

HB

522

ENERGY EMERGENCIES: LEGISLATIVE OPTIONS

ALASKA ENERGY EMERGENCIES ACT--DRAFT

A BILL

For an Act Entitled: "An act requiring an energy contingency plan; providing for the declaration of an energy emergency; granting necessary energy emergency powers to the governor; defining conditions under which such powers are to be exercised; providing penalties; providing a period of effectiveness; and amending the state disaster act and the public utilities commission act."

Section 1: Legislative findings and intent:

The legislature recognizes that the people of Alaska are highly dependent upon available energy resources for their health, safety, and well-being; that energy in various forms is increasingly subject to shortages and disruptions; and that only with adequate information systems and a comprehensive emergency response plan for reducing and allocating energy use, can a severe impact on our state's citizens be avoided in an energy emergency. The legislature finds that prevention or mitigation of the effects of such shortages or disruptions is necessary for preservation of the general health and welfare of the citizens of this state.

(2) It is the intent of this act to:

- (a) grant necessary planning, information gathering, energy emergency powers to the governor and the Division of Energy and Power Development, and define the conditions under which such powers are to be exercised.

Be it therefore enacted that:

1. AS 44.33 is amended by adding a new section to read:

Section 2: Definitions:

For the purposes of this act:

(1) "Energy" means all forms of energy or power used in Alaska, including but not limited to oil, gasoline and other petroleum products; natural or manufactured gas; electricity in all forms and from all sources; and other fuels of any description.

(2) "Energy emergency" means an existing or imminent domestic, regional, national or international shortage of energy which threatens curtailment of essential services or production of essential goods, or the disruption of significant sectors of the economy unless action is taken to conserve or limit the use of the energy form involved, or to allocate available energy supplies among users.

(3) "Person" means an individual, partnership, joint venture, private or public corporation, cooperative, association, firm, public utility, political subdivision, municipal corporation, government agency, or any other entity, public or private, however organized.

(4) "Energy supplier" means a person who furnishes energy in the state, or any part of the state, as determined by the Division.

(5) "Director" means the director of the Division of Energy and Power Development.

(6) "the Division" means the Division of Energy and Power Development in the Department of Commerce and Economic Development.

Section 3. Energy contingency plan.

(1) Within months after the effective date of this act, the Division shall prepare and issue a comprehensive plan specifying actions to be taken in the event of an energy emergency in the manner set forth in subdivision (2).

(2) Such plan shall describe in detail a variety of strategies and energy conservation measures to be implemented in a phased response to an energy emergency, and shall establish guidelines and criteria for the emergency allocation of energy to priority energy users as defined in the plan. The plan shall contain alternative conservation actions and allocation plans designed to meet various foreseeable shortage circumstances and allow a choice of appropriate responses. The plan shall be consistent with relevant federal laws and regulations and shall:

(a) seek to employ voluntary measures before mandatory measures;

(b) prevent unnecessary hardship and threats to public health and safety;

(c) minimize economic and environmental impacts of emergency response;

(d) establish programs, controls, standards, priorities or quotas for the allocation, conservation and consumption of energy; and for the suspension and modification of existing standards affecting or affected by the use of energy, including but not limited to those related to the type and composition of energy sources to be used and to the hours and days of operation of public buildings, commercial and industrial establishments, and other energy consuming facilities;

(e) establish programs to control the use, sale, or distribution of commodities, materials, goods or services;

(f) establish programs and agreements for the purpose of coordinating the energy contingency actions of the state with those of the federal government, local governments, other states, Canadian provinces, and their localities;

(g) determine at what level or phase of an energy emergency the governor shall petition the president for a temporary emergency suspension of air quality standards as required by the Clean Air Act, 42 U.S.C., Section 110(f);

(h) establish procedures for fair and equitable review of complaints and requests for exemptions from emergency conservation measures and allocations.

(3) In developing the plan, the director shall seek the advice and assistance of:

(a) the Office of the Governor;

(b) the Division of Emergency Services in the Department of Military Affairs;

(c) the Division of Community Planning and the Division of Local Government Assistance in the Department of Community and Regional Affairs;

(d) the Public Utilities Commission;

(e) electric and natural gas utilities;

(f) local governments;

(g) energy suppliers;

(h) business, industry, and labor.

(4) All agencies and political subdivisions of this state shall cooperate with the Division in developing the energy contingency plan.

The directors of the Division of Energy and Power Development and the Division of Emergency Services in the Department of Military Affairs shall exchange letters of understanding describing their respective duties and responsibilities during an energy emergency. The director may exchange such letters of understanding with any other persons as deemed appropriate. Such letters shall be incorporated into the state energy contingency plan.

In developing the plan, the Division shall seek to assign specific responsibilities to local governments, and shall report to the legislature any additional authorities to be delegated to local governments as required by the plan.

When requested to do so by the chief executive of a local government, the Division shall render assistance with energy contingency planning to such local government.

(5) The governor shall submit an approved energy contingency plan within months after the effective date of this act to the legislature for ratification. Ratification shall be by joint resolution of the legislature.

(6) The energy contingency plan shall be reviewed annually as part of the Long-term Energy Plan, as set forth in Section 44.56.224.

(7) In addition to preparation of the state energy contingency plan, the state, in order to reduce the state's vulnerability to energy emergencies, shall institute measures including but not limited to: energy conservation

measures, stockpiling of energy supplies, and increasing energy storage facilities.

In accordance with the aims of this subsection, the Division shall:

- (a) take appropriate measures within its jurisdiction;
- (b) recommend measures which other state agencies and political subdivisions may take to reduce the risk or impact of an energy emergency; and
- (c) report to the legislature any additional authorities that are needed to fulfill the intent of this subsection.

Section 4. Energy emergency declaration.

(1) The governor, after making a written determination setting forth the basis for his decision that an energy emergency exists, and providing such basis to the presiding officer of each house of the legislature, may issue a declaration that such an emergency exists. Upon the issuance and publication of such a declaration, the governor shall issue such orders and take such steps as are necessary to activate the ratified state energy contingency plan.

The governor's extraordinary powers in an energy emergency shall be limited to those described in the energy contingency plan ratified by the legislature.

(2) The governor may make temporary revisions to the energy contingency plan if he finds that an emergency situation so requires. All such findings and temporary revisions to the plan shall be provided to the legislature in writing concurrently with their issuance. All temporary revisions of the energy contingency plan shall cease to be in force if not ratified by the

legislature within 15 calendar days after their issuance. All temporary revisions of the energy contingency plan shall become void 30 calendar days after their issuance.

(3) An energy emergency declared under this section and any rule or order issued as a result thereof shall remain in effect until 30 days from the date of the declaration, unless the governor rescinds it and declares the emergency ended prior to expiration of this 30-day period. No energy emergency remains in effect longer than 30 days unless renewed by the legislature; the legislature may terminate an energy emergency at any time by concurrent resolution.

(4) If the legislature is not in session when a declaration is issued, the legislature shall be called by the governor into a special session concurrently with the issuance of the declaration to consider ratification of the declaration. Such special session may be cancelled by unanimous agreement of the presiding officers of the Senate and House of Representatives and the governor before actual convening of the special session. If a special session is held, actions taken by the governor under this chapter which are not ratified by the legislature within 15 days of its convening shall be void.

(5) Each person shall carry out the responsibilities specified in the ratified energy contingency plan; violation of any provision of such plan or order pursuant thereto shall be deemed a violation of this act for purposes of enforcement under Section 6 hereof.

Section 5: Information obtainable by the Division of Energy and Power

Development:

Authority to obtain information relating to an energy emergency is granted to the Division under Section 44.33.070.

Section 6: Penalties and enforcement:

Any person who violates any provision of this act or any provision of a rule, regulation, or order issued thereunder is, upon conviction, guilty of a _____, and punished as provided in _____.

Section 7: Severability.

If a part of this act is invalid, all valid parts that are severable from the invalid parts remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 8: Amending Alaska Disaster Act:

(1) Powers of the governor under an energy emergency shall be distinguished from those granted under a disaster emergency by striking from the definition of "disaster" in the Alaska Disaster Act the word "fuel."

Section 26.23.230(1), shall be amended to read:

Sec. 26.23.230. Definitions. As used in this chapter (1) "disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or nonmilitary man-made cause including, but not limited to, fire, flood, earthquake, landslide, mudslide, avalanche, wind-driven water, weather condition, tsunami, oil spill or other water contamination requiring emergency action to avert danger or damage, volcanic activity, epidemic, air contamination, blight, infestation, explosion, riot, equipment failure, or shortage of food, water, fuel, or clothing;

Section 9: Amending Public Utilities Commission Act:

The Public Utilities Commission Act, AS 42.05, is amended by adding a new section to read:

Sec. 42.05.700. Energy contingency planning requirements for public utilities:

- (1) In order to insure continuity of service to customers of Alaska's electric and natural gas utilities, the Commission shall require, by rule, each such utility to:
- (a) report promptly to the Commission any anticipated shortage of electric or natural gas supply or capacity which would affect such utility's capability to serve its customers,
 - (b) submit to the Commission, and periodically revise, contingency plans respecting shortages of electrical or natural gas supply or capacity, and circumstances which may result in such shortages, and
 - (c) accommodate any such shortages or circumstances in a manner which shall give due consideration to the public health, safety, and welfare, and provide that all persons served directly or indirectly by such public utility will be treated without undue prejudice or disadvantage.

