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COMMITTEE REPORT

HOUSE

4/21  
Rules

(11)

FURTHER:

4/21/82

Date: 4-21-82

Mr. Speaker:

The Committee on Finance has had CSSB 843 (Res)

"An Act relating to surface coal mining and the surface effects of underground coal mining; and providing for an effective date."

under consideration and reports it back as follows:

do pass  do not pass

do pass with attached amendments(s)

~~replace~~ replace with CS for ~~SAB 83~~ ~~843~~  same title new title

and recommends ~~do pass~~

AND attaches a "Letter of Intent"  ~~Has~~ Fiscal Note

reports it back without recommendation

565.9 FY 83  
SUPP # 47

referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

Hawkins  
R. B. Whitworth  
Shelton  
J. H. H. H.  
Sen. C. E.  
Russ Melkins  
Jack Fuller  
W. H. H.

Albert H. H. H. - NO REC  
Albert H. H. H. - NO REC

Albert H. H. H.  
CHAIRMAN

COMMITTEE REPORT

HOUSE

4/20

FURTHER: Finance

(7)

4/15/82

Date: April 20, 1982

Mr. Speaker:

The Committee on Resources has had CSSB 843 (Res)

"An Act relating to surface coal mining and the surface effects of underground coal mining; and providing for an effective date."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass ~~do not pass~~
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title  new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  No. Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING DO PASS

Rick Hallard

T. Barnes

D. Starnes

Bill Carson

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

MEMBERS HAVING OTHER RECOMMENDATIONS:

Ben [unclear] (no Rec)

Eric B. Sutcliffe (no Rec)

Anthony Vasta (no Rec)

\_\_\_\_\_

\_\_\_\_\_

Ken Starnes

CO-CHAIRMAN

SB 843 TITLE & SPONSOR SUMMARY

17 06 4/21/82 PAGE 1 OF 3

AMENDED TITLE: CSSB 843(RES)

AN ACT RELATING TO SURFACE COAL MINING AND THE SURFACE EFFECTS OF UNDERGROUND COAL MINING, AND PROVIDING FOR AN EFFECTIVE DATE

PRIME SPONSOR: SENATE RULES COMMITTEE. GENERAL DOLLARS: \$161,900 (F. NOTE)

OTHER DOLLARS: \$402,000

CO-SPONSORS:

CURRENT STATUS 4/15/82 IN (H) RESOURCES REFERRAL FINANCE  
 SB 843 SENATE ACTION 17 07 4/21/82 PAGE 2 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/09/82	01	0499	FIRST READING -- COMMITTEE REPORTS
03/09/82	02	0499	GOV TRANSMITTAL LETTER
03/09/82	03	0499	F/NOTE&SECTIONAL ANALYSIS SEN SUPPL#14
04/01/82	04	0761	RES -- CS05, NR01
04/13/82	05	0877	FIN -- RES CS03, NR03
04/14/82	06	0899	RLS -- OTHER03 TAKEN UP IMMEDIATELY
04/14/82	07	0908	SECOND READING
04/14/82	08	0909	RES CS ADOPTED BY UNAN CONSENT
04/14/82	09	0909	ADVANCED TO 3RD READING BY UNAN CONSENT
04/14/82	10	0909	THIRD READING
04/14/82	11	0909	PASSED BY DIV 18 00-02
04/14/82	12	0909	SECS 6,7,&8 SAME AS PASSAGE
***	**	**	*** ** *

SB 843 HOUSE ACTION 17 07 4/21/82 PAGE 3 OF 3  
 LEGISLATIVE ACTION

04/15/82	13	1292	FIRST READING -- COMMITTEE REPORTS RESOURCES FINANCE RULES
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THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST  
 Bill/Resolution No. CFSB 843(Res) Page 1 of 2  
 Title Alaska Surface Coal Mining Control and Reclamation Act  
 Requested by \_\_\_\_\_ Date \_\_\_\_\_

