

HB

456

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSHB 456

Revision Date: 5-Mar-96
Title: Board of Storage Tank Assistance

Department Affected: Environmental Conservation

Sponsor: Labor and Commerce
Requestor: House Labor and Commerce

BRU: Spill Prevention and Response
Component: Storage Tanks Program

COMPONENT SERIAL NO. 2063

Expenditures/Revenues:

(Thousands of Dollars)

	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
OPERATING EXPENDITURES						
PERSONAL SERVICES	00	00	00	00	00	00
TRAVEL	00	00	00	00	00	00
CONTRACTUAL	00	00	00	00	00	00
SUPPLIES	00	00	30	00	00	00
EQUIPMENT	00	00	00	00	00	00
LAND/STRUCTURES	00	00	00	00	00	00
GRANTS/CLAIMS	00	00	00	00	00	00
MISCELLANEOUS	00	00	00	00	00	00
TOTAL OPERATING	00	00	00	00	00	00

CAPITAL EXPENDITURES	00	00	00	00	00	00
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CHANGE IN REVENUES ()	00	00	00	00	00	00
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FUND SOURCE

1002 Federal Receipts	00	00	00	00	00	00
1003 GF Match	00	00	00	00	00	00
1104 GF	00	00	00	00	00	00
1065 GF Program Receipts	00	00	00	00	00	00
1006 GF ADTTA	00	00	00	00	00	00
Other	00	00	00	00	00	00
TOTAL	00	00	00	00	00	00

Amount of any current year (FY96) cost: \$ 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

ANALYSIS (Attach a separate page if necessary.)

Prepared by: Lynn J Tomich Kent
Division: Spill Prevention and Response

Phone: 465-5390
Date: 3/5/96

Approved by Commissioner: *Kent Lueders*
Agency: Department of Environmental Conservation

Date: 3/5/96

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SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 4/22/96

FURTHER: FINANCE

DATE TURNED INTO OFFICE: 4-29-96

The Resources Committee considered CS FOR HOUSE BILL NO. 456(L&C)

Relating to the Board of Storage Tank Assistance, etd.

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:
- same title
 - new title
- House Bill:
- same title
 - technical title
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
		<i>Rick Helford</i>	<input checked="" type="checkbox"/>		
		<i>Thomas L. Taylor</i>	<input checked="" type="checkbox"/>		
		<i>Deance</i>	<input checked="" type="checkbox"/>		
CHAIR:		<i>Chairman [Signature]</i>	<input checked="" type="checkbox"/>		

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
<i>NET</i>	<i>4/29/96</i>	<input checked="" type="checkbox"/>	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

House Labor & Commerce Committee

State Capitol
Juneau, Alaska 99801-1182
907-465-4954

SPONSOR STATEMENT CS HB 456 (L&C)

The Board of Storage Tank Assistance is scheduled to sunset on June 30, 1996 unless it is statutorily extended. This board, as stated by a recent Legislative Audit Report:

"... works in conjunction with the State's Department of Environmental Conservation (DEC) to carry out the various requirements of the UST (underground storage tank) statutes. The board is involved in the making of regulations pertaining to USTs and DEC is responsible for administering the UST program."

CS HB 456(L&C), as sponsored by the House Labor and Commerce Committee, would extend the Board of Storage Tank Assistance to June 30, 2000, as recommended by the Legislative Audit Report. In addition, also as recommended by the auditors, CS HB 456 (L&C) would add a public member to the Board who has no financial or commercial interest in retrofitting or replacing underground storage tanks. Finally, to prevent an even-numbered Board, the Commissioner of the Department of Transportation and Public Facilities is removed.

I urge your support.

House Labor & Commerce Committee

State Capitol
Juneau, Alaska 99801-1182
907-465-4954

CS HB 456 L&C) SECTIONAL ANALYSIS

Section 1 extends the Board of Storage Tank Assistance to June 30, 2000.

Section 2 removes the Commissioner of Transportation and Public Facilities from the Board and adds a public member to the Board.

Section 3 creates an effective date of July 1, 1996.

STATE OF ALASKA
Boards and Commissions

STORAGE TANK ASSISTANCE

BOARD: Board of Storage Tank Assistance

BOARD IDENTIFICATION NUMBER: 152

DEPARTMENT: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

AUTHORITY: AS 46.03.360

STATUS: Active

SUNSET DATE: June 30, 1996

TERM: 4 years

DESCRIPTION: 7 members: Commissioners of Environmental Conservation and Transportation and Public Facilities, or their designees; and 5 members appointed by the Governor: 1 engineer registered under AS 08.48 and 1 general contractor registered under AS 08.18 who are knowledgeable about installing, upgrading, repairing, or closing underground petroleum storage tank system; 2 persons who own or operate an underground petroleum storage tank system, at least 1 of whom does not own or operate more than 10 underground petroleum storage tanks; and 1 member of the insurance industry.

FUNCTION: To adopt regulations to determine costs of tightness testing, site assessment, tank upgrading, and closure, and cleanup of contamination related to USTS; rank requests for assistance; determine eligibility costs; resolve department and owner/operator eligibility disputes. Approves department regulations on allowable technologies for testing, containment, cleanup or corrective action. Reviews department regulations on cleanup levels.

CHAIR: Board selects.

SPECIAL FACTS: The board may employ a full-time director and no more than 1 other employee. Chair is selected by the members from among the members. Must submit a report to the Legislature not later than the 10th day following the convening of each regular session.

COMPENSATION: Standard Travel and Per Diem.

MEETINGS: Approximately 4 meetings per year, 6 days total; and approx. 8 teleconferences/year, ½ day each.

FOR FURTHER INFORMATION CONTACT:

Mr. John C. Barnett, Executive Director, Board of Storage Tank Assistance, DEC, 410 Willoughby Avenue M/S 1800, Juneau, AK, 99801, Phone: 907 465 5219, Fax: 907 465 5218

STATE OF ALASKA
Boards and Commissions

Membership Roster
STORAGE TANK ASSISTANCE (152)

Member	Appointed	Reappointed	Term Exp.
Judy E. Chadwick Insurance Industry P.O. Box 90913 Anchorage, AK 99509	10/01/92		09/05 95
Kurt Fredriksson Commissioner/Environmental Conservation/or designee Director, Div. of Spill Prev. & Res Dept. of Environmental Conservation 410 Willoughby Avenue, Suite 105 Juneau, AK 99601	03/03/95		
Robert M. Haines Registered General Contractor President B.C. Excavating, Inc. 2251 Cinnabar Loop Anchorage, AK 99507	01/21/94	09/05/94	09/05/98
Steven A. Johnson Registered Engineer Harding Lawson Associates 601 East 57 Place Anchorage, AK 99518	06/30/93	09/05/94	09/05/98
Nate Johnson Commissioner/DOTPF/or designee Statewide Environmental Coordinator Division of Engineering & Operation Dept. of Transportation & Pub. Far. 3132 Channel Drive Juneau, AK 99801-7898	02/21/95		
James Weymiller Owner/operator Tank System/10 or more P.O. Box 70890 Fairbanks, AK 99707	07/10/95		09/05/96
H. Dale Young, Jr. Owner/operator Tank System/Under 10 P.O. Box 167 Tok, AK 99780	09/05/92	09/05/93	09/05/97

STATE LEGISLATURE
LEGISLATIVE BUDGET AND AUDIT COMMITTEE
Division of Legislative Audit

P. O. Box 113300
Juneau, AK 99811-3300
(907) 465-3830
FAX (907) 465-2347

OF: A Sunset Report on the Department of Environmental Conservation, Board
of Storage Tank Assistance, September 19, 1995.

SCOPE OF THE REPORT

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Storage Tank Assistance. In assessing the operations and performance of the board, we utilized the criteria set out in AS 44.66.050(c). Criteria set out in this statute relate to the determination of a demonstrated public need for the board.

As required by statute, this report shall be considered during the legislative oversight process followed in determining if the board should be reestablished. The law currently specifies that the Board of Storage Tank Assistance will terminate on June 30, 1996 and will have one year from that date to conclude its affairs.

BACKGROUND INFORMATION

Underground tanks often contain petroleum and other hazardous substances. Typically, these tanks invariably develop leaks which allow the substances stored in them to leak into the surrounding soil, contaminating the groundwater, which in turn could contaminate a drinking water source. The U.S. Congress directed the Environmental Protection Agency to develop regulations for the design, construction, and installation of new tanks. Additionally, new stricter standards were established for the retrofitting of existing tanks. Tanks will be required to be upgraded to provide for leak detection, corrosion prevention, and spill and overflow protection.

In 1990, the legislature created a program to provide both financial and technical advisory assistance to the owners and operators of underground petroleum storage tanks (UST). The assistance was to help UST owners and operators comply with current and prospective state and federal regulations. These regulatory requirements address numerous design and operational aspects of USTs. In addition, UST owners are required to demonstrate they are capable of assuming financial responsibility for the costs involved in taking corrective action and cleaning up releases from their tanks.

The 1990 legislation also established the Board of Storage Tank Assistance. The board works in conjunction with the State's Department of Environmental Conservation (DEC) to

carry out the various requirements of the UST statutes. The board is involved in the making of regulations pertaining to USTs and DEC is responsible for administering the UST program.

REPORT CONCLUSION

In our opinion, the Board of Storage Tank Assistance should be reestablished. The board plays an integral role in the State's underground storage tank program. The board acts as a mediator, sets regulations, and acts as a sounding board for owners and operators of USTs.

The board acts as an independent body in settling disputes between DEC and owners and operators of USTs. Since the board's inception, they have mediated over 11 formal appeal cases. The board has been involved in numerous cases on an informal basis. Owners and operators can call on board staff to informally discuss the applicability of state statutes and regulations to their specific situation.

The board actively participates in the making of statutes and regulations pertaining to USTs. The board is statutorily required to adopt regulations to be used by DEC to administer the UST program. Regulations originally adopted have been amended and are currently in the process of being revised. The board also reviews all regulations pertaining to USTs that are proposed by DEC.

We believe the board should continue until June 30, 2000. The intent of legislation establishing the board was to assist owners and operators of USTs to comply with federal and state laws and regulations. U.S. Environmental Protection Agency (EPA) regulations require USTs to meet new, stricter federal standards by December 22, 1998. The "need" or demand for funding to bring operating USTs into compliance has far outstripped the appropriations made to date.

Prospectively, it is unlikely that the amount of the appropriations will substantially increase over the next few fiscal years. Additionally, it is currently unclear what enforcement actions EPA will take in Alaska against UST owners that are not in compliance with the new regulations. Given these circumstances, we foresee there may be an ongoing public policy role for the board beyond the EPA implementation deadline. Extending the board to June 30, 2000, would result in a reevaluation of board activities and operations through the summer of 1999. A review conducted at that time could evaluate the continuing necessity for the board in the context of how the stricter federal UST regulations are being imposed and enforced.

FINDINGS AND RECOMMENDATION

1. The legislature should consider changing the statute to require the appointment of one public member to the Board of Storage Tank Assistance from among commercial or financial interests that are not directly involved in the underground storage tanks.

Board of Storage Tank Assistance



- 1 The Board is a seven member board comprised of two Commissioners and five citizens from the private sector.
- 2 Board members serve without compensation and have one employee.
- 3 The Board is a judicial appeal board that resolves disputes between the regulated community and the Department of Environmental Conservation thereby saving the state thousands of dollars in potential legal costs.
- 4 The Board mediates disputes regarding eligibility for financial assistance, eligible costs, priority ranking positions and contaminated site cleanup plans.
- 5 The Board provides technical and educational assistance to petroleum storage tank owners and operators throughout Alaska
- 6 There are over 800 unfunded requests for assistance currently on file. The total amount requested is presently over \$50 million. Limited annual funding requires applications to be priority ranked annually using a Board scoring system that emphasizes imminent threats to public health. Additional criteria including size of business, proximity to alternate fuel, rural or urban location and other factors determined relevant to the Board.

Board of Storage Tank Assistance

The 1990 Legislature established the seven-member Board of Storage Tank Assistance with two government members and five public members. The commissioners of the Departments of Environmental Conservation and Transportation and Public Facilities are the government members. Each of the five public members are required to have special knowledge pertaining to underground storage tanks. A registered engineer familiar with tank cleanups, a general contractor familiar with tank installations and closures, a person from the insurance industry that is knowledgeable about pollution liability insurance for underground storage tanks, a owner of more than 10 tanks, and an owner of 10 or less tanks. Former Governor Cowper appointed the original seven board members on September 5, 1990. Members serve without compensation other than per diem and expenses when traveling. They have an Executive Director, who is their sole employee.

The Board of Storage Tank Assistance is an Appeal Board to mediate disputes between the Department of Environmental Conservation and regulated underground petroleum storage tank owners and operators. In regard to disputes arising over eligibility, priority rankings and eligible costs, the Board's decisions are binding upon the department and the owner or operator. For corrective action plan disputes, or denials for payment under the retroactive reimbursement program (sec. 7, ch.96, SLA 1990), the board may only issue recommendations. In addition, the Board works directly with the legislature on funding issues and determines the program distribution of the annual legislative appropriations.

The first duty of the Board was to write regulations relating to financial assistance for UST owners and operators. The Board also jointly developed regulations with DEC pertaining to cleanup standards and allowable technologies to be used in the cleanup of contamination resulting from leaking tanks. The Department of Environmental Conservation is responsible for administering the Storage Tank Assistance Fund. The Department is tasked with advertising the application periods, receiving the applications, processing the requests, administering the grants and auditing project costs. The Division of Investments in the Department of Commerce and Economic Development works in partnership with the DEC to provide cleanup loans for eligible UST owners and operators.

Although the Board developed the financial assistance regulations, the Department of Environmental Conservation actually implements those regulations by physically processing each applicant's request for financial assistance. This enables the Board to remain objective and unbiased when a dispute arises. The Board is then tasked with resolving the matter in a prompt and conscientious manner.

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FINDINGS AND RECOMMENDATION

1. The legislature should consider changing the statute to require the appointment of one public member to the Board of Storage Tank Assistance with no commercial or financial interest in the ownership and operation of underground storage tanks.