

HB

578

HOUSE COMMITTEE REPORT

(9)

Date Referred: March 12, 1990

FURTHER REFERRALS:

Date of Committee Action: 2/21/90

FINANCE

The RESOURCES Committee considered:

HB 578

HOUSE BILL NO. 578

ADVISORY COUNCIL, TRANSP. OIL/HAZARD SUBS.

"An Act creating a citizens' oversight council on oil and other hazardous substances and regional advisory committees."

be replaced with CS HB 578 (RES) the same title
 a new title

have attached amendment(s)

- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):

- fiscal impact
- zero fiscal note
- zero with analysis

APPROVES PREVIOUS:

- fiscal note(s) published: _____
- zero fiscal notes(s) published: _____

SIGNING DO PASS:

Cliff Davidson

Sam M...

Mike ...

George ...

SIGNING OTHER THAN DO PASS:
(Do Not Pass, No Recommendation, Amend)

Bill Hudson - No recomm.
W. Furnace - Needs amendment -

Cliff Davidson
Chairman's signature

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act creating a citizen's oversight council on oil & other hazardous..."
Sponsor: H. Resources
Requestor: H. Resources

Affected Agency: Legislative Affairs Agency
BRU: Legislative Council
Components: Council & Subcommittees

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY91	FY92	FY93	FY94	FY95	FY96
Personal Services	117.8	117.8	117.8	117.8	117.8	117.8
Travel	18.9	18.9	18.9	18.9	18.9	18.9
Contractual	300.0	300.0	300.0	300.0	300.0	300.0
Supplies	0	0	0	0	0	0
Equipment	0	0	0	0	0	0
Land & Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING	436.7	436.7	436.7	436.7	436.7	436.7

CAPITAL						
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REVENUE						
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FUNDING: (THOUSANDS OF DOLLARS)

General Fund						
Federal Fund						
Other	436.7	436.7	436.7	436.7	436.7	436.7
TOTAL						

POSITIONS:

Full-Time	2	2	2	2	2	2
Part-Time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

CSHB 578(Res) establishes a Citizen's Oversight Council on Oil and Other Hazardous Substances. Funding will be from the Oil & Hazardous Release Response Fund. The following is requested to adequately support the Council:

Prepared By: Pamela Stoops, Director
Division: Administrative Services

Pamela Stoops

Phone: 465-3850
Date: 3/20/90

Approved By: Warren Endicott, Executive Director
Agency: Legislative Affairs Agency

Warren Endicott

Date: 3/20/90

DISTRIBUTION (BY PREPARER)
LEGISLATIVE FINANCE
LEGISLATIVE SPONSOR

REQUESTOR
OFFICE OF MANAGEMENT & BUDGET
AGENCY (IES)

CONTINUATION OF FISCAL NOTE: CSHB 578

PERSONAL SERVICES

Staff is requested as follows to assist the Citizens Oversight Council on Oil and Other Hazardous Substances

Executive Director - Range 24 A		
\$4,687 x 12 months =	\$56,244	
\$56,244 x 36% benefits =	\$20,247	
	<u>\$76,491</u>	76.5
Secretary - Range 12A		
\$2,531 x 12 months =	\$30,372	
\$30,372 x 36% benefits =	\$10,933	
	<u>\$41,305</u>	41.3
		<u>117.8</u>

TRAVEL

It is anticipated there will be 6 meetings of the Council.

6 meetings x 5 members at 3 days each		
airfare - 5 meetings x 5 members = 30 airfares		
30 airfares x \$390 =	\$11,700	
per diem - 6 meetings x 5 members = 30		
30 x 3 days per diem = 90		
90 x \$80 =	\$7,200	
	<u>\$18,900</u>	18.9

CONTRACTUAL

Professional services for contracts to investigate compliance with environmental laws and regulations relating to production, transport and storage of oil and other hazardous substances.	\$300,000	300.0
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(3) promote and develop programs for the protection and control of the environment of the state;

(4) take actions that are necessary and proper to further the policy declared in AS 46.03.010;

(5) adopt regulations for

(A) the prevention and control of public health nuisances;

(B) the regulation of sanitation and sanitary practices in the interest of public health;

(C) standards of cleanliness and sanitation in connection with the construction, operation, and maintenance of a camp, cannery, food handling establishment, food manufacturing plant, mattress manufacturing establishment, industrial plant, school, barbershop, hairdressing or cosmetology establishment, soft drink establishment, beer and wine dispensaries, and for other similar establishments in which lack of sanitation may create a condition which causes disease;

(D) the regulation of quality and purity of commercially compressed air sold for human respiration. (§ 2 ch 120 SLA 1971; am E.O. No. 51, § 40 (1981))

NOTES TO DECISIONS

Approval of subdivision plans. — subdivision. *State v. Anderson*, 749 P.2d 1343 (Alaska 1988).
Department of environmental conservation can validly require its approval of potential subdivision plans as a prerequisite to the recording and sale of any lots in the
Cited in *Nooy v. Department of Env'tl. Conservation*, 737 P.2d 796 (Alaska 1987).

