

HB

408

DEPT. OF ENVIRONMENTAL CONSERVATION

OFFICE OF THE COMMISSIONER
410 WILLOUGHBY AVENUE, SUITE 105
JUNEAU, AK 99801-1795

Phone: (907) 465-5000
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January 28, 1992

The Honorable Jerry Mackie
Chairman
House Community and Regional
Affairs Committee
P.O. Box V
Juneau, AK 99811

Dear Representative Mackie:

HB 408 was recently referred to your committee after introduction by the Governor. This bill clarifies the statutory powers of the Department of Environmental Conservation by adding language that DEC may award grants for the purposes of forming or operating a Local Emergency Planning Committee (LEPC) under AS 46.13.070.

In 1990, the Alaska Legislature created within the Department of Environmental Conservation the State Emergency Response Commission (SERC) pursuant to federal laws adopted in 1986. Under that federal law, as well as state law, a SERC is to appoint an LEPC for the various regions of the state. LEPCs are responsible for preparing emergency plans for communities to respond to the release of hazardous substances. A listing of the LEPCs which have been approved by the SERC is enclosed for your information.

DEC receives money in its budget each year for the purposes of assisting in the formation and operation of LEPCs. We learned this summer that DEC in fact has no granting authority and thus may not issue a grant to an organization wishing to form an LEPC. After an LEPC is formed, it is an entity of the state and DEC may then transfer money to them. HB 408 is designed to assist in the formation of LEPCs by making it clear that DEC can in fact issue such grants.

LEPCs are an essential part of the State of Alaska's readiness to prevent catastrophic hazardous substance releases, and respond to such releases when they do occur. The Department of Environmental Conservation respectfully requests that you

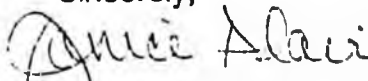
The Honorable Jerry Mackie

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January 28, 1992

schedule this bill at your earliest convenience. Please contact Janice Adair at 465-5050 if you need further information. We look forward to your favorable action.

