

SB

227

COMMITTEE REPORT

3/9/77

SENATE

4/11/77

Date

Mr. President:

The Committee on RESOURCES has had SB 227 relating procedures on applications for permits for use of state's air, land, or water resources under consideration. A majority of the members of the Committee

- recommends it do pass
- recommends it do not pass
- recommends it do pass with attached amendment(s)
- recommends it be replaced with CS for SB 227 and that CS for SB 227 do pass
- (and) recommends it be referred to the _____ committee
- reports it back without recommendation
- AND attaches a report of its intent
- (other) _____

MEMBERS SIGNING THE MAJORITY REPORT:

William Do Pass

John NO AFI

... ...

... Do Pass

MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

Callotta recommends: Do Pass

_____ recommends: _____

_____ recommends: _____

R. Toland
Chairman
Do Pass

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

JAY S. HAMMOND, GOVERNOR

POUCH 0 - JUNEAU 99811

May 17, 1977

SB 227

The Honorable Kay Poland
Alaska State Senate
Capitol Building
Juneau, Alaska 99811

Dear Senator Poland:

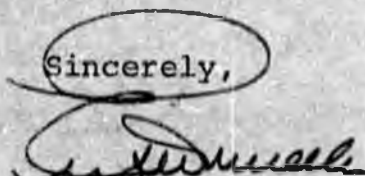
We have been tracking the progress of SB 227, the bill whose goal is to expedite the State's permit process by providing the "one stop shopping" for permits and to provide a permit information system. As one of the bill's original sponsors, I know that you share my commitment to make certain that the bill is implemented successfully.

As you know, HCS CSSB 227 mandates the Department of Environmental Conservation to be the "lead" agency for coordination of applications for State permits. However, apparently due to an oversight the bill was not referred to the Finance Committee of either house, and as a result I am informed that the funding of the fiscal note needed to implement the bill may not be provided. If no funds are appropriated, this means that the Department will be unable to implement the bill within the time frame established in it. We would be required to delay implementation until fiscal year 1979, and then only if the budget process results in funding for that fiscal year.

As you can see, the Department faces a serious dilemma. To implement HCS CSSB 227 we will need funding from the Legislature. The Department complied fully with the Legislature's administrative procedures by supplying fiscal notes to the appropriate committees. Therefore, I hope that you will be able to obtain funding, perhaps by ensuring that the Conference Committee on the Budget appropriates moneys to implement this bill.

If you have any questions on this matter, please do not hesitate to contact me.

Sincerely,


Ernst W. Mueller
Commissioner

Enclosure: Fiscal Note

CSSB 227 "PERMITTING"

SB 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 to the applicant, are returned by him to 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 overriding 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 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 committee substitute 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, ~~pipelines~~, 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 by no means without 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.

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

Final report

3/14/77

*Ren J. Tracy
Com. Bill*

Re: SB 227

An Act regulating the procedure on applications for permits for the use of the state's air, land, or water resources. (construction projects)

Summary:

Establishes a simplified procedure and a degree of certainty for the processing of permit applications.

1. Master application is made to Department of Environmental Conservation. 46.30.030.
2. D.E.C. circularizes all other state agencies which must respond within 15 days or lose their option to participate further. 46.30.030 (b) (c)
3. D.E.C. gathers all agency requirements and submits to applicant for completion. 46.30.030 (e)
4. D.E.C. returns completed forms to agencies and within 30 days makes notice of public hearing, unless none of the agencies have requested a hearing. If no public hearing is requested, public shall have 30 days to submit views in writing. 46.30.030 (f) and 46.30.050 (a) (b)
5. If hearing is required it shall be held not less than 20 days, nor more than 30 days following last publication of notice of hearing. 46.30.050
6. Final decisions from the state agencies must be forwarded to D.E.C. within 60 days following hearing. 46.30.070 (a)
7. If any agency denies the permit it must state its reasons and also present an alternate means for completion of the project. If the agency believes no alternate means is feasible, it must provide written reasons for that conclusion. 46.30.070 (c)
8. Any person denied a permit by a state agency may appeal to the Superior Court. 46.30.090

SB 227 - Continued
3/14/77

9. The Bill is also a repealer, in effect, because the procedures described are in lieu of any regulations enacted before or after the legislation. 46.30.110 (a)
10. All local and federal laws must be complied with before final permit is issued. 46.30.130
11. Establishes public information centers in all regions. 46.30.160
12. Excludes ATC and APUC. 46.30.200 (4)
13. Does not include applications to lease, purchase, or otherwise acquire state land. However, if the permit application is for construction on land to be acquired from the state, the Bill requires that the state agency or municipality promptly adjudicate the application for the land or water filed by the applicant. 46.30.040
14. Maintains fee schedules. 46.30.120
15. See all definitions. 46.30.200 (1) - (8)
16. Passage of Bill would be a public service.