Article 2. Environmental Advisory Board.

Section	Section
30. Environmental advisory board	50. Functions of board
40. Expenses and per diem of board members	

Sec. 44.46.030. Environmental advisory board. (a) There is created within the Department of Environmental Conservation an environmental advisory board, consisting of the commissioner of environmental conservation who shall serve as chairman and eight members appointed by the governor.

(b) No member of the board other than the chairman may be an officer or employee of a state department or agency.

(c) Of the members of the board first appointed by the governor, three shall be appointed for a term of one year; three for a term of two years; and two for a term of three years. The initial terms begin on July 1, 1971. Thereafter, all appointments shall be made for terms of three years beginning on July 1 of the year in which the appointment is made. Members of the board serve at the pleasure of the governor. In the case of a vacancy other than one arising by expiration of term,

an appointment to fill the vacancy shall be made for the remainder of the unexpired term. (§ 2 ch 120 SLA 1971)

Sec. 44.46.040. Expenses and per diem of board members. Each member of the board is entitled to travel expenses and per diem allowed by law for each day going to and from and for each day in actual attendance at board meetings and other meetings or conferences authorized by the commissioner. (§ 2 ch 120 SLA 1971)

Cross references. — For per diem and travel expenses, see AS 39.20.180.

Sec. 44.46.050. Functions of board. (a) The board shall
(1) advise the commissioner of environmental conservation in the review and appraisal of programs and activities of state departments and agencies in light of the policy set out in AS 46.03.010;
(2) serve as a forum for the exchange of views, concerns, ideas, information and recommendations relating to the quality of the environment; and
(3) recommend to the commissioner the persons who by virtue of outstanding achievement in the field of environmental conservation merit a certificate of achievement from the commissioner of environmental conservation.

(b) The board shall exercise and perform such other functions as may be requested by the commissioner. (§ 2 ch 120 SLA 1971)

Secs. 44.46.070 — 44.46.110. Alaska Council on Science and Technology. (Repealed, E.O. No. 48, § 6 (1981). For current law, see AS 37.17 and AS 44.19.255.)

Chapter 47. Department of Community and Regional Affairs.

Article

1. Organization and Administration (§§ 44.47.010 — 44.47.055)
2. Planning Assistance (§§ 44.47.080 — 44.47.100)
3. Rural Development (§§ 44.47.130 — 44.47.155)
4. Community Legal Assistance Grants (§§ 44.47.200 — 44.47.230)
5. Day Care Assistance (§§ 44.47.250 — 44.47.310)
6. Housing Assistance (§§ 44.47.370 — 44.47.560)
7. Local Boundary Commission (§§ 44.47.565 — 44.47.583)
8. Senior Citizens Housing Development Fund (§§ 44.47.610 — 44.47.620)
9. Low Cost and Low Income Multiple Family Housing Development Fund (§§ 44.47.630 — 44.47.635)
10. Borough Feasibility Studies (§§ 44.47.700 — 44.47.730)
11. Business Incentive Training Program (§§ 44.47.750 — 44.47.772)
12. General Provisions (§§ 44.47.980 — 44.47.998)

METRO

FRIDAY

SECTION B March 9, 1990

Lawmakers want spill watchdog committee

House Democrats say citizens' group should oversee government agencies, oil industry

By DAVID POSTMAN
Daily News reporter

JUNEAU — A group of House Democrats wants to create a powerful citizens' commission with broad authority to oversee oil industry and government efforts to prevent and clean up oil spills.

In its efforts to make sure state laws covering spills are

being followed, the five-member citizens' council would be given the power to subpoena witnesses, take testimony under oath and force government agencies and oil companies to produce records.

The council could also file lawsuits to make sure state spill laws are being followed. The five members of

the council would be appointed by the governor and be given the authority to hire an executive director and other staff.

"This fills the gap of apathy that sets in when you have 10 or 12 years with no problems and in the meantime budgets and contingency plans are being cut, cut, cut, and then everybody is

caught with their pants down when there is a disaster," said Rep. Curt Menard, D-Wasilla, co-chairman of the House Resources Committee.