Sincerely,

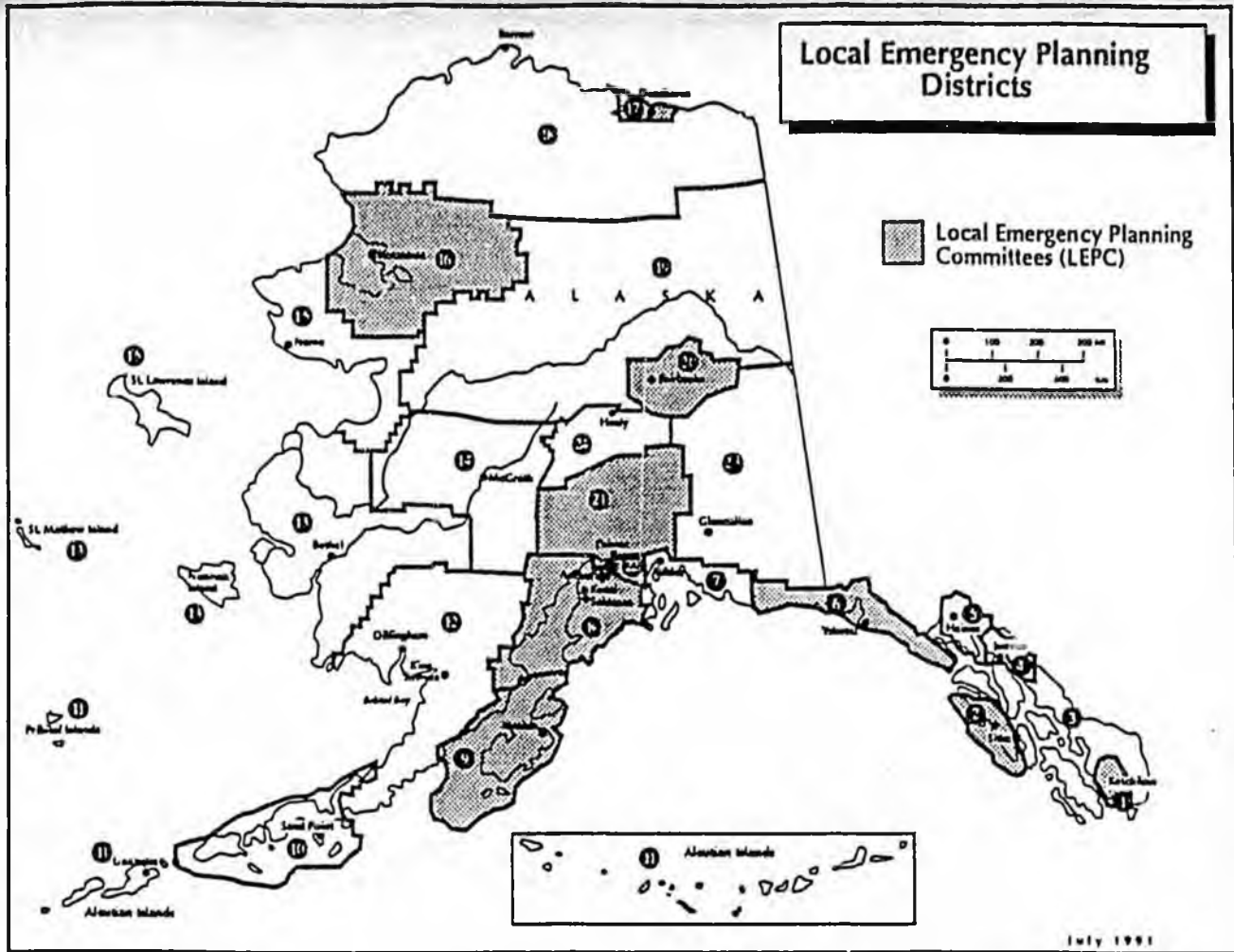

John A. Sandor
Commissioner

JA/vr (CO-comm\mackie.408)

Enclosures: List of LEPCs approved by SERC

cc: Paul Fuhs, Office of the Governor
Beth Kerttula, Assistant Attorney General

Local Emergency Planning Districts



July 1991

Map Key	Local Emergency Planning District (LEPD)	Principal City	LEPC appointed by SERC
1	KETCHIKAN GATEWAY BOROUGH*	Ketchikan	April 4, 1991
2	CITY & BOROUGH OF SITKA*	Sitka	May 14, 1990
3	Southeast	Juneau	
4	City and Borough of Juneau	Juneau	
5	Lynn Canal	Heisea	
6	CITY OF YAKUTAT*	Yakutat	September 18, 1989
7	Prince William Sound	Valdez	
8	KENAI PENINSULA BOROUGH*	Soldotna	June 9, 1989
9	KODIAK ISLAND BOROUGH*	Kodiak	June 9, 1989
10	Aleutians East Borough	Sand Point	
11	Aleutian Islands	Unalaska	
12	Bristol Bay	Dillingham	
13	Yukon Delta	Bethel	
14	Southwestern Interior	McGrath	
15	Northwestern	Noorvik	
16	NORTHWEST ARCTIC BOROUGH*	Kotzebue	June 14, 1991
17	PRUDHOE BAY*	NA	June 14, 1991
18	North Slope Borough	Barrow	
19	Interior Alaska	Fairbanks	
20	FAIRBANKS NORTHSTAR BOROUGH*	Fairbanks	June 9, 1989
21	MATANUSKA-SUSITNA BOROUGH*	Palmer	June 14, 1991
22	MUNICIPALITY OF ANCHORAGE*	Anchorage	June 14, 1991
23	Southeastern Interior	Chenailles	
24	Denali Borough	Healy	

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Revision Date: _____
Title: Authorizing DEC to award grants for LEPC; efd

Department Affected: Environmental Conservation
BRU: Spill Prevention & Response
Component: Spill Prevention, Planning

Sponsor: Governor
Requestor: Governor

_____ and Management
COMPONENT SERIAL NO.

1	4	3	0
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)
DEC has received funds for the past two fiscal years, and is requesting funding for FY 93, to use for LEPC formation and operation. This legislation would allow the Department to enter into grant agreements for this purpose.

