

SB

227

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 3, 1977

SUBJECT: HCS for CS for SB 227

TO: Representative Alvin Osterback, Chairman  
House Resources Committee

FROM: Richard A. Bradley *B*  
Legislative Counsel

The House Committee Substitute requested is enclosed with this memorandum.

Changes proposed in secs. 10 and 20 of the bill introduce the suggestion Federal agencies will participate in the simplified application procedure [Sec. 20(1)] as well as in the review process.

The bill formerly only referred to Federal agencies in Sec. 20(5), a section allowing for the dissemination of information on Federal law.

It seems clear that the State cannot require Federal agencies such as the Corps of Engineers or the Coast Guard to use the Department of Environmental Conservation as the agency accepting filings for their permits. To this extent, addition of the word "federal" at lines 24 and 26, page 1, is beyond the authority of the State and perhaps misleading to applicants.

It also seems inappropriate to suggest that State procedures are involved in the review of Federal applications. Line 3, page 2.

The amendments at line 7 and line 8, page 2 present no such problem.

The remaining sections of the bill (except for §60(d)) contain no references to Federal agencies. No problems are presented by this approach.

Although I have reservations about the Committee's proposal, the bill is delivered as requested.

RAB:hjd

Enclosure

THE LEGISLATURE OF THE STATE OF ALASKA  
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 227

Title Procedure on applications for permits for state air, land, water.

Requested by Poland & Tillion

Date \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected Environmental Conservation

Program Category Affected NPM & EC

Budget Request Unit(s) Affected Program Coordination

EXPENDITURES (Thousands of Dollars)

Inflation at 6%

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES		56,725	60,128	63,736	67,560	71,614
200 TRAVEL		15,000	15,900	16,854	17,865	18,937
300 CONTRACTUAL		21,500	27,790	24,157	25,607	27,143
400 COMMODITIES		1,200	1,272	1,348	1,429	1,515
500 EQUIPMENT		4,000	---	---	---	---
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>		<b>98,425</b>	<b>100,090</b>	<b>106,095</b>	<b>112,461</b>	<b>119,209</b>

FUNDING (Thousands of Dollars)

	98,425	100,090	106,095	112,461	119,209
GENERAL FUND					
FEDERAL FUNDS					
OTHER (Specify)					

POSITIONS

	4	4	4	4	4
FULL TIME					
PART TIME					
TEMPORARY					

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See attached

IV. DATE 4-15-77

PREPARED BY

A. L. Eagle

AGENCY

Environmental Conservation

PHONE

465-2544

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

FISCAL ANALYSIS SB 227

The difficulty in preparing a fiscal analysis for this bill stems from its optional nature. We are not sure how often this procedure will be utilized by the public. Washington State established a similar optional system in 1973. By 1976 of the 119 applications received, 10 were active, 25 permits had been issued and 84 were withdrawn. Basically their system is used in determining the various agency positions on a permit prior to withdrawal. Assuming similar usage in Alaska, say for the purposes of this analysis, 30 permits per year for major projects; the tasks required by this bill and their associated costs are:

1. Develop master application format, print and distribute.

<u>Object Code</u>	<u>Item</u>	<u>Cost</u>
300	development, printing and distribution	\$2,000.00

2. Local government certification of project proposals

Fiscal impact on local governments only

3. Receive screen and process master applications

Costs can be absorbed in Field Office and Permit Information Centers.

4. Establish a tracking mechanism. Once established, log and process master applications to other agencies.

<u>Object Code</u>	<u>Item</u>	<u>Cost</u>
100	Clerk IV	\$15,270

5. Process agency responses to master applications

Costs included in #4 above.

6. Mail necessary applications to applicant. Send complete applications to other agencies.

Costs included in #4 above.

7. Verify land and water ownership

Costs may increase for applicant but can probably be absorbed by the Department. The applicant would be required to submit the proof of ownership.

8. The Department must cause an advertisement to be placed at the applicants expense in the local papers, once a week for three weeks.

To avoid costs here the applicant would be required to show proof of publication. Therefore State costs can be absorbed into the position established under item #4 above.

9. Public hearings must be held on controversial permits. Assuming half of the 30 permits per year require hearings at a cost of \$1,500.00 per hearing costs become \$22,500.00

<u>Object Code</u>	<u>Item</u>	<u>Cost</u>
200	travel	\$15,000.00
300	hearing and transcription	\$7,500.00

10. Hearing information must be summarized and distributed.

Because this activity is already done to some extent, the cost to summarize the additional hearings can probably be absorbed by existing and new positions and associated costs discussed above.

