
12 to regulate exploration, development, production, or transportation of oil, gas, or minerals
13 in a manner inconsistent with the state's management of those resources, and enforcement
14 of the ordinance must be consistent with a regional master plan prepared by the
15 Department of Environmental Conservation under AS 46.04.210; in this paragraph,
16 "natural resources" has the meaning given in AS 46.03.826.

17 * Sec. 3. AS 29.35.020 is amended by adding a new subsection to read:

18 (e) In this section, "village"

19 (1) means the area within a five-mile radius of the village post office or, if there
20 is no post office, another site designated by the commissioner;

21 (2) does not include an area described in (A) of this paragraph that is within a
22 city or another village.

23 * Sec. 4. AS 29.35.200 is amended by adding a new subsection to read:

24 (d) A first class borough that exercises power necessary to contain, clean up, or prevent
25 a release or threatened release of oil or a hazardous substance, and exercise a power granted to
26 a municipality under AS 46.04, AS 46.08, or AS 46.09 shall exercise its authority in a manner
27 that is consistent with a regional master plan prepared by the Department of Environmental
28 Conservation under AS 46.04.210.

29 * Sec. 5. AS 29.35.210(a) is amended by adding a new paragraph to read:

30 (13) contain, clean up, or prevent a release or threatened release of oil or a
31 hazardous substance, and exercise a power granted to a municipality under AS 46.04, AS 46.08,

1 or AS 46.09; the borough shall exercise its authority under this paragraph in a manner that is
2 consistent with a regional master plan prepared by the Department of Environmental
3 Conservation under AS 46.04.210.

4 * Sec. 6. AS 29.35.220 is amended by adding a new subsection to read:

5 (e) A third class borough may by ordinance exercise power necessary to contain, clean
6 up, or prevent a release or threatened release of oil or a hazardous substance, and exercise a
7 power granted to a municipality under AS 46.04, AS 46.08, or AS 46.09, but the power
8 authorized by this subsection may be exercised only on a nonareawide basis. The borough shall
9 exercise its authority under this subsection in a manner that is consistent with a regional master
10 plan prepared by the Department of Environmental Conservation under AS 46.04.210.

11 * Sec. 7. AS 29.60 is amended by adding new sections to read:

12 ARTICLE 6. OIL AND HAZARDOUS SUBSTANCE MUNICIPAL
13 IMPACT ASSISTANCE.

14 Sec. 29.60.500. PURPOSE AND POLICY. (a) The legislature finds and declares that
15 a major release of oil or hazardous substances into the environment presents a real and substantial
16 threat to the economy and public welfare of the municipalities and villages that are affected by
17 the release and the resultant activities to contain and clean up the release.

18 (b) The legislature concludes that it is in the best interest of the state and its citizens to
19 provide a readily available fund for the payment of the expenses incurred by municipalities and
20 villages to mitigate the social and economic effects that arise out of a major release of oil or
21 hazardous substances and resultant cleanup activities.

22 (c) It is the intent of the legislature and declared to be the public policy of the state that
23 money to defray the cost of social and economic effects on municipalities and villages arising
24 from a major release of oil or a hazardous substance and resultant cleanup activities and to pay
25 for efforts to abate that release will be immediately available upon

26 (1) a determination by the governor that the release exceeds 2,500 barrels of oil,
27 or exceeds an amount of a hazardous substance that when released into the environment presents
28 a real and substantial threat to the economy and public welfare of the municipalities or villages
29 affected by it;

30 (2) the declaration by the governor of a disaster emergency relating to the release;

31 and

1 (3) a finding by the governor that

2 (A) the release of the oil or hazardous substance into the environment
3 presents a real and substantial threat to the economy and public welfare of the
4 municipalities and villages that are affected by the release and by the resultant activities
5 to contain and clean up the release; and

6 (B) it is in the best interest of the state to pay the expenses incurred by
7 municipalities and villages to mitigate the social and economic effects that arise out of
8 the release of the oil or the hazardous substance and the resultant cleanup activities.