Prepared By: Janice Adair Phone: 465-5050
Division: Commissioner's Office Date: December 12, 1991

Approved by Commissioner: Janice Adair for John Sander
Agency: Department of Environmental Conservation Date: December 12, 1991

FISCAL NOTE

No. 1

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Bill Version: HB 408

(H) Publish Date: 1/16/92

Revision Date: _____ Department Affected: Administration

Title: "An Act Authorizing the AK. DEC to award grants for local emergency planning..." BRU: Finance

Component: Finance

Sponsor: Rules Committee

Requestor: _____

COMPONENT SERIAL NO.

59

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
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 FUND SOURCE:	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	0	0	0	0	0
OTHER FUND SOURCE:	0	0	0	0	0	0
TOTAL	0	0	0	0	0	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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Don Wanie *DW 12/16* Phone: 465-2240
 Division: Finance Date: 12/16/91
 Approved by Commissioner: Nancy Bear Usura *NBU*
 Agency: Administration Date: 12/19/91

WALTER J. HICKEL
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 16, 1992

*The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182*

Dear Speaker Grussendorf:

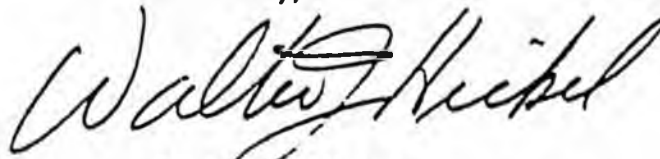
Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill authorizing the Department of Environmental Conservation (DEC) to award grants for the purposes of forming or operating local emergency planning committees (LEPCs) under AS 46.13.070.

Under AS 46.13.040(5), the Alaska State Emergency Response Commission in DEC is required to establish, supervise, and coordinate LEPCs for emergency planning districts across the state. LEPCs play a vital role in developing community awareness, training of community resources, and planning for hazardous substances emergencies in their areas.

This bill amends AS 46.03.020 to give DEC the authority to award grants so that LEPCs may be formed or operated.

I urge your prompt consideration and passage of this bill.

Sincerely,



Walter J. Hickel
Governor

**KETCHIKAN
GATEWAY
BOROUGH**

OFFICE OF THE MAYOR

Ralph M. Bartholomew
344 Front Street
Ketchikan, AK 99901-6494
Phone 228-6605 Fax 225-7282

March 31, 1992

**The Honorable Jerry Mackie
House of Representatives
P.O. Box V
Juneau, AK 99801**

HB 408, GRANTS FOR LOCAL EMERGENCY PLANNING COMMITTEES

The Ketchikan Gateway Borough Assembly voted to support HB 408 on March 16, 1992. The community has an active Local Emergency Planning Committee which has been working on tasks related to hazardous substance emergency planning and preparedness, community right-to-know reporting, toxic chemical release reporting, management of hazardous substances and related planning efforts.

This bill authorizes the Department of Conservation to award grants for the purpose of forming or operating local emergency response committees under AS 46.13.070.



**Ralph M. Bartholomew
Mayor**

Collateral references. — 61A Am. Jur. 2d, Pollution Control, §§ 46-49. 39A C.J.S., Health and Environment, §§ 115-124.

Power of state to prohibit or restrict exportation of natural resources. 32 ALR 331.

Preservation or protection of animals or birds as subject of charitable trust. 66 ALR 465.

Constitutionality of reforestation or forest conservation legislation. 13 ALR2d 1095.

Article 2. Department of Environmental Conservation.

Section

20. Powers of the department
30. Water quality enhancement, water supply, sewage, and solid waste facilities grants

Section

32. Alaska clean water fund
40. Alaska environmental plan
45. Public recognition of pollution prevention efforts

Collateral references. — 61A Am. Jur. 2d, Pollution Control, § 6.

39A C.J.S., Health and Environment, §§ 5, 9-15, 125-145.

Power of state to prohibit or restrict exportation of natural resources. 32 ALR 331.

Preservation or protection of animals or

birds as subject of charitable trust. 66 ALR 465.