(2) The Commission shall cooperate with the Division of Energy and Power Development within the Department of Commerce and Economic Development in incorporating plans required by this section into the state energy contingency plan.

Section 10. Period of effectiveness:

This act shall become effective immediately in accordance with AS 01.10.070(c), and shall terminate on March 1, 1985.

The Department of Military Affairs and Division of Emergency Services have no objection to and concur in the basic intent of HB 522 in so far as it amends AS 44.33 and 42.05. However ADES-DMA objects to the amendment of AS 26.23 as purposed in HB 522.

The existing statute the ----- Ak. Disaster Act ----- has been in use since June 1977 and has been tested numerous times ranging from minor stream glaciation to large disaster events such as the Anchorage Windstorm of last year.

We feel the current language is adequate and need not be changed until proven inadequate.

Establishing a "special" category for "Energy Emergency" declarations will undoubtedly lead to other special categories i.e. stream glaciation, drought's or even trees falling on a loggers hut. Def of "disaster" from Pg. 18 AS 26.23
A 10 Mar 81 memo to Dir. Div. Energy and Power Development indicates AG's office should review energy plan to see if current State laws are adequate.

Cart is before horse

ADES would prefer to be involved along the way---Dec 82 target for publication of Energy Emergency Plan / Bottom line

ADES not involved in HB 522 ADES is responsible Agency in AS 26.23 to respond and administer Governors Disaster Emergency declarations.

If changes in AS 26.23 are deemed necessary after development of Ak. Energy Emergency Plan and review by Atty Gov's opinion then ADES and Energy and Power Development should work out legislative changes needed to have the most effective Statute.

Separate declaration category is emergency vs disaster similar to FED law may be appropriate.

DMA recommends that proposed amendments to AS 26.23 contained in HB 522 be ~~deleted~~ ^{deleted} and rewritten if necessary following AG's analysis of the Energy Emergency Plan to be developed NLT Dec 31 1982.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill 522

Title An Act relating to energy emergencies"

Requested by Resources Committee

Date April 22, 1981

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development

Program Category Affected Development

BRU, Program, or Subprogram(s) Affected DIVISION of Energy & Power Development

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		56.414				
200 TRAVEL		10.000				
300 CONTRACTUAL		215.000				
400 COMMODITIES		5.000				
500 EQUIPMENT		1.765				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		\$288,179				

FUNDING (Thousands of Dollars)

GENERAL FUND		\$288,179				
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

The budget presented provides sufficient support for the division to prepare a comprehensive Statewide Energy contingency Plan and provide assistance to municipalities in developing and implementing local energy contingency plans.

IV. DATE May 29, 1981

PREPARED BY *Clara M. Dunbar*

AGENCY Division of Energy & Power Development

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Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

House Bill 522

<u>100 Personal Services</u>		<u>\$56,414</u>
1 - Operation Research Analysis (23A)		
3746 x 12 months plus 25.5% payroll burden=		\$56,414
<u>200 Travel</u>		<u>\$10,000</u>
<u>300 Contractual</u>		<u>\$215,000</u>
Office expenses - space rental, copying, equipment rental, phones, etc.		\$15,000
Professional Services Preparation of Statewide Energy Contingency Plan		\$200,000
<u>400 Supplies</u>		<u>\$5,000</u>
<u>500 Equipment</u>		<u>\$1,765</u>
1 Regular Desk @ \$353 =	\$353.00	
1 Credenza @ \$353 =	\$353.00	
1 Book Case @ \$103 =	\$103.00	
1 Executive Swivel Chair @ \$177 =	\$177.00	
1 Calculator @ \$274 =	\$274.00	
2 Side Chairs @ \$ 88 =	\$ 88.00	
1 Filing Cabinet @ \$252 =	\$252.00	
1 Table @ \$165 =	\$165.00	
<u>TOTAL</u>		<u>\$288,172</u>