

SB

183

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of March 26, 1987 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: RESOURCES
FINANCE

**FISCAL NOTE(S) ATTACHED **
IN ACCORDANCE WITH AS 24.08.035
(see below)

3/12/87

DATE TURNED INTO OFFICE April 2, 1987

Mr. President:

TRANSPORTATION

Committee considered SB 183

dams and reservoirs; efd.

and recommended:

replace with CS _____ same title
 new title

attached amendment(s) and

myself
 do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted and attached

** Committee attached or adopted fiscal note(s)
2 zero *and one* fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Ting 1987
[Signature]
[Signature]

[Signature] Do Pass
Chairman signature and recommendation

Committee Backup Attached

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____
 Revision Date: _____
 Title: An Act relating to dams and
reservoirs
 Sponsor: Senator Sturgulewski
 Requestor: _____

Bill Version: Senate Bill 183
 Publish Date: 3/12/87

Agency Affected: Natural Resources
 BRU: Land and Water Management

Components: Land and water Public Use

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	65.0	65.0	65.0	65.0	65.0
OTHER	0	0	0	0	0	0
TOTAL	65.0	65.0	65.0	65.0	65.0	65.0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Senate Bill 183 will qualify DNR's Dam Safety Program to qualify for at least 65.0 federal funding under P.L. 99-662 for five years. No increases in state expenditures will occur as a result of this legislation.

Prepared by: Kyle Cherry Phone: 562-3332
 Division: Land and Water Management Date: 3/26/87

Approved by Commissioner: *Julia M. Brandy* Date: _____
 Agency: Natural Resources

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

Alaska State Legislature



SENATOR
ARLISS STURGULEWSKI

Chairman, Senate Community and Regional Affairs Committee
Vice-Chairman, Senate Judiciary Committee
Member, Senate Resources Committee

2957 SHELDON JACKSON STREET
ANCHORAGE, ALASKA 99508

While in Juneau
P. O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3818

Senate

MEMORANDUM

April 10, 1987

TO: Senator Jack Coghill, Chairman
Senate Resources Committee

FROM: Senator Arliss Sturgulewski *AS*
Senate District F

RE: SB 183 "An Act relating to dams and reservoirs and providing for
an effective date."

Thank you for scheduling a hearing on SB 183 "An Act relating to dams and reservoirs and providing for an effective date."

Senate Bill 183 was before the legislature last year and extensive hearings were held. However at the end of last session the bill was still in the Senate Finance Committee. Senate Bill 183 sets up a formal system of regulation of dams by the Department of Natural Resources (DNR). Presently the DNR only has clear authority to regulate construction activities and no clear authority to monitor the safety of dams throughout the life of the dam. This legislation is based on a Model State Dam Safety Program sponsored by the Association of State Dam Safety Officials and the Council of State Governments. The main purpose of this legislation is to protect the public health and safety.

In order to assist states in the implementation of a dam safety program, the federal government will make funds available through PL 99-662. Alaska would be eligible to receive at least \$65,000 per year for the next five years. There is a zero fiscal impact on state funding.

I have enclosed a sectional analysis prepared by the Legislative Legal Services Division; a DNR position paper supporting this legislation; fiscal notes from the Departments of Natural Resources, Environmental Conservation, and Law; and a recent Wall Street Journal article discussing dam safety. My staff is available to assist if you need additional information.

Enclosures

April 14, 1987

The Honorable Arliss Sturgulewski
Alaska State Senator
State Capitol
P.O. Box V
Juneau, Alaska 99811

Subject: Senate Bill No. 183

Dear Senator Sturgulewski:

The Alaska Power Authority supports enactment of Senate Bill 183 based upon the agency's general intent to provide a safe environment for the citizens of the State. However, we wish to insure that there will not be a duplication in the Federal Energy Regulatory Commission (FERC) effort in reviews and inspections on Alaska Power Authority projects. In order to insure that there is no duplication we suggest the following amendment:

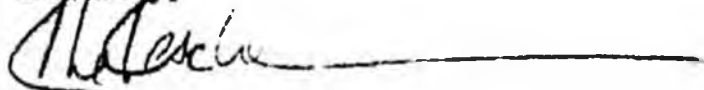
- A. CHAPTER 17. SUPERVISION OF SAFETY OF DAMS AND RESERVOIRS.
Sec. 46.17.010 PURPOSE. It is the purpose of this chapter to provide for the regulation, supervision, and periodic inspection by the department, of [PRIVATELY OWNED AND STATE-OWNED] dams, reservoirs, and...
- B. Under Sec. 46.17.100. OTHER GOVERNMENT AGENCIES.

Paragraph (C) should be changed to read:

(c) This chapter does not apply to an Alaska Power Authority hydroelectric facility or a federally-owned or operated dam or reservoir.

If the above changes were incorporated into SB 183, the Power Authority would have no objection to its enactment. Any questions concerning this may be directed to me or Mr. Don Shira of my staff.