Constitutionality of reforestation or forest conservation legislation. 13 ALR2d 1095.

Right to maintain action to enjoin public nuisance as affected by existence of pollution control agency. 60 ALR3d 665.

Sec. 46.03.020. Powers of the department. The department may (1) enter into contracts necessary or convenient to carry out the functions, powers, and duties of the department;

(2) review and appraise programs and activities of state departments and agencies in light of the policy set out in AS 46.03.010 for the purpose of determining the extent to which the programs and activities are contributing to the achievement of that policy and to make recommendations to the departments and agencies, including but not limited to, environmental guidelines;

(3) consult with and cooperate with

(A) officials and representatives of any nonprofit corporation or organization in the state;

(B) persons, organizations, and groups, public and private, using, served by, interested in, or concerned with the environment of the state;

(4) appear and participate in proceedings before any state or federal regulatory agency involving or affecting the purposes of the department;

(5) undertake studies, inquiries, surveys, or analyses it may consider essential to the accomplishment of the purposes of the department; these activities may be carried out by the personnel of the department or in cooperation with public or private agencies, includ-

ing educational, civic, and research organizations, colleges, universities, institutes, and foundations;

(6) at reasonable times enter and inspect with the consent of the owner or occupier any property or premises to investigate either actual or suspected sources of pollution or contamination or to ascertain compliance or noncompliance with a regulation that may be adopted under AS 46.03.020 — 46.03.040; information relating to secret processes or methods of manufacture discovered during investigation is confidential;

(7) conduct investigations and hold hearings and compel the attendance of witnesses and the production of accounts, books, and documents by the issuance of a subpoena;

(8) advise and cooperate with municipal, regional, and other local agencies and officials in the state, to carry out the purposes of this chapter;

(9) act as the official agency of the state in all matters affecting the purposes of the department under federal laws now or hereafter enacted;

(10) adopt regulations necessary to effectuate the purposes of this chapter, including, by way of example and not limitation, regulations providing for

(A) control, prevention, and abatement of air, water, or land or subsurface land pollution;

(B) safeguard standards for petroleum and natural gas pipeline construction, operation, modification, or alteration;

(C) protection of public water supplies by establishing minimum drinking water standards, and standards for the construction, improvement, and maintenance of public water supply systems;

(D) collection and disposal of sewage and industrial waste;

(E) collection and disposal of garbage, refuse, and other discarded solid materials from industrial, commercial, agricultural, and community activities or operations;

(F) *[Repealed, § 12 ch 172 SLA 1978.]*

(G) control of pesticides;

(H) other purposes as may be required for the implementation of the policy declared in AS 46.03.010;

(I) handling, transportation, treatment, storage, and disposal of hazardous wastes;

(11) after consultation with other state agencies and local government officials, identify and propose for addition or deletion, by regulation, other licenses, permits or authorizations for which the provisions of AS 46.35 are applicable, and report annually to the legislature the permits that have been included or deleted;

(12) *[Repealed, § 92 ch 36 SLA 1990.]*

(13) inspect the premises of sellers and suppliers of paint, vessels, and marine and boating supplies, and take other actions necessary to

§ 46.03.025

WATER, AIR, ENERGY, ETC.

§ 46.03.030

enforce AS 46.03.715. (§ 3 ch 120 SLA 1971; am § 1 ch 220 SLA 1976; am § 2 ch 60 SLA 1977; am § 12 ch 172 SLA 1978; am § 8 ch 93 SLA 1981; am § 86 ch 138 SLA 1986; am § 1 ch 67 SLA 1987; am § 92 ch 36 SLA 1990)

Cross references. — For status of certain enforcement and inspection employees of the department as peace officers, see AS 46.03.890(b); for provisions relating to coordination of environmental permits and procedures, see AS 46.35; for

fees for department services, see AS 44.46.025.

Effect of amendments. — The 1957 amendment added paragraph (13).

The 1990 amendment, effective May 12, 1990, repealed paragraph (12).

NOTES TO DECISIONS

Approval of subdivision plans. — 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 subdivision. *State v. Anderson*, 749 P.2d 1342 (Alaska 1988).