The Citizens' Oversight Council on Oil and Gas and other Hazardous Substances was a top priority of the Alaska Oil Spill Commission, a panel appointed by

Gov. Steve Cowper to investigate the wreck of the Exxon Valdez. The commission said that no single state agency had authority over transportation of oil and other hazardous substances, including by pipeline and tanker.

"Regulatory authority over such transportation is spread among several agen-

cies that do not always coordinate information or resources," according to the spill commission's report.

Cowper, though, did not include the recommendation in his package of spill bills introduced last month. Instead, the administration is considering establishing a

Please see Page B-3, SPILL

SPILL: House bill would form citizen's group

Continued from Page B-1

state environmental advisory board and increasing public participation in planning for spill prevention and cleanup, according to its written response to the spill commission report.

Cowper spokesman David Ramseur said he could not find out Thursday why the administration did not follow the commission's recommendation.

At a hearing Thursday,

spill commission member John Sund encouraged the House Resources Committee to push for citizen councils.

"Bureaucrats come and go, legislators come and go, the companies are usually there for the long haul," he said. "I think the informed citizenry is a very critical component of the state (oil) transportation system."

Sund also said the committee should look at other spill commission recommendations not followed by

Cowper. "I'd rather see some action in the House side on these bills than see an \$800,000 report become a nice bookshelf item."

"I call this our vigilance bill," said Rep. Cliff Davidson, D-Kodiak, co-chairman of the House Resources Committee.

"This is not meant to be petro-punitive," said Davidson, who stressed the council would look at government's role as well as that of the oil industry. "We need to watch the watchers, regulate the

regulators and maybe then we have a chance to overcome malaise."

Sen. Drue Pearce, R-Anchorage, chairwoman of the Senate Special Committee on Oil and Gas, said she wants to talk to the spill commission members before deciding whether the citizen's group is a good idea. Pearce's committee and the House Resources Committee are holding hearings on Cowper's package of spill bills.

department's small staff was overwhelmed by technical licensing and permitting activities, leaving no opportunity for the agency to perform its role as overall environmental policy watchdog. Though the state retained certain powers over water quality, the overall effect of preemption through the federal courts was to reduce or eliminate the state presence in the oversight of oil industry affairs and demoralize state personnel engaged in such activity.

In the absence of the state presence, the already weak federal regulatory presence declined further. In 1990 Congress is likely to adopt legislation that would eliminate any presumption of federal preemption in actions taken by the state with respect to safety and response. Thus the way is open for the state to reassert its historic role in resource protection.

A citizens' advisory council should be established in the office of the governor and given responsibility for overseeing the safe transportation of oil, gas and other hazardous substances.

No state agency has as its primary mission oversight of environmentally safe transportation of Alaska's resources. Regulatory authority over such transportation is spread among several agencies that do not always coordinate information or resources. The only overall view of the system is exercised by the governor, but he has no single designated officer or council to provide information or maintain consistent oversight.

The state should establish a citizens' advisory council, supported by a full-time executive director and small staff, to provide focus to state oversight. Members should be chosen from among the general public, selected for their concern for environmental safety. The council should have power to subpoena information and witnesses, to inspect facilities, to conduct investigations, and to collect information and statistics on safety.

The council's duties should be to:

- Advise the governor and legislature on the environmental safety of the transportation of Alaska oil, gas and other substances posing environmental risks;
- Advise on potential initiatives in state and federal regulations and at the governor's request, represent the state's interests in the development of multistate compacts and national and international policy;

Recommendation 12 Oversight council

"What we have is a system driven by the fact the pipeline is pumping 2 million barrels of oil into the sound, and they have to get it out of here. They choose not to restrict it, turn it off, or anything else. The decision to sail or not to sail is not a dispassionate decision based on weather or traffic."

*Rep. George Miller, California
House Committee on Interior and
Insular Affairs hearing, May 1989*

"What tends to happen is DEC will get dragged into a septic tank argument and it will drain away as many resources as fighting, for instance, the Alyeska ballast water treatment plant. There's a real problem with priorities within DEC."

*Sue Libinson, Executive Director
Alaska Center for the Environment
Alaska Oil Spill Commission
hearing, 9/21/89*

Recommendation 13
Enhanced regulatory strength

The state should expand and exercise its regulatory authority over environmental safety. Measures voluntarily adopted by industry should be backed up by state regulation. Federal technical standards and safety requirements should not preclude more stringent state standards.