Sincerely,



Robert E. LeRasche
Executive Director

EAM:REL:nc

cc: Commissioner Judy Brady, Department of Natural Resources

8618/724/D4/1

ALASKA STATE LEGISLATURE

Sen. Lloyd Jones, Chairman
Sen. John B. "Jack" Coghill, Vice Chairman
Sen. Mitch Abood
Sen. Bettye Fahrenkamp
Sen. Tim Kelly



P.O. Box V
Juneau, AK 99811

907-465-4921

Senate Transportation Committee

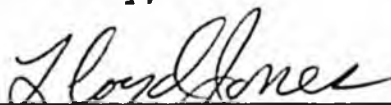
COMMITTEE REPORT

Madame President:

The transportation committee expresses that it is not the intent, either through Senate Bill 183, nor through regulations, that the bill affect settling ponds of small placer miners.

The transportation committee also asks to see and review the regulations that are promulgated to implement the legislation.

Sincerely,

 4/2/87

Senator Lloyd Jones, Chairman
Senate Transportation Committee

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 27, 1987

SUBJECT: Sectional Analysis of SB 183..
(Dams and reservoirs)

TO: Senator Arliss Sturgulewski
Chairman, Community and Regional Affairs
Committee

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have requested a sectional analysis of the above described bill.

As a preliminary matter, I must advise you that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1 imposes criminal penalties for knowingly making a false report to the Department of Natural Resources concerning the condition of a dam or reservoir.

Section 2 adds a new chapter concerning dam and reservoir safety.

Sec. 36.17.010 sets out the legislative purpose.

Sec. 46.17.020 gives the Department of Natural Resources responsibility for supervising the safety of dams and reservoirs.

Sec. 46.17.030 requires the department to adopt regulations and issue orders necessary to carry out the chapter.

Sec. 46.17.040 prohibits construction, repair, or removal of a dam or reservoir unless the department approves. Routine maintenance and operations are excepted.

Sec. 46.17.050 directs the department to inspect each dam and reservoir subject to the chapter once every five years and permits the department to inspect more frequently. The department may require the owner to perform the inspection or pay for the cost of an inspection performed by the department.

Sec. 46.17.060 permits the department to seek a search warrant to allow an inspection if the department has given two weeks' written notice. The department may enter premises without notice if a dam or reservoir is believed to be unsafe.

Sec. 46.17.070 sets out standards for the department's determination of whether a dam or reservoir constitutes or would constitute a danger to life or property.

Sec. 46.17.080 permits the department to seek an injunction and damages in enforcing the chapter.

Sec. 46.17.090 subjects a final action of the department to judicial review under the Administrative Procedure Act.

Sec. 46.17.100 permits the department to enter into cooperative agreements with other governments and prohibits municipalities from exercising powers that conflict with the powers and duties given the department. Under subsections (c) and (d), the chapter does not apply to a federally-owned or operated dam or reservoir and does not affect the powers of the Department of Environmental Conservation or the Department of Fish and Game.

Sec. 46.17.110 limits actions against the state. An action may be maintained against the state if the state negligently orders a dam owner to perform an action and the dam owner complies with the order but objected to it.

Sec. 46.17.120 acknowledges that the chapter does not relieve an owner of a dam or reservoir of the duties or liabilities incident to the ownership or operation of the dam or reservoir.

Sec. 46.17.150 imposes penalties on persons who knowingly violate the chapter, an approval, order, regulation, or requirement of the department, or who obstruct performance of duties.

Senator Sturgulewski
Page 3
March 27, 1987

Sec. 46.17.900 is a definition section.

Section 3 is an immediate effective date clause.

If I may be of further assistance, please advise.

TBC:mkr
m10/065

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1798
PHONE: (907) 485-2400

March 31, 1987

APR 1 1987

The Honorable Arliss Sturgulewski
Sponsor of Senate Bill 183
Alaska State Legislature
P.O. Box V
Juneau, AK 99801

Dear Senator Sturgulewski:

Subject: Senate Bill 183, relating to supervision of safety of dams and reservoirs.

Position: The Department of Natural Resources recommends the passage of Senate Bill 183.

Background: Currently, there are 185 dams on Alaska's dam inventory. In 1981, the U.S. Department of the Army, Corps of Engineers, ended its dam safety program for non-federal dams in Alaska. There are but 20 federal dams in Alaska. The remaining dams are covered under a minimal dam safety program the Department of Natural Resources, division of land and water management, established through regulations. The department adopted regulations in 11 AAC 93 under the authority of several sections in AS 46.15, the Alaska Water Use Act, including a provision in AS 46.15.080 which gives the commissioner authority to regulate water diversions.

Alaska Water Resources Board resolution 84-4, dated March 14, 1984, recommended review of the existing statutory authority under which dams in the state are regulated by the division.

About half of the 50 states have enacted specific dam safety legislation, but most of these states did so in response to dam failures resulting in loss of life and extensive property damage. Clearly it would be advantageous for Alaska to have a well-founded, comprehensive dam safety statutory scheme and program in effect to prevent such tragedies from occurring here. SB 183 is based on the Model Law for State Supervision of Safety of Dams and Reservoirs drafted by the United States Committee on Large Dams of the International Commission on Large Dams.