9 Sec. 29.60.510. MUNICIPAL IMPACT GRANTS AUTHORIZED. (a) The
10 commissioner may use money from the oil and hazardous substance release response fund to
11 make grants to a municipality or village that is affected by the release or by the response to the
12 release and that demonstrates that the release or response to the release involves extraordinary
13 expenditures that are beyond the reasonable capability of the municipality or village to meet from
14 the current revenue sources of the municipality or village if

15 (1) the governor determines that a release of oil or a hazardous substance exceeds
16 2,500 barrels of oil, or exceeds an amount of a hazardous substance that, when released into the
17 environment, presents a threat to the economy and public welfare of the municipalities and
18 villages affected by it at least equivalent in effect to the effect of a release of oil in an amount
19 defined by this paragraph;

20 (2) the release has been proclaimed a disaster emergency by the governor under
21 AS 26.23.020; and

22 (3) the governor finds that

23 (A) the release of the oil or hazardous substance into the environment
24 presents a real and substantial threat to the economy and public welfare of the
25 municipalities and villages that are affected by the release and by the resultant activities
26 to contain and clean up the release; and

27 (B) it is in the best interest of the state to pay the expenses incurred by
28 municipalities and villages to mitigate the social and economic effects that arise out of
29 the release of the oil or the hazardous substance and the resultant cleanup activities.

30 (b) For each disaster emergency declared by the governor under AS 26.23.020, and
31 subject to agreement with the commissioner of environmental conservation as to the amount of

1 money in the fund that may be used by the department to make grants, the commissioner may
2 expend not more than \$10,000,000 of the balance of the fund that is appropriated to the spill
3 reserve or of the unrestricted balance of the fund for grants authorized under this section. If the
4 commissioner and the commissioner of environmental conservation do not agree on the amount
5 of money in the fund that may be used by the department to make grants under AS 29.60.500 -
6 29.60.599, the governor shall make the determination.

7 (c) Notwithstanding the limitation of AS 37.07.080(e) against the transfer of money
8 between appropriations, when the commissioner and the commissioner of environmental
9 conservation have agreed to the amount of money in the fund that may be used by the
10 department to make grants, or when that determination has been made by the governor, the
11 commissioner of environmental conservation shall promptly transfer that amount to the
12 department for use under AS 29.60.500 - 29.60.599.

13 (d) For money that has been transferred under (c) of this section, if within any one-year
14 period thereafter the commissioner does not use the money to make a grant under AS 29.60.500 -
15 29.60.599, the commissioner shall, at the direction of the governor or the request of the
16 commissioner of environmental conservation, return the unexpended amount transferred under
17 (c) of this section to the fund.

18 Sec. 29.60.520. PURPOSES OF MUNICIPAL IMPACT GRANTS. (a) A grant made
19 under AS 29.60.510 may be made

20 (1) only for

21 (A) provision of subsistence resources on which the residents of the
22 municipality or village rely for subsistence needs;

23 (B) the additional costs of a reasonable and appropriate function or
24 service, including administrative expenses for the incremental costs of providing the
25 function or service, limited to:

26 (i) public health and welfare functions and services, including
27 hospital, clinic, and emergency medical services; alcohol, drug abuse, and mental
28 health services; family support services; and the operation of waste disposal
29 systems and water quality improvement systems;

30 (ii) public safety functions and services, including police
31 protection, search and rescue, and fire protection;

1 (iii) public utility functions and services, including the operation
2 of electric generating plants and distribution systems, water supply systems,
3 telephone systems, and fuel distribution systems; and

4 (iv) housing functions and services, limited to leasing or making
5 other arrangements for temporary housing to be occupied by persons associated
6 with containment or clean up of the release;

7 (C) costs associated with leasing transportation facilities for use in
8 activities associated with the containment or clean up;

9 (D) costs of repair or replacement of equipment or a capital asset
10 associated with a function or service set out in (B) of this paragraph the useful life of
11 which has been substantially reduced by use associated with the containment or clean up;
12 and

13 (2) to compensate the municipality or village for

14 (A) the reduction of revenue attributable to the release of the oil or
15 hazardous substance; and

16 (B) the costs of projects or activities that are delayed or lost because of
17 the efforts of the municipality or village responding to the release or associated with the
18 containment or cleanup of oil or the hazardous substance.

19 (b) If money received under this section is used for a capital expenditure the
20 commissioner may require the municipality or village that acquired the item as a capital
21 expenditure to transfer it to the state at the end of the period during which the item is actually
22 used for spill response if the commissioner finds that retention of the item would confer an
23 inappropriate benefit on the municipality or village.

24 Sec. 29.60.530. CRITERIA TO EVALUATE GRANT APPLICATIONS. (a) In
25 determining whether an expenditure or proposed expenditure by a municipality or village is
26 eligible for a grant under AS 29.60.510, the department shall consider

27 (1) the degree to which the effect on the municipality or village is directly caused
28 by the oil or hazardous substance release or the response to the release;

29 (2) the availability of money to the recipient from other sources that can meet the
30 costs of providing the functions or services; and

31 (3) the severity of the effect addressed in the grant application.