11. Final decisions by other agencies must be received and processed through to the applicant as a final permit.

Costs included in #4, above.

12. Information Centers are required at each regional office and in the Commissioners Office in Juneau. Assuming a contractual arrangement with a municipality where Regional Offices exist to be just as expensive as establishing these centers "inhouse", the costs become.

<u>Object Code</u>	<u>Item</u>	<u>Cost</u>
100	Ad. Assistant I - Anchorage	\$18,465.00
100	Ad. Assistant I - Valdez	\$21,885.00
100	Ad. Assistant I - Fairbanks	\$21,105.00
100	*Ad Assistant I - Juneau	-0-

Total \$41,455.00

- \* Costs for Juneau position can be absorbed in #4 above.

13. Contracts for Local Permit Information Centers may be initiated with outlying communities. Assuming no additional personnel would be hired, the costs should be minimal. Estimate 1,000/year support costs for perhaps a dozen centers

<u>Object Code</u>	<u>Item</u>	<u>Cost</u>
300	12 Local Information Centers	\$12,000.00

14. Miscellaneous support costs for each center and new position

<u>Object Code</u>	<u>Item</u>	<u>Cost</u>
400	Commodities	\$1,200.00
500	Equipment for new positions	\$4,000.00



# Alaska State Legislature

SIINEAU ALASKA

## MEMORANDUM

April 20, 1977

To: Representative Alvin Osterback  
From: Senator Kay Poland  
Re: CSSB 227 "Permitting"

CSSB 227 relative to securing state permits for various projects involving use of state land, air, or water has been referred to your committee.

Passage of this Bill would be a distinct public service in providing a certainty of time, procedure, and definitive policy where none now exists.

Attached is an analysis of the Bill prepared by the staff of the DEC and of the Resources Committee, as well as a summary of that analysis. In addition, I am prepared to give any personal testimony your Committee may wish.

## SUMMARY OF ANALYSIS, CSSB 227

The Bill is designed to facilitate communications between the public and state agencies having jurisdiction over various permits. The Bill establishes a single procedure of application, hearings, and processing. The procedure is optional with the applicant who remains free to follow existing procedures if his/her purpose is better served thereby. The Bill provides;

1. Regularly accessible local offices for information and assistance.
2. A single master application and time certain for the initial reply of all agencies. Agencies not responding lose their right to subsequently require a permit.
3. Provides an expedited process. The Department of Environmental Conservation coordinates the processes of all other agencies. The decision making authority of any other agency is not altered or diminished.
4. A single hearing is coordinated for all agencies and public.
5. A firm time sequence is established, ending guesswork and undue delays.
6. Compliance with local government ordinances and planning is mandatory.
7. Existing fee schedules are retained. Amending of fee schedules is not prohibited.

## ANALYSIS OF CSSB 227, "PERMITTING"

CSSB 227, the proposed "Environmental Coordination Procedures Act" (ECPA) is designed largely around a bill passed by the Washington State Legislature in 1973. The bill is designed to facilitate communications between the public, including applicants for permits, and state agencies which have jurisdiction over various permits. The bill establishes a procedure, optional with the applicant, by which all permits necessary for a particular project may be applied for, and processed, as a single unit. A single, joint public hearing on all permits is provided for, as well as a single public notice procedure.

As envisioned, the bill has the following objectives:

1. To provide a regularly, accessible local office where information on the requirements for federal, state, and local permits may be acquired. These, the so-called "Permit Requirements Information Centers", are to be established in the Office of the Commissioner of Environmental Conservation, and each regional office of the Department of Environmental Conservation.

2. To provide a single master application form, which is submitted to the Department, and circulated by it directly to other state agencies. The other agencies must declare, within 15 days, whether they require permits of the applicant and, if so, which permits. Agencies which do not so declare may not subsequently require a permit of the applicant for that project.

3. To provide for an expedited process by which all permit applications, as identified by state agencies, are transmitted by the Department, which subsequently coordinates the permit processes of other agencies. Thus, the contacts between an individual and a potentially large number of state agencies can be limited to a single contact with one agency. In the event of problems with a particular project, communications between all agencies and the applicant are facilitated, but if no such problems arise, the applicant contacts only the Department of Environmental Conservation.

4. ECPA would help coordinate the decision-making process for all state agencies, through a mandated information flow, but it would not remove or alter an individual agency's decision-making authority.

5. If a public hearing is found to be required after polling all affected agencies, ECPA would require a single public hearing at which all the various views of the agencies, the applicant, and the public can be heard.