Sec. 26.23.040. Duties of the Alaska division of emergency services. (a) The Alaska division of emergency services shall prepare and maintain a state emergency plan and keep it current. The plan may include provisions for

- (1) prevention and minimization of injury and damage caused by disasters;
- (2) prompt and effective response to disasters;
- (3) emergency relief;
- (4) identification of geographical areas, municipalities, cities or villages especially vulnerable to a disaster;
- (5) recommendations for
 - (A) zoning, building, and other land use controls;
 - (B) safety measures for securing mobile homes or other nonpermanent or semi-permanent structures; and
 - (C) other preventive and preparedness measures designed to eliminate or reduce disasters or their impact;
- (6) assistance to local officials in designing local emergency action plans;
- (7) authorization and procedures for the construction of temporary works designed to protect against or mitigate danger, damage, or loss from a disaster;
- (8) organization of manpower and chains of command;
- (9) coordination of federal, state, and local disaster activities;
- (10) coordination of the state emergency plan with the disaster plans of the federal government; and
- (11) other matters necessary to carry out the purposes of this chapter.

(b) The Alaska division of emergency services shall play an integral part in the development and revision of local and interjurisdictional disaster plans prepared under AS 26.23.060. To this end, it may employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance to political subdivisions, their disaster agencies, and interjurisdictional planning and disaster agencies. These personnel shall consult with political subdivisions and agencies on a regular basis and shall make field examinations of the areas, circumstances, and conditions to which particular local and interjurisdictional disaster plans are intended to apply and may suggest or require revisions.

(c) In preparing and maintaining the state emergency plan, the Alaska division of emergency services shall seek the advice and assistance of local government, business, labor, industry, agriculture, civic and volunteer organizations and community leaders. In advising local and interjurisdictional agencies, the office shall encourage them also to seek advice from these sources.

(d) The state emergency plan or any part of it may be incorporated in regulations or orders of the Alaska division of emergency services.

Regulations and orders of the Alaska division of emergency services have the force and effect of law.

(e) The Alaska division of emergency services shall

- (1) determine requirements of the state and its political subdivisions for food, clothing, and other necessities in the event of a disaster emergency;
- (2) procure and pre-position supplies, medicines, materials, and equipment;
- (3) adopt standards and requirements for local and interjurisdictional disaster plans;
- (4) periodically review local and interjurisdictional disaster plans;
- (5) establish and operate, or assist political subdivisions, their disaster agencies, and interjurisdictional disaster agencies to establish and operate, training programs;
- (6) plan and make arrangements for the availability and use of any private facilities, services, and property and, if necessary and if in fact used, provide for payment for use under terms and conditions agreed upon by the parties;
- (7) establish a register of persons with type of training and skills important in disaster prevention, preparedness, response, and recovery;
- (8) prepare, for issuance by the governor, orders, proclamations, and regulations as necessary or appropriate in coping with disasters;
- (9) cooperate with the federal government and any public or private agency or entity in achieving any purpose of this chapter and in implementing programs for disaster prevention, preparedness, response and recovery;
- (10) develop and carry out procedures and policies to effectively employ disaster relief funds made available by the governor's authority or by special legislative action; these procedures shall include application and documentation by disaster victims or applicants, review, verification and funding approval, and processing of appeals;
- (11) do other things necessary or proper for the implementation of this chapter. (§ 3 ch 104 SLA 1977; am §§ 3, 4 ch 178 SLA 1990)

Effect of amendments. — The 1990 amendment, in subsection (a), made stylistic changes in paragraph (5), deleted former paragraph (8) relating to preparation and distribution of catalogs or extracts listing assistance programs, and redesignated former paragraphs (9) through (12) as present paragraphs (8) through (11); and in subsection (e), deleted former paragraph (5) relating to provision for mo-

bile support units, deleted former paragraph (7) relating to surveys, deleted former paragraph (10) relating to registration of certain equipment and housing, redesignated former paragraphs (6), (8), (9), and (11) through (14) as present paragraphs (5) through (11), and deleted "and public information" following "training" in present paragraph (5).