II. FISCAL DETAIL  
 Agency Affected Department of Natural Resources  
 Program Category Affected Management of Mineral Resources  
 BRU, Program, Or Subprogram(s) Affected Mineral 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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		157.1	157.1	200.2	200.2	200.2
200 TRAVEL		19.8	20.9	42.1	49.5	54.5
300 CONTRACTUAL		375.0	490.3	393.3	428.7	467.3
400 COMMODITIES		1.0	1.1	1.5	1.6	1.8
500 EQUIPMENT		13.0	10.0	3.8	3.0	3.0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>		<b>565.9</b>	<b>679.4</b>	<b>642.3</b>	<b>684.4</b>	<b>728.2</b>

FUNDING (Thousands of Dollars)

GENERAL FUND		161.0	200.0	100.7	200.6	213.0
FEDERAL FUNDS		402.0	477.6	449.6	479.8	513.2
OTHER (Specify Source)						

POSITIONS

FULL TIME		4	4	5	5	5
PART TIME						
TEMPORARY						

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

See Attachment

IV. DATE 2/8/82 PREPARED BY Jeff Haynes  
 AGENCY Natural Resources  
 PHONE 465-2400  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)  
 33-001 (Rev. 12/81)

### III. ANALYSIS

This note assumes that a regulatory program is approved by the Secretary of the Interior and becomes effective on 12-31-82.

#### A. Personal Services

The program will require 4 positions at its inception: Geologist IV, Env. Engineer III, Land Management Officer II and Clerk-Typist III. An additional Scientist/Engineer II position is projected for FY 85 and beyond due to additional coal operations projected in the state at that time.

The Geologist will be the manager of the surface mining regulatory program. He will supervise contracts for review of permit applications, abandoned mine lands work, small operator assistance, etc.; make initial departmental decisions or recommendations on permit applications, bond release, enforcement actions, petitions to designate lands unsuitable, etc. The Env. Engineer will be the primary inspector under the program, as well as assisting and complementing the Geologist in the tasks enumerated above. When additional operations come on line (projected in FY 85), an additional engineer/scientist will be required to meet the inspection workload. The duties of the Land Management Officer will focus on compliance with public notice and public participation requirements, record keeping, and general review and response regarding different new responsibilities of the Department under this program (i.e., reviewing exploration permits and/or notice of intent). The Clerk-Typist will provide secretarial support.

#### B. Travel

The travel budget is composed largely of field inspections and field visits to coal development sites. Other travel funds would be spent on required meetings with operators and members of the public and other agency officials, and public hearings. There would also be investigation of potential abandoned mine reclamation and small operator assistance sites.

#### C. Contractual

The contractual category includes the abandoned mine land program development and projects (all federally-funded), small operator assistance laboratory work (all federally-funded), review of permit applications, laboratory work for inspections, legal counsel, and review of any petitions for designation of lands unsuitable for surface coal mining. Much of this work is speculative as it is based on projections about future development of the program.

#### D. Funding Sources

The federal government funds 50% of the basic cost of the state regulatory program. All small operator assistance contracts and abandoned mine land work are 100% federally funded. Funds in this category represent the return to the state of a portion of the 35¢ per ton reclamation fee levied against operators by the federal government. Substantially more funds should be available in this category after production begins on new coal operations. In addition, 100% federal funding is available to defray the costs of regulating any surface coal mining operation on federal lands. One of the projected future operations would qualify under this funding category.

Date: 4/22/82  
From: BETTYE  
Phone: \_\_\_\_\_

# MEMORANDUM

From the Office of  
**Senator Bettye Fahrenkamp**

To: ALL HOUSE MEMBERS  
\_\_\_\_\_  
\_\_\_\_\_

**MESSAGE:**

ATTACHED SUMMARY OF CSSB 843 - COAL RECLAMATION

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\_\_\_\_\_  
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LEGISLATIVE SUMMARY

SB 843 "An Act relating to surface coal mining and the surface effects of underground coal mining; and providing for an effective date."

The bill proposes to add a new chapter to AS 41.