6. The ECPA process would eliminate guesswork and undue delays in permit processing; a firm time sequence is established by law, this sequence can be extended only for over-riding considerations.

7. The Department of Environmental Conservation would be the administrator of the program, coordinating the efforts of the various state agencies. ECPA would not give DEC any new jurisdiction or new power over the other state agencies. ECPA specifically retains the existing authorities of state agencies.

8. ECPA would provide for proof of conformance with local government requirements before state permits are issued. In a real sense, local governments would then have a "veto" or certification power over a project through denial of certification.

9. The bill allows for the withholding of the final permit until ownership of the land is established, but requires the application process to continue concurrently with acquisition. As a practical matter, any state land involved is usually a part of the application process.

It should be understood that the ECPA process does not, necessarily, expedite the permit process. An applicant can choose to handle each required permit on an individual basis, although this could potentially be more time consuming. Most permits for small projects are handled routinely by state agencies, many simple ones in a matter of days or hours. The ECPA process, in that it has a minimum time requirement of 150 or so days between master application filing and permit issuance, would not be chosen by a project sponsor which had only a few, simple permits needed.

More complex projects, such as oil refineries, power plants, etc., would be required to have a much larger number of permits, some of which, because of legal requirements or built-in delay factors, may take 180 days or more for processing. For example, the discharge permit issued by the Environmental Protection Agency under the National Pollutant Discharge Elimination System requires that permits be applied for 180 days prior to discharge. State requirements vary; many have mandatory 30 or 60-day waiting periods, although extensions for cause are allowed. Many state permit processes do not mandate time schedules, and potentially the applicant could suffer undue delays without recourse. By mandating a maximum time schedule by which all permits must be processed and issued, ECPA would assure the applicant of an answer within a time certain.

The ECPA permit process is not without some cost to the public. Costs previously borne by the applicant, and his consultants, if any, would be partly borne by the state in copying permit applications, distribution, and coordination costs. Many state permit and approval programs are conducted at no cost to the applicant, and those that do not always relate actual costs of permit processing to the fee. In addition, the establishment of the Permit Requirements Information Center would entail costs, both in manpower and material.

CSSB 227 Analysis  
Page 3

Existing fee schedules are retained, and nothing in the Act prohibits amending the fee schedules, if necessary, to meet any added costs.

# STATE OF ALASKA

## DEPARTMENT OF NATURAL RESOURCES

227  
JAY S. HAMMOND, GOVERNOR

DIVISION OF LANDS

323 E. 4TH AVENUE - ANCHORAGE 99501

April 28, 1977

Honorable Alvin Osterback, Chairman  
House Resources Committee  
Pouch V  
Juneau, Alaska 99811

Dear Mr. Chairman:

Please add my following statement to the record on CSSB 227.

I sympathize wholly with the aim of CSSB 227, that is, the applications in the permitting process for state agencies should be coordinated and simplified. It is certainly undesirable for a timber operator, for instance, to have to contact over 30 different federal and state agencies in order to obtain requisite operating permits.

It is my opinion, however, that the subject bill does not meet this objective in any significant way. I think it is necessary to separate the type of permits which the state issues into two separate categories. These are regulatory permits, i.e., the permits the State issues through its police power and proprietary permits, i.e., the permits issued by the State because it is the owner of the resources to be used. A permit issued under the police power of the State is one in which the aim is to protect the general public health and welfare. A proprietary permit, on the other hand, is issued to insure that use of state owned resources is in the best interest of the owners of those resources - all the people of the State.

Title 38 deals extensively with the authority of the Department of Natural Resources as the steward of the state's natural resources. AS 38.05 in particular details statutory requirements which the Department must meet in granting any permit to utilize state resources.

CSSB 227 does not (nor should it) relieve the Department from complying with any of these requirements. Thus, for those actions for which the permitting authority falls under Title 38, the procedure outlined under CSSB 227 would have the opposite effect of that which is intended. Instead of shortening and simplifying the process for the applicant, it would merely add another layer of bureaucracy to the already substantial

April 28, 1977

statutory requirements. The time span which currently has a roughly six month minimum would be substantially increased and a separate hearing process added.

I urge that in your deliberations on this bill that you consider exclusion of those permits which the State issues in its role as landlord as opposed to permits which it issues in its role as sovereign. We will be happy to work with you in drafting necessary amendments to Title 38 which could make the "one-stop" process of CSSB 227 more workable.

Please contact me if I may be of assistance to you.

Yours truly,



Theodore G. Smith, Director  
Division of Land and Water Management

cc: Ernst W. Mueller  
Frances A. Ulmer