1 (b) The department may reject an application for a grant under AS 29.60.510 or approve
2 an application for a grant in an amount that is less than the amount requested by a municipality
3 or village if the department determines that payment of the amount requested is not warranted
4 under (a) of this section.

5 (c) The department shall adopt, by regulation, criteria by which to rank all or a portion
6 of applications for the purpose of establishing the priority order of awarding grants if money
7 requested by eligible municipalities and villages under this section exceeds the amount available.
8 The criteria must be based on the elements set out in (a) of this section. If the total amount of
9 money requested by eligible municipalities and villages under this section exceeds the amount
10 available, the department shall rank applications for the purpose of establishing the priority order
11 of awarding grants in accordance with the regulations.

12 Sec. 29.60.540. LIMITATIONS ON USES OF GRANTS BY MUNICIPALITIES AND
13 VILLAGES. (a) A municipality may not use a grant made under AS 29.60.510 to reduce
14 current municipal tax rates or to retire its existing bonded indebtedness.

15 (b) Money received by a municipality or village under AS 29.60.500 - 29.60.599 may
16 not be used for a capital improvement, as that term is defined by AS 46.08.900(1).

17 Sec. 29.60.550. RECORDS. The department shall maintain records showing the income
18 and expenses of grants made under AS 29.60.510, and shall develop procedures governing the
19 expenditure of, and accounting for, money expended.

20 Sec. 29.60.560. IMPACT ASSESSMENT AND REMEDIAL PLANS. (a) For each
21 disaster emergency declared by the governor under AS 26.23.020 based on a release of oil or a
22 hazardous substance, the commissioner, after consulting with and securing the written approval
23 of the attorney general and after consulting with other state agencies, shall

24 (1) make an assessment of the social and economic effects of the release of the
25 oil or hazardous substance;

26 (2) develop a plan to

27 (A) recover the cost of release-related expenditures; and

28 (B) mitigate the social and economic effects of the release of the oil or
29 hazardous substance on the municipalities, the villages, and the region in which the
30 discharge occurs;

31 (b) The commissioner may make the assessment and plans required by (a) of this section

1 by

2 (1) using staff of the department;

3 (2) contracting with a municipality or other entity; or

4 (3) authorizing a municipality or other entity to perform that work and supporting
5 that effort by a grant.

6 (c) Only one assessment and one plan may be completed under this section for each
7 declaration of a disaster emergency.

8 (d) The commissioner may pay the costs of the assessment, the plan, and the recovery
9 of the cost of release-related expenditures from money available in the fund.

10 (e) Expenditures made under this section may be made only from the amount transferred
11 to the commissioner under AS 29.60.510(c), unless

12 (1) the commissioner and the commissioner of environmental conservation
13 mutually agree that payment may be made from money in the oil and hazardous substance release
14 response fund not transferred under AS 29.60.510(c); or

15 (2) the commissioner pays them from another source.

16 Sec. 29.60.590. REGULATIONS. The commissioner and the commissioner of
17 environmental conservation shall jointly develop and adopt regulations that are necessary to
18 implement the purposes of AS 29.60.500 - 29.60.599.

19 Sec. 29.60.599. DEFINITIONS. In AS 29.60.500 - 29.60.599,

20 (1) "barrel" when used with reference to oil has the meaning given by
21 AS 43.20.072;

22 (2) "containment and cleanup" has the meaning given in AS 46.08.900;

23 (3) "disaster emergency" means a disaster declared by the governor under
24 AS 26.23.020;

25 (4) "fund" means the oil and hazardous substance release response fund
26 established by AS 46.08.010;

27 (5) "hazardous substance" has the meaning given in AS 46.09.900;

28 (6) "oil" and "release" have the meanings given in AS 46.08.900;

29 (7) "service"

30 (A) means a function performed or service provided by a municipality
31 under a duty or power authorized by this title or by another provision of law authorizing

1 a municipality to perform functions or provide services, or a comparable function
2 performed or service provided by a village;

3 (B) includes functions not previously performed and services not
4 previously provided by the municipality or village;

5 (8) "village" means a place within the unorganized borough or within a borough
6 if the power, function, or service for which a grant application is submitted under AS 29.60.500 -
7 29.60.599 is not exercised or provided by the borough on an areawide or nonareawide basis at
8 the time the grant application is submitted, that

9 (A) has irrevocably waived, in a form approved by the Department of
10 Law, any claim of sovereign immunity that might arise in connection with the use of
11 grant money under this chapter; and

12 (B) has

13 (i) a council organized under 25 U.S.C. 476 (sec. 16 of the Indian
14 Reorganization Act);

15 (ii) a traditional village council recognized by the United States as
16 eligible for federal aid to Indians; or

17 (iii) a council recognized by the commissioner under regulations
18 adopted by the department to determine and give official recognition of village
19 entities under AS 44.47.150(b).