Sec. 41.45.010 Basic finding that the state is best able to regulate surface coal mining and reclamation under the U. S. Surface Mining Control and Reclamation Act of 1977. The purposes of the bill include: assuring the responsible extraction of coal, the reclamation of coal mining areas, protecting the rights of surface owners, minimizing degradation of land and water and assuring appropriate public participation in the regulatory process.

- .020 Vest jurisdiction over surface coal mining and reclamation operations in the Commissioner of the Department of Natural Resources.
- .030 Enumerates general duties, including adoption of regulations, issuing permits, holding hearings, issuing orders, inspections, prepare reports, receive grants, participate in the abandoned mine land program, coordination and cooperative agreement with other agencies.
- .040 Regulations adopted or permits issued may vary for a particular condition, type of coal, or area of the state.
- .050 Employees administering or a private contractor may not have a direct or indirect financial interest in an underground or surface coal mining operation. Prescribes a designation of a class A misdemeanor if a person knowingly violates this section. (NOTE: \$5,000 fine and a jail sentence of one year).
- .060 Requires coal mine operators to apply for a permit to conduct surface coal mining and reclamation operations beginning 8 months after approval of the state's program.

If the Alaska program is disapproved and the federal program has not been promulgated, existing operations which comply with the federal statute may continue. Permits which lapse during this period will continue in full force until promulgation of a federal program.

- .070 Permits will be issued for five years. The Commissioner can issue a permit for a longer period if the applicant shows that it is necessary in order to obtain financing for equipment or to open the operation.

A permittee is required to commence operations within 3 years after the permit is issued. This can be extended if the permittee show litigation is precluding commencement of operation or threatens substantial economic loss or for

reasons beyond the control, fault, negligence of the permittee. If the coal is to be mined for use in a synthetic fuel facility or specific major electric generating facility, surface mining is considered to have begun at the time construction of the facility is begun.

- .080 Provides that permits carry a right of successive renewal with respect to areas within the boundaries of the original permit, subject to a burden of proof on the opponents of renewal to demonstrate that the operation is not in compliance with regulatory requirements.

Renewals involving new land areas require the same procedures and standards as apply to new permit applications.

Application for permit renewal must be received by the Commissioner at least 120 days before expiration of the permit.

If the application is received at least 120 days before expiration and the permittee has complied with the bonding requirement the operation may continue under the permit after the expiration date until a final administrative decision on the renewal is made.

- .090 Allows the Commissioner to set a fee schedule for a new permit, permit renewal, or transfer permit applications; requires that the fees not exceed the actual or anticipated costs of reviewing the application.
- .100 Requires the public filing of permit applications and copies of all materials filed under this chapter; with the exception of designated confidential information.
- .110 Requires the Commissioner to adopt regulations relating to the contents of permit applications consistent with the requirements of the federal program. These must take into account the unique mining and environmental conditions of Alaska.
- .120 Establishes small operator assistance for certain laboratory work at no cost. This is for operations which will produce under 100,000 tons of coal annually.
- .130 Provides for public notice of pending applications for surface coal mining and reclamation permits.
- .140 Allows a person who may be adversely affected by the proposed operation, as well as federal, state or municipal agencies, to file written comments and objections to the application within 30 days. Such persons must request an informal conference to discuss their comments or objections with the Department.

The Commissioner is required to issue a decision regarding the permit application within 60 days of the informal conference, or as provided in Section .130 below.

- .150 Provides for formal hearings regarding the Commissioner's decision on the permit application upon request of the applicant or any person who may be adversely affected within 30 days after the request. The Commissioner may grant temporary relief pending his final decision when circumstances warrant.
- .160 Requires that before a permit can be issued, the applicant must furnish a performance bond conditioned on faithful performance of the requirements of this statute and the permit. The bond must be sufficient to assure completion of the applicant's reclamation plan by the Department in the event of a forfeiture. In lieu of a bond, the Commissioner may accept cash or negotiable bonds or certificates of deposit or the Department may accept a self-bond under future regulations to assure financial solvency. The amount of the bond may be adjusted for good cause, including changes affecting land areas and costs of reclamation.
- .170 Contains provisions governing release of performance bonds. The applicant must give notice of its request for release of bond, and the Department must conduct an inspection and evaluation of the reclamation work involved. Provides for staged release of the bond, depending on the degree of reclamation work completed and the Commissioner's evaluation. Persons whose legal interests may be adversely affected, and governmental agencies, may file objections to the release of bond and request a hearing, as may an applicant whose request for bond release has been denied.
- .180 Requires the Commissioner to make a decision on a permit application within 120 days after receipt, which may be extended by an additional 60 days upon receipt of additional information required for a decision. This section sets out the basic criteria for approval of an application. A permit may not be issued if the applicant is currently in violation of environmental standards regarding surface coal mining operation which it operates in the United States or if the applicant has had a demonstrated pattern of willful violations of this chapter.
- .190 Deals with revisions and transfers of permits. The Commissioner is required to establish guidelines for determining the extent of revision for all permit application requirements and procedures, including notice of hearing.  
  
A permit can not be transferred, assigned or sold without written approval of the Commissioner. A successor may continue the operation until the transfer application is granted or denied and meets the requirements of this section.
- .200 Requires exploration activity to be conducted only according to regulations adopted by the Commissioner. The regulations must include provisions for reclamation of excavations, roads, drill holes, and the removal of facilities and equipment.

Under a coal exploration permit no more than 250 tons can be removed without specific written approval of the Commissioner.

- .210 Within 120 days after the effective date of this chapter, the Commissioner is required to propose regulations consistent with the environmental performance standards of the Federal law. The regulations promulgated under this chapter for both surface coal mining and reclamation operations and surface effects of underground mining must include appropriate adjustments to meet the conditions in Alaska.
- .220 Requires the surface effects of underground mining be regulated in a similar fashion to surface coal mining operations. The Commissioner can suspend underground coal mining activities in populated areas if there is an imminent danger to the inhabitants.
- .230 Provides the basic authority for the Department to inspect and monitor operations. The Commissioner may require a permittee to: make monthly reports, install, use and maintain necessary monitoring equipment or methods and other information relating to the operation as the Commissioner considers reasonable and necessary. The Commissioner can inspect the operation. The inspections are to occur on an irregular basis. Inspections are to occur without prior notice, the inspector must notify the permittee's representative, on the site, upon his arrival and invite the representative to accompany him during the inspection. The inspector is required to file a report about the inspection.
- .240 Sets forth the Department's basic enforcement authority. A violation of this chapter or permit which causes imminent danger to public health or safety or which threatens significant, imminent environmental harm, requires the inspector to issue a cessation order for the whole operation or that portion causing harm. The order remains in effect until further Departmental action. If a violation cited does not cause imminent danger, a notice of violation is issued.

Cessation orders and notices of violation are subject to appeals and full due process hearings by persons who may be adversely affected. The Commissioner is authorized to request the Attorney General to institute a civil action for relief. There are provisions governing judicial review of these actions.

- .250 Provides for both civil and criminal penalties for violations of this chapter and permits. Civil penalties are mandatory for cessation orders (may not exceed \$5,000), but discretionary for notices of violation. Willful and knowing violations are class C felonies (NOTE: \$50,000 fine and 5 years jail). Failure to correct a violation during the period of time permitted by the notice or subsequent extension requires a \$750 per day penalty.