Section 2, which contains the body of the bill, creates a new ch. 17 in AS 46. Proposed AS 46.17.010 first states the purpose of the chapter. It then makes the supervision of safety of dams and reservoirs the responsibility of the Department of Natural Resources. The commissioner of that department is directed to employ a qualified engineer experienced in the design and construction of dams and reservoirs to direct the dam safety program. Proposed AS 46.17.040 would make it unlawful for anyone to construct, enlarge, repair, alter, remove, maintain, operate, or abandon a dam or reservoir, as defined in the bill, except upon application to, and approval of, the department. To ensure that dams and reservoirs remain safe once constructed, the department is directed in proposed AS 46.17.050 to inspect or to require owners to inspect dams and reservoirs covered under the bill at least once every five years, or more frequently if necessary. To ensure that it can make adequate inspections, the department is also given authority, in proposed AS 46.17.060, to enter the private property on which the dam or reservoir is located as might be necessary to make the inspection. Proposed AS 46.17.050 also authorizes the department to require owners to bear the costs of inspection.

Proposed AS 46.17.070 sets out specific standards for determining the safety of a dam or reservoir. In addition, the department is allowed, by proposed AS 46.17.110, to enter into cooperative management agreements with municipal corporations and other state and federal agencies to effectuate its responsibilities under the bill. To ensure that the state's action in inspecting and regulating the operation of dams or reservoirs does not shift the liability of the private owner to the state for loss of life or property damage due to a dam or reservoir failure, proposed AS 46.17.120 bars any action against the state based on any purported act or omission of a state agent or employee connected with the dam safety program.

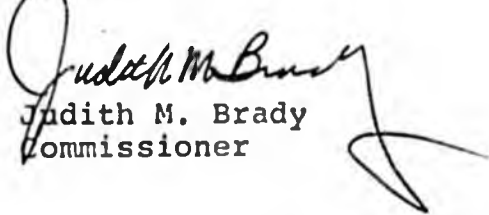
Section 1 of the bill amends AS 11.56.800(a), dealing with the crime of making a false report. A new paragraph (4) will make it a crime to file a false report with the Department of Natural Resources concerning the condition of a dam or reservoir. Additional criminal sanctions are also contained in sec. 2 of the bill in proposed AS 46.17.100, which would make it a class A misdemeanor to violate any provision of AS 46.17 or lawful order the department issues under AS 46.17.

The Honorable Arliss Sturgulewski -3-

March 31, 1987

Recommendation: Given the importance of a good dam safety program to the State of Alaska, the Department of Natural Resources favors passage of this legislation.

Sincerely,


Judith M. Brady
Commissioner

cc: Senate Transportation Committee
George Sullivan
Rod Swope

No 203

FX

STATE OF ALASKA 1987 LEGISLATIVE SESSION FISCAL NOTE

SENATE
BILL VERSION: SB 183 a
PUBLISH DATE: 4/3/87

REQUEST: _____
Revision Date: _____
Title: An act relating to dams and reservoirs
Sponsor: Sturgeonlavski
Requestor: _____

Agency Affected: Natural Resources
BRU: Land and Water Management
Components: Land and Water Public Use

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	65.0	65.0	65.0	65.0	65.0
OTHER	0	0	0	0	0	0
TOTAL	65.0	65.0	65.0	65.0	65.0	65.0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS :

Senate Bill No. 183 will qualify DNR's Dam Safety Program to qualify for at least 65.0 federal funding under P.L. 99-662 for five years. No increases in state expenditures will occur as a result of this legislation.

Prepared by: Kyle J. Cherry Phone: 562-3332
Division: Land and Water Management Date: 3/26/87

Approved by Commissioner: _____ Date: _____
Agency: _____

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

No 204

FX

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

SENATE

BILL VERSION: SB 183 b
PUBLISH DATE: 4/3/87

REQUEST: _____

Revision Date: _____
Title: Relating to dams and reservoirs

Agency Affected: Environmental Conservation
BRU: N.A.

Sponsor: Senator Sturgulewski
Requestor: Senator Jones--Transportation

Components: N.A.

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS :

[Empty box for analysis]

Prepared by: Randy Bayliss
Division: Office of the Commissioner

Phone: 465-2600
Date: March 17, 1987

Approved by Commissioner: _____
Agency: Environmental Conservation

Date: 5/18/87

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

No. 205
 [Handwritten initials]

STATE OF ALASKA 1987 LEGISLATIVE SESSION
 FISCAL NOTE

SENATE
 BILL VERSION: SB 183 c
 PUBLISH DATE: 4/3/87

REQUEST: _____

Revision Date: _____
 Title: "An Act relating to dams and reservoirs..."
 Sponsor: Sen. Sturgulewski
 Requestor: Senate Transportation

Agency Affected: Department of Law
 BRU: Prosecution, Legal Services

Components: Prosecution - All
Legal Services - Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS :

Please see attached analysis.

Prepared by: Richard I. Peguho, Director Phone: 465-3672
 Division: Administrative Services Date: March 18, 1987
 Approved by Commissioner: Richard I. Peguho
Grace Barr Schauble, Atty. Gen. Date: March 18, 1987
 Agency: Department of Law

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary