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HOUSE COMMITTEE, REPORT

(11)

Date Referred: May 4, 1989

FURTHER REFERRALS:

Date of Committee Action: 5/6/89

The FINANCE Committee considered:

CSSB 264 (FINANCE)

CS FOR SENATE BILL NO. 264 (Finance)

[OIL/HAZ. SUBSTANCE RESPONSE CORPS]

"An Act establishing an oil and hazardous substance response office, corps, and depots; authorizing use of money in the oil and hazardous substance release response fund for certain related expenses; and providing for an effective date."

RECOMMENDATIONS:

- [] be replaced with HCS CS SR264 (Fn) [] the same title
- [] have attached amendment(s) [] a new title
- [] do pass
- [] do not pass
- [] no recommendation
- [] individual recommendations
- [] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- [] fiscal impact _____
- [] zero fiscal note _____
- [] zero with analysis _____

- [] fiscal note(s) DEC 4/28/89
- [] zero fiscal note(s) _____
- [] zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not Pass No Rec Amend

[Signature] Swackhammer
[Signature] Brown
[Signature] Koponen
[Signature] Ulmer
[Signature] Wallis

Signature	Do Not Pass	No Rec	Amend
<u>[Signature]</u> Hoffman		X	
<u>[Signature]</u> Larson		X	
<u>[Signature]</u> Barnes			
<u>[Signature]</u> Shultz			X
<u>[Signature]</u> Phillip			X

[Signature]
 Chairman's Signature

FISCAL NOTE

REQUEST:

Revision Date: April 28 1989
Title: An Act establishing an oil and hazardous substance response office and corps, etc.
Sponsor: Kelly, Sturgeonlewski, Eliason, etc.
Requestor: _____

Agency Affected: Environmental Conservation
BRU: Environmental Quality
Administrative Services
Components: Environmental Quality
Administrative Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		443.9	443.9	443.9	443.9	443.9
TRAVEL		40.0	40.0	40.0	40.0	40.0
CONTRACTUAL		2872.0	2872.0	1772.0	1772.0	1772.0
SUPPLIES		259.0	259.0	259.0	259.0	259.0
EQUIPMENT		295.0	295.0	295.0	295.0	295.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		3909.9	3909.9	2809.9	2809.9	2809.9

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER		3909.9	3909.9	2809.9	2809.9	2809.9
TOTAL		3909.9	3909.9	2809.9	2809.9	2809.9

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Lynn Kent
Division: Environmental Quality

Phone: 465-2630
Date: 4/28/89

Approved by Commissioner: *Adrian*
Agency: Alaska Department of Environmental Conservation

Date: 4/28/89

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

Telephone:
(907) 465-2600

FISCAL ANALYSIS
CSSB 264 (Finance)

April 28, 1989

Contact: Lynn Kent

ESTABLISH DEPOTS AND RESPONSE STATIONS (\$2000.0)

The Department estimates that \$2000.0 will be required for each of the first two years to establish and stock depots and response stations at a minimum of two locations: Valdez and on the Kenai Peninsula. Once established, subsequent year costs are expected to decline to \$500.0 for contracted services to maintain inventories and response readiness.

100	\$ -0-
200	\$ -0-
300	\$1,500.0
400	\$ 250.0
500	\$ 250.0
Total	\$2,000.0*

*includes \$1,500.0 in first and second year costs

ESTABLISH OIL AND HAZARDOUS SUBSTANCE RESPONSE OFFICE (\$1909.9)

The Response Office would consist of a full-time staff of nine agency personnel: a director, six response specialists, one clerk-typist and one administrative assistant. The contractual line includes \$100.0 for the first two years for establishment of an office; this money will not be necessary in subsequent years. Other costs include training contracts (\$200.0), contracts with local governments (500.0), wages and per diem for volunteer training (\$300.0), contracts with private response specialists (\$100.0), and contracts for oil spill response research (\$100.0).

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
1 Env. Cons. Mgr. (Range 22)	65.9	5.0	8.0	1.0	5.0	84.9
1 Ecologist III (Range 20)	57.7	5.0	8.0	1.0	5.0	76.7
3 Ecologist II (Range 18)	159.9	15.0	24.0	3.0	15.0	216.9
2 Ecologist I (Range 16)	87.4	10.0	16.0	2.0	10.0	125.4
1 Clk Typist III (Range 8)	29.3	0	8.0	1.0	5.0	43.3
1 Admin. Asst. III (Range 16)	43.7	5.0	8.0	1.0	5.0	62.7
Totals	443.9	40.0	72.0	9.0	45.0	609.9

Position Costs	\$ 609.9
Contractual Costs	\$1,300.0
Total	\$1,909.9

This fiscal note shows "other" funds as the funding source because funding will come from the Oil and Hazardous Substance Release Fund. However, additional resources will need to be provided to the Response Fund, as there is not currently an adequate balance to support this effort.

Original sponsors: Kelly, Sturgulewski,
Eliason, et al.

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 264 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing an oil and hazardous substance
7 response office, corps, and depocs; authorizing use
8 of money in the oil and hazardous substance release
9 response fund for certain related expenses; and
10 providing for an effective date."

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

12 * Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that the
13 March 24, 1989, oil sp_ 1 disaster in Prince William Sound demonstrates a
14 need for the state to have an independent spill containment and clean-up
15 capability in the event of future discharges of oil or a hazardous sub-
16 stance.

17 (b) It is the purpose of this Act to provide assurance to the people
18 of the state that their health, safety, and well-being will be protected
19 from the adverse consequences of oil and hazardous substance releases of a
20 magnitude that presents a grave and substantial threat to the economy and
21 the environment of the state.

22 * Sec. 2. AS 46.08.040 is amended to read:

23 Sec. 46.08.040. PURPOSES OF THE FUND. The commissioner may use
24 money from the fund to

25 (1) contain, clean up, and take other necessary action,
26 such as monitoring, assessing, investigating, and evaluating the
27 release or threatened release of oil or a hazardous substance that
28 poses an imminent and substantial threat to the public health or
29 welfare, or to the environment;

1 (2) pay all costs incurred to establish and maintain the
2 oil and hazardous substance response office and for the expenses of
3 the oil and hazardous substance response corps and the oil and hazard-
4 ous substance response depots established by that office;

5 (3) provide matching funds for participation in federal oil
6 discharge cleanup activities and under 42 U.S.C. 9601 - 9657 (Compre-
7 hensive Environmental Response, Compensation, and Liability Act of
8 1980); and

9 (4) [(3)] recover the cost to the state or to a municipal-
10 ity of a containment and cleanup resulting from the release or the
11 threatened release of oil or a hazardous substance.

12 * Sec. 3. AS 46.08 is amended by adding new sections to read:

13 ARTICLE 2. OIL AND HAZARDOUS SUBSTANCE RESPONSE OFFICE.

14 Sec. 46.08.100. OFFICE ESTABLISHED. There is established in the
15 department the oil and hazardous substance response office. The
16 office shall include a director and employees who are specially
17 trained in programs and technologies related to the containment and
18 cleanup of releases or threatened releases of oil and hazardous sub-
19 stances.

20 Sec. 46.08.110. RESPONSE CORPS. (a) The office shall establish
21 an oil and hazardous substance response corps.

22 (b) The corps consists of volunteers who register with the
23 office and agree to be trained by the office in techniques for con-
24 tainment and cleanup and to be available on short notice to assist the
25 office in containment and cleanup.

26 (c) Members of the corps are entitled to per diem and expenses
27 as determined by the commissioner for training and for days spent in
28 service to the state in containment and cleanup actions.

29 Sec. 46.08.120. RESPONSE DEPOTS. The office shall maintain

1 emergency response depots in areas of the state determined by the
2 director to be potential sites of releases or threatened releases of
3 oil or hazardous substances. The depots shall be equipped and staffed
4 in a manner that ensures prompt response when containment and cleanup
5 actions are necessary.

6 Sec. 46.08.130. DUTIES OF THE OFFICE. (a) The office shall be
7 prepared to respond promptly to a discharge of oil or a hazardous
8 substance.

9 (b) The office may respond under (a) of this section to an oil
10 or hazardous substance discharge only if:

11 (1) the oil discharge is a catastrophic oil discharge that
12 constitutes an emergency under AS 46.04.080(a);

13 (2) the discharge of oil or a hazardous substance is de-
14 clared to be an emergency under AS 46.03.865;

15 (3) the governor declares the discharge an emergency under
16 AS 26.23;

17 (4) the commissioner reasonably believes that there has
18 been a discharge of oil or a hazardous substance, or that there is a
19 potential discharge of oil or a hazardous substance, and the discharge
20 may qualify under (1) - (3) of this subsection; or

21 (5) the commissioner reasonably believes that the discharge
22 or potential discharge poses an imminent and substantial threat to
23 public health or welfare or to the environment.

24 Sec. 46.08.140. EMERGENCY POWERS. (a) When the office has
25 reasonable grounds to believe that a release of oil or a hazardous
26 substance has occurred or is threatened to occur which, in the judg-
27 ment of its director, presents an imminent or present danger to the
28 health or welfare of the people of the state or would result in or is
29 likely to result in irreversible or irreparable damage to the natural

1 resources or environment, and it appears to be prejudicial to the
2 interest of the people of the state to delay action until an oppor-
3 tunity for a hearing can be provided, state employees or members of
4 the corps may, with permission of the director and without prior
5 hearing, enter private property for the purpose of containment or
6 cleanup.

7 (b) The property owner affected by a response action taken under
8 (a) of this section has the right to be heard as soon as practicable
9 and to present proof to the office that the containment or cleanup
10 action is unnecessary or that it is not necessary to enter the per-
11 son's property for the containment or cleanup action.

12 Sec. 46.08.150. CONTRACTS. The office may enter into agreements
13 with agencies of the state and federal government, political subdivi-
14 sions, the University of Alaska, or private entities to

15 (1) establish and maintain regional oil and hazardous
16 substances depots and to acquire the supplies and equipment necessary
17 for response readiness;

18 (2) train members of response corps; and

19 (3) conduct research into oil and hazardous substances
20 spill technology.

21 Sec. 46.08.160. LIMITATION OF LIABILITY. The state, an employee
22 of the state, and a member of the corps are not liable for costs or
23 damages as a result of actions taken under AS 46.08.100 - 46.08.190 in
24 response to a release or threatened release unless the actions taken
25 by the state, the employee, or the member of the corps constitute
26 gross negligence or intentional misconduct.

27 Sec. 46.08.190. DEFINITIONS. In AS 46.08.100 - 46.08.190

28 (1) "corps" means the oil and hazardous substance response
29 corps;

1 (2) "depots" means the oil and hazardous substance supply
2 and equipment storage depots;

3 (3) "office" means the oil and hazardous substance response
4 office.

5 * Sec. 4. APPLICABILITY OF ACT. (a) This Act does not relieve a
6 person responsible for an oil terminal facility, offshore exploration or
7 production facility, or a vessel that transports crude oil, or a person who
8 has control of a hazardous substance from the responsibility for containing
9 and cleaning up a discharge of oil or the hazardous substance as required
10 by law.

11 (b) This Act does not add to or detract from the authority under law
12 of a municipality to impose taxes on oil and gas property or other proper-
13 ties for the purpose of establishing or maintaining services and facilities
14 to minimize the risk of or respond to a release of oil or a hazardous
15 substance.

16 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).
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Amendment adopted.

Amendment to page 5, lines 5 through 10

Sec 4. APPLICABILITY OF ACT. (a) This Act does not relieve a person responsible x x x

(b) This act does not add ~~to~~ detract from the authority under law of a municipality to impose taxes on oil and gas properties or other properties for the purpose of establishing or maintaining services and facilities to minimize the risk of or respond to a release of oil or hazardous substances.

Alaska State Legislature

AMENDMENT

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House of Representatives

COMMITTEES
CHAIRMAN
HOUSE TRANSPORTATION
MEMBER
COMMUNITY AND
REGIONAL AFFAIRS
LEGISLATIVE COUNCIL
TRANSPORTATION
BUDGET SUBCOMMITTEE

May 4, 1989

TO: All House Finance Committee members

FROM: Representative Bette Cato *BC*

SUBJECT: CS for Senate Bill 264 (~~Resources~~ *FINANCE*)

Attached is an amendment I would like to include in CS for SB 264. Senator Kelly, the sponsor, has no objection to this amendment.

Thank you for considering this request.

LETTER OF INTENT
CSSB 264 (Finance)

Notwithstanding the provisions of AS 46.08.070 and similar laws, it is the intent of the legislature that the attorney general not seek to recover money expended by the Department of Environmental Conservation for the costs of establishing the oil and hazardous substance response office and oil and hazardous substance response depots even though that money is expended from the oil and hazardous substance release response fund.

HS Res. did not adopt
Hr. Fin. did not adopt

Senate Letter of Intent adopted
4/59

MEMORANDUM

Date: May 4, 1989
To: House Finance Committee
From: Senator Tim Kelly
Subj: CSSB264 (Finance)

CSSB264 (Finance) would establish a system and management structure to give the State of Alaska its own emergency backup oil and hazardous substance spill response capability.

It is based on the premise that the people of Alaska can no longer put their faith in industry to protect them from the environmental damage and economic hardships caused by a catastrophic oil spill. We must have the capability to respond if industry can't or won't.

In summary, the bill would do three things.

- It would establish an oil spill response office in DEC. This office would be staffed by a small core group of professions. It would be responsible for oil spill response research, planning, operations, command and control.
- It would create an oil spill response corps. The corps would be composed of volunteers from around the state who would be trained to respond rapidly to oil and hazardous substances spills. The corps would be patterned after a new incident command system developed to combat large forest fires like those that ravaged the western states last summer. And it would be similar to the system of volunteer fire fighters who battle blazes in rural Alaska. The National Guard is another comparison. Members of the corps would be average citizens who would be trained and then called up in case of an emergency. They would be paid only during training and when they were called out. The specific organization structure for the corps would be established during the planning process detailed in CSSB261.
- It would establish a string of depots around the state where we would stockpile containment and cleanup equipment. As I envision it, we would contract for warehouses for the depots. The location of these depots would be established during the planning process in SB261.

It's a rough estimate only, but the cost of implementing this system is projected at about \$20 million. Funding would come from the existing oil and hazardous substance release response fund. Again, a final determination on cost will be based on the results of the planning process detailed in SB261.

During the Senate committee process, several major changes were made in the bill to tighten it up and clarify legislative intent. These changes include:

- The addition of a findings and purposes section to clarify our intent that the state must have a backup response capability in cases of spills which represent a grave and substantial threat to the economy and the environment. We don't want this legislation to authorize DEC to to out and dig up every gas station storage tank in the state, but we also don't want to be caught off guard again like we were in Prince William Sound. Also in this regard, we added a duties of the office section to specifically define when the corps may be called to action.
- Language to make it clear that the state would be relieved of liability for actions of the corps except in cases of gross negligence or intentional misconduct. This is the good samaritan protection we've given various volunteers over the years.
- Language also to make it clear that the bill does not relieve the oil industry of responsibility for containing and cleaning up spills as required by current law. Again, I see the corps as an emergency backup and do not want to relieve industry of its primary responsibility.
- Elimination of the word wages from the language concerning compensation for members of the corps. My intent was not to create a whole new class of state employees although members of the corps would be covered by state workers compensation laws.

SB264 Cost Estimate

Response Office.....\$1,960,000

Salaries & Benefits

Office Expenses

Travel

Office Equipment

Response Corps Establishment & Training.....\$5,000,000

Depots (11)

Booms, absorbants, pumps, etc. \$8,250,000

Speciality Equipment 3,000,000

Contractual Storage 550,000

Subtotal.....\$11,800,000

Oil Spill Containmen & Clean-up Technology Research.....\$1,000,000

TOTAL \$19,760,000