- .260 Requires the Commissioner to use competent and scientifically sound data in determining lands unsuitable for all or certain types of surface coal operations. It allows a person with a legal interest which may be adversely affected to petition the Commissioner to have areas designated unsuitable for all or certain types of coal mining. Areas must be designated unsuitable if the Commissioner determines that reclamation in the area in question is not technologically feasible. There are four discretionary criteria for designating land unsuitable. Mining is prohibited in protected areas (subject to existing rights); National Park System, National Wildlife Refuge System, National System of Trails, National Wilderness Preservation System, Wild and Scenic Rivers System, National Recreation Areas, publicly owned parks, historic sites, 100 feet of public roads, 300 feet of occupied dwelling, public building, school, church, community or institutional building, public park or 100 feet of a cemetery.
- .270 Provision regarding abandoned mine lands in order to ensure state participation in the federal Abandoned Mine Reclamation Fund. The Fund is for the reclamation of land adversely affected by past coal mining practices. Contains the administrative authority to establish priorities, designate eligible lands, submit reclamation plans and annual projects to the Department of Interior and administer funds received.
- .280 Defines eligible lands as those which were mined or affected by coal mining, left in an inadequate reclamation status, and for which there is no continuing reclamation responsibility under law.
- .290 Gives the Department power to enter onto property for reclamation purposes. Does not create new rights of action or eliminate existing immunities.
- .300 Authorizes the Commissioner to acquire abandoned mine areas for reclamation purposes and to dispose of such property when: it is necessary for successful reclamation, in the public interest, serve recreational, historic, conservation, open space, and to meet emergency situations. The Commissioner shall pay the fair market value of the property. The Commissioner can sell the property if it is suitable for industrial, commercial, residential or recreational development. The sale has to be consistent with any state and local land use plans.
- .310 Requires the Commissioner to place a lien upon state funded reclaimed property for the increase in fair market value. Exempted are properties owned before May 2, 1977, the owner did not consent to, participate in, or exercise control over the surface operation which necessitated the project. A person affected by this section may petition for a hearing within 60 days after the lien is recorded.
- .320 Authorized the filling of voids and sealing tunnels with money from the Abandoned Mine Land Fund.
- .330 Authorized emergency entry without prior notice onto land to

abate an emergency which constitutes a danger to the public health and safety

- .340 The Commissioner may request the Attorney General to initiate action for an injunction to restrain any interference with the exercise of the right to enter or work described in .270 - .340. Authorizes the State to construct and operate plants for control and treatment of water pollution from mine drainage in compliance with the Federal Water Pollution Control Act.
- .900 Specifies that the requirements of this chapter apply to government agencies, including publicly-owned utilities.
- .910 Exempts from this chapter extraction of coal for non-commercial use of the land owner or lessee, commercial coal operations which affect 2 acres or less and coal extraction as part of government-financed construction.
- .920 Authorizes departures from the environmental performance standards for experimental practices of limited size and which do not down grade the environmental, public health or safety standards of the program. This provision needs approval of the U. S. Department of Interior.
- .930 Provides that this chapter does not affect a person's water rights and that any impairment of water supply must be remedied by the operator.
- .940 Provides authority for the Commissioner to require training, examination and certification of blasters.
- .950 Creates a civil cause of action on behalf of persons who may be adversely affected by a failure to comply with the chapter against both the state agencies and alleged violators. A person commencing action under this section must give 60 days notice and the action can only be filed in the judicial district in which the operation is located.
- .960 Provides that any provision of this chapter which the Secretary of Interior determines to be inconsistent with the federal Act is invalid. Also, requires the Commissioner to review all changes made in the federal Act or regulations, and to make appropriate recommendations as to whether or not the State program should be changed.
- .970 Provides that this chapter is not to be interpreted to modify any existing state agency's powers over coal leases and exploration permits, except as specifically provided by this chapter and implementing regulations. This section also requires that the provisions of this chapter are applicable to lands conveyed out of federal ownership.

.975 Is the severability clause.

.980 Makes the Administrative Procedure Act applicable to this chapter unless otherwise provided.

.985 Cites the short title of the chapter as the "Alaska Surface Coal Mining Control and Reclamation Act."

.990 Is the definitions section.

Section 2. Requires applications to be submitted under this chapter within 2 months after the date the state program is approved by the Secretary of Interior, and requires the Commissioner to process such an application within 8 months after the Secretary's approval.

Section 3. Reserves the right of the state to contest the constitutional or statutory validity of any of the regulations issued under the federal act.

Section 4. Requires the Commissioner to adopt regulations under the Administrative Procedure Act. The regulations do not take effect until the effective date of Section 1.

Section 5. Provides that Sections 1 and 2 become effective upon approval of the state program by the Secretary of Interior.

Section 6. Provides that Sections 3 and 4 become effective immediately.