20 * Sec. 8. AS 46.03.760(e) is amended to read:

21 (e) In addition to liability under (a) - (d) of this section, a person who violates or causes
22 or permits to be violated a provision of AS 46.03.740 - 46.03.750 is liable to the state, in a civil
23 action brought under AS 46.03.822, for the full amount of actual damages caused to the state by
24 the violation, including

25 (1) direct and indirect costs associated with the abatement, containment, or
26 removal of the pollutant;

27 (2) [,] restoration of the environment to its former state;

28 (3) amounts paid as grants under AS 29.60.510 - 29.60.599 and as emergency
29 first response advances and reimbursements under AS 46.08.070(c); [,] and

30 (4) all incidental administrative costs.

31 * Sec. 9. AS 46.03.822(a) is amended to read:

1 (a) Notwithstanding any other provision or rule of law and subject only to the defenses
2 set out in (b) of this section and the exception set out in (i) of this section, the following persons
3 are strictly liable, jointly and severally, for damages to persons or property, whether public or
4 private, including damage to the natural resources of the state or municipality, [AND] for the
5 costs of response, containment, removal, or remedial action incurred by the state, [OR] a
6 municipality, or a village, and for the additional costs of a function or service, including
7 administrative expenses for the incremental costs of providing the function or service, that
8 are incurred by the state, a municipality, or a village, and the costs of projects or activities
9 that are delayed or lost because of the efforts of the state, the municipality, or the village,
10 resulting from an unpermitted release of a hazardous substance or, with respect to response costs,
11 the substantial threat of an unpermitted release of a hazardous substance:

12 (1) the owner of, and the person having control over, the hazardous substance at
13 the time of the release or threatened release; this paragraph does not apply to a consumer product
14 in consumer use;

15 (2) the owner and the operator of a vessel or facility, from which there is a
16 release, or a threatened release that causes the incurrence of response costs, of a hazardous
17 substance;

18 (3) any person who at the time of disposal of any hazardous substance owned or
19 operated any facility or vessel at which the hazardous substances were disposed of, from which
20 there is a release, or a threatened release that causes the incurrence of response costs, of a
21 hazardous substance;

22 (4) any person who by contract, agreement, or otherwise arranged for disposal or
23 treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous
24 substances owned or possessed by the person, other than domestic sewage, or by any other party
25 or entity, at any facility or vessel owned or operated by another party or entity and containing
26 hazardous substances, from which there is a release, or a threatened release that causes the
27 incurrence of response costs, of a hazardous substance;

28 (5) any person who accepts or accepted any hazardous substances, other than
29 refined oil, for transport to disposal or treatment facilities, vessels or sites selected by the person,
30 from which there is a release, or a threatened release that causes the incurrence of response costs,
31 of a hazardous substance.

1 * Sec. 10. AS 46.03.822(h) is amended to read:

2 (h) The state, [OR] a municipality, or a village is not liable under this section for costs
3 or damages as a result of actions taken in response to an emergency created by a release or
4 threatened release of a hazardous substance generated by or from a facility or vessel owned by
5 another person unless the actions taken by the state, the [OR] municipality, or the village
6 constitute gross negligence or intentional misconduct.

7 * Sec. 11. AS 46.03.900 is amended by adding new paragraphs to read:

8 (35) "service" means a function performed or service provided by the state or by
9 a municipality under a duty or power authorized by AS 29 or other provision of law authorizing
10 a municipality to perform functions or provide services, or a comparable function performed or
11 service provided by a village; "service" includes functions not previously performed and services
12 not previously provided;

13 (36) "village" means a place within the unorganized borough or within a borough
14 as to a power, function, or service that is not exercised or provided by the borough on an
15 areawide or nonareawide basis that

16 (A) has irrevocably waived, in a form approved by the Department of
17 Law, any claim of sovereign immunity that might arise under this chapter; and

18 (B) has

19 (i) a council organized under 25 U.S.C. 476 (sec. 16 of the Indian
20 Reorganization Act);

21 (ii) a traditional village council recognized by the United States as
22 eligible for federal aid to Indians; or

23 (iii) a council recognized by the commissioner of community and
24 regional affairs under regulations adopted by the Department of Community and
25 Regional Affairs to determine and give official recognition of village entities
26 under AS 44.47.150(b).

27 * Sec. 12. AS 46.04.020 is amended by adding a new subsection to read:

28 (f) In fulfilling its responsibilities under (e) of this section, the department shall consult
29 with the governing bodies of municipalities and villages.

30 * Sec. 13. AS 46.04.900(5) is amended to read:

31 (5) "containment and cleanup" includes all direct and indirect efforts associated

1 with the prevention, abatement, containment, or removal of a pollutant, and the restoration of the
2 environment to its former state; when applied to expenses, the term includes the additional
3 costs of providing a reasonable and appropriate function or service incurred in response to
4 the discharge of a pollutant, including [, AND ALL INCIDENTAL] administrative expenses
5 for the incremental costs of providing the function or service;

6 * Sec. 14. AS 46.04.900 is amended by adding new paragraphs to read:

7 (20) "service" means a function performed or service provided by the state,
8 including functions not previously performed and services not previously provided by the state;

9 (21) "village" means a place within the unorganized borough or within a borough
10 as to a power, function, or service that is not exercised or provided by the borough on an
11 areawide or nonareawide basis that

12 (A) has irrevocably waived, in a form approved by the Department of
13 Law, any claim of sovereign immunity that might arise under this chapter; and

14 (B) has

15 (i) a council organized under 25 U.S.C. 476 (sec. 16 of the Indian
16 Reorganization Act);

17 (ii) a traditional village council recognized by the United States as
18 eligible for federal aid to Indians; or

19 (iii) a council recognized by the commissioner of community and
20 regional affairs under regulations adopted by the Department of Community and
21 Regional Affairs to determined and give official recognition of village entities
22 under AS 44.47.150(b).

23 * Sec. 15. AS 46.08.040(a) is amended to read:

24 (a) In addition to money in the fund that is transferred to the commissioner of
25 community and regional affairs to make grants under AS 29.60.510 and to pay for impact
26 assessments under AS 29.60.560, the [THE] commissioner of environmental conservation may
27 use money from the fund to

28 (1) investigate and evaluate the release or threatened release of oil or a hazardous
29 substance, and contain, clean up, and take other necessary action, such as monitoring and
30 assessing, to address a release or threatened release of oil or a hazardous substance that poses
31 an imminent and substantial threat to the public health or welfare, or to the environment;

1 (2) pay all costs incurred to

2 (A) establish and maintain the oil and hazardous substance response office;

3 (B) review oil discharge prevention and contingency plans submitted under
4 AS 46.04.030;

5 (C) conduct training, response exercises, inspections, and tests, in order
6 to verify equipment inventories and ability to prevent and respond to oil and hazardous
7 substance release emergencies, and to undertake other activities intended to verify or
8 establish the preparedness of the state, a municipality, or a party required by
9 AS 46.04.030 to have an approved contingency plan to act in accordance with that plan;
10 and

11 (D) verify or establish proof of financial responsibility required by
12 AS 46.04.040;

13 (3) pay the expenses incurred by the Alaska division of emergency services for
14 the oil and hazardous substance response corps and the oil and hazardous substance response
15 depots when presented with appropriate documentation by the division;

16 (4) provide matching funds for participation in federal oil discharge cleanup
17 activities and under 42 U.S.C. 9601 - 9657 (Comprehensive Environmental Response,
18 Compensation, and Liability Act of 1980);

19 (5) recover the costs [COST] to the state, [OR TO] a municipality, or a village
20 of a containment and cleanup resulting from the release or the threatened release of oil or a
21 hazardous substance;

22 (6) prepare, review, and revise

23 (A) the state's master oil and hazardous substance discharge prevention
24 and contingency plan required by AS 46.04.200; and

25 (B) a regional master oil and hazardous substance discharge prevention
26 and contingency plan required by AS 46.04.210; and

27 (7) restore the environment by addressing the effects of an oil or hazardous
28 substance release.

29 * Sec. 16. AS 46.08.070(c) is amended to read:

30 (c) The department shall [MAY] reimburse a municipality or village for actual expenses,
31 other than normal operating expenses, incurred in the abatement of a release or threatened release

1 and may advance money to a municipality or village to carry out an emergency first
2 response to a release or threatened release of oil or a hazardous substance if

3 (1) the municipality or village has entered into an agreement with the
4 commissioner under AS 46.04.020(e) or AS 46.09.020(e); and

5 (2) the commissioner determines that

6 (A) the expenses to be reimbursed were for a necessary emergency first
7 response to a release or threatened release that, at the time of the release or threatened
8 release, posed an imminent and substantial threat to the public health or welfare, or to
9 the environment;

10 (B) the municipality or village has demonstrated a need for financial
11 assistance, and the money to be advanced is necessary to enable the municipality or
12 village to carry out an emergency first response to a release or threatened release
13 that, at the time of the release or threatened release, poses an imminent and
14 substantial threat to the public health or welfare, or to the environment; and

15 (C) containment and cleanup efforts paid for in whole or in part by
16 a reimbursement or an advance made under this section were consistent with the
17 regional master plan for the region in which the municipality or village is located if
18 a plan has been prepared by the department under AS 46.04.210.

19 * Sec. 17. AS 46.08.900(3) is amended to read:

20 (3) "containment and cleanup" includes the direct and indirect efforts associated
21 with the prevention, abatement, containment, or removal of oil or a hazardous substance, and the
22 restoration of the environment; when applied to expenses, the term includes the additional
23 costs of providing a reasonable and appropriate function or service incurred in response to
24 the release of the oil or hazardous substance, including [, AND INCIDENTAL] administrative
25 expenses for the incremental costs of providing the function or service;

26 * Sec. 18. AS 46.08.900 is amended by adding new paragraphs to read:

27 (11) "service"

28 (A) means a function performed or service provided by a municipality
29 under a duty or power authorized by AS 29 or by another provision of law authorizing
30 a municipality to perform functions or provide services, or a comparable function
31 performed or service provided by a village;

1 (B) includes functions not previously performed and services not
2 previously provided by the municipality or village;

3 (12) "village" means a place within the unorganized borough or within a borough
4 if the power, function, or service for which a grant application under AS 29.60.510 is submitted
5 is not exercised or provided by the borough on an areawide or nonareawide basis at the time the
6 grant application is submitted that

7 (A) has irrevocably waived, in a form approved by the Department of
8 Law, any claim of sovereign immunity that might arise in connection with the use of
9 grant money under this chapter; and

10 (B) has

11 (i) a council organized under 25 U.S.C. 476 (sec. 16 of the Indian
12 Reorganization Act);

13 (ii) a traditional village council recognized by the United States as
14 eligible for federal aid to Indians; or

15 (iii) a council recognized by the commissioner of community and
16 regional affairs under regulations adopted by the Department of Community and
17 Regional Affairs to determine and give official recognition of village entities
18 under AS 44.47.150(b).

19 * Sec. 19. AS 46.09.060(b) is amended to read:

20 (b) Authority to contain, clean up, or prevent a release or threatened release of oil or of
21 a hazardous substance, and to exercise other powers necessary to implement this chapter,
22 AS 46.04, and AS 46.08, are granted to municipalities that do not otherwise have that authority.
23 Except as provided in (a) of this section, a municipality may exercise its police power within the
24 area of the municipality.

25 * Sec. 20. AS 46.09.900(2) is amended to read:

26 (2) "containment and cleanup" includes the direct and indirect efforts associated
27 with the prevention, abatement, containment, or removal of a hazardous substance, **and** the
28 restoration of the environment; **when applied to expenses, the term includes the additional**
29 **costs of providing a reasonable and appropriate function or service incurred in response to**
30 **the release of the hazardous substance, including** [, AND INCIDENTAL] administrative
31 **expenses for the incremental costs of providing the function or service;**

1 * Sec. 21. AS 46.09.900 is amended by adding a new paragraph to read:

2 (8) "service" means a function performed or service provided by the state,
3 including functions not previously performed and services not previously provided by the state.

4 * Sec. 22. Sections 9 and 11 of this Act are retroactive to March 24, 1989.

5 * Sec. 23. APPLICABILITY. The amendments made by secs. 7, 8, 15, and 16 of this Act do not
6 apply to a release of oil or a hazardous substance and resultant cleanup activities or to efforts to respond
7 to or abate that release if the release occurred before the effective date of this Act.

8 * Sec. 24. This Act takes effect immediately under AS 01.10.070(c).