ROBERT B. ATWOOD
Editor and Publisher

WILLIAM J. TOBIN
Associate Editor
And General Manager

CLINTON T. ANDREWS JR.
Managing Editor

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Sunday, February 27, 1977

Unwelcome Mat

SOMETHING HAPPENED in California recently that deserves the attention of thoughtful Alaskans. The Dow Chemical Co., after spending more than two years and millions of dollars attempting to get clearance for construction of a petrochemical complex on the Sacramento River, folded its tent and pulled up stakes. The \$500 million it had set aside for investment in California now will be allocated to projects in other states.

Those who don't like corporate growth will cheer. The environmentalists who scattered thorns in Dow's path can hail their victory. But there is much more to this than such a simple reaction.

In a report in the Seattle Times on Feb. 17, staff reporter Paul Andrews, who is on leave attending Stanford University, wrote:

"In many ways, the Dow project was just another industry-vs.-environment imbroglio. But there was one difference: Dow didn't fidget or bellyache or mutter idle threats, it just up and quit. And it refused to reconsider its decision."

IT WAS a decision of some magnitude in California, and one which has shocked many people in the state.

"During its short-lived existence," wrote Mr. Andrews, "the Dow proposal was heralded as a major shot in the arm to California's job-hungry (9.1 per cent unemployment) economy. The complex, promoted as the first of its kind on the West Coast, was to cost \$500 million, create 1,000 construction jobs over a five-to-eight-year period and provide more than 1,000 permanent jobs with an annual payroll exceeding \$15 million."

What happened? According to the Seattle Times report, Dow Chemical spent \$6 million to obtain 2,700 acres of land on the north bank of the Sacramento River, 40 miles southwest of the state capital, for a project designed to cover 800 acres of industrially zoned property. It then proceeded to spend 2½ years and \$4.5 million trying to get clearance to proceed.

The trouble was that 65 permits from 12 local, state and federal governmental agencies

were required. After 30 months and \$4½ million, Dow had managed to obtain only four of the 65 permits.

At that point it threw in the towel.

THE DAY BEFORE the company announced it was pulling out, Gov. Jerry Brown was in New York trying to convince financial and business leaders that there was no truth to a industrial plant-siting report which listed California as having one of the nation's worst business climates.

Now California officials are frantically trying to see if there isn't some way to reduce the impossible hurdle of existing permit requirements. And the governor is proposing the expenditure of \$52 million in tax money to create about 5,000 state jobs.

It's worth noting that a team of high-ranking Dow Chemical officials visited Alaska a year or so ago and got the cold shoulder from members of the administration of Gov. Jay Hammond. The company was looking to Alaska at the time as a possible site for petrochemical facilities using natural gas from the North Slope.

THE CHILLY REACTION in Juneau surprised the Dow officials. They told a meeting of Anchorage businessmen about it the next day. And they said then that there were other places for them to invest their company's money, without wasting time and effort in a state where they were not welcome.

Now California has been given the same message, in a much more dramatic way. The company's interest in Alaska was merely preliminary and exploratory. In California, the company did invest time and money in the apparent belief its project would be a welcome addition to the economy.

When it turned out otherwise, after a costly lesson, the company went elsewhere. What has happened to the huge sum of money originally slated for capital development in the California project?

The Seattle Times reporter told it simply:

"The \$500 million has been reallocated to projects in the Midwest and Canada."

Re: Difficulty of obtaining permits

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 NRM & 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	1,270	1,348	1,429	1,515
500 EQUIPMENT		4,000	--	--	--	--
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		98,425	100,090	106,095	112,461	119,209

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME		4	4	4	4	4
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

465-2684

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

FISCAL ANALYSIS SB 277

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 1974 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

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