The State of Alaska currently does not exercise its full power under the U.S. Constitution to regulate environmental safety. Recent congressional enactments and judicial decisions make it clear that Congress does not intend that states should hesitate to protect local environments with greater stringency than the minimums established under federal law. The state should have the power, for example, to prohibit vessels from entering or departing Alaska ports and waters under unsafe circumstances.

Regulatory effectiveness also should be improved through assessment of administrative and civil penalties to encourage prevention, no preven-

- Identify unmet needs and recommend priorities, strategies and obstacles to achieving them;
- Encourage coordination of spill prevention and response programs currently spread among several agencies that cumulatively deserve high priority;
- Make budget and resource allocation recommendations;
- Evaluate programs and recommend elimination of marginal activities;
- Recommend changes based on new technologies and scientific impacts;
- Designate advisory panels, if deemed necessary, including appropriate representation, ex-officio, of appropriate departments of the state and municipalities, regional oil spill authorities, representatives of fishing and environmental groups, and shippers, owners and residential groups on the pipeline route; and
- Issue an annual report and safety assessment. Reports to the governor should include regular statistical and special reports on accidents and near-misses, the status of major risks, the performance of state and federal agencies, and long-term options for improving safety.

March 20, 1990

Senate Conferees
Senate Bill 686
U.S. Senate
Washington, D.C. 20510

Dear Senate Conferee,

The Alaska State Legislature is currently working on legislation to create a Citizen's Oversight Council on Oil and Hazardous Substances. In testimony before the House Resources Committee there has been some discussion that this legislation may duplicate provisions in Title 8 of HR 1465/S 686. We do not believe this to be the case. In fact, we believe that federal and state legislation will complement each other to provide the highest degree of citizen oversight possible.

House Bill 578 was introduced in the Alaska State Legislature at the request of the Alaska Oil Spill Commission. After eight months work, the Commission identified citizen oversight as an essential component of any oil spill prevention program. Our legislation creates a five member state council primarily to oversee and monitor state and federal regulatory agencies. As currently written, the Citizen's Oversight Council will be an arm of the Alaska State Legislature.

The role of the Council will be to ensure vigilance on the part of government. As a statewide entity, it will also have a role in coordinating among any regional citizen councils created by state federal or local governments.

Both the federal and the state government have a compelling interest in ensuring that a disaster such as the Exxon Valdez never again occurs. We encourage you to continue with your efforts to create strong regional citizen's groups in Cook Inlet and Prince William Sound.

Thank you for your efforts.

Sincerely,

Representative Cliff Davidson
Co-Chair

Representative Curt Menard
Co-Chair

AMENDMENT

Page 2, Line 1-2 Delete "Governor, with the approval of"

Page 2, Line 2 Delete "Governor"
Insert "Alaska Legislative Council"

Page 2, Line 21 Delete "Governor"
Insert "Alaska Legislative Council"

PROPOSED AMENDMENT BY SHARP

Amendment for CSHB 578:

Page 1, lines 28 and 29, and Page 2, line 1, after the word "members" delete: "APPOINTED BY THE ALASKA LEGISLATIVE COUNCIL, WHICH SHALL NOTIFY MEMBERS OF THE PUBLIC THROUGHOUT THE STATE THAT IT IS SEEKING NOMINATIONS FOR MEMBERSHIP."

Page 1, line 28, after the word "members" insert:

"The Governor shall select council members from the following sources:

1. One member from 3 candidates, one each nominated by:
 - a. Cordova Fisherman's Union
 - b. United Fisherman's Union
 - c. United Fisherman's Marketing Association
2. One member from 3 candidates nominated by the Alaska Outdoor Council.
3. One member from 3 candidates nominated by the Alaska State Chamber of Commerce. AK AND ORGM
4. One member from 3 candidates nominated from the Alaska Municipal League.
5. One member from 3 candidates nominated by the majority of the 13 regional native corporations."

Page 2, line 19, after the word "The" delete: "ALASKA LEGISLATIVE COUNCIL" and insert: "Governor".

Page 2, line 22 and 23, delete "ALASKA LEGISLATIVE COUNCIL", and insert "Governor".

Page 2, lines 24 - 27, delete: "FUNDS APPROPRIATED FOR THE COUNCIL ARE TO BE DISBURSED AND ACCOUNTED FOR UNDER PROCEDURES REQUIRED BY THE LEGISLATIVE AFFAIRS AGENCY. THE COUNCIL CHAIR SHALL APPROVE ALL EXPENDITURE DOCUMENTS."