

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672  
6774 HOUSE COMMUNITY & REGIONAL AFFAIRS

abutting their property paved under a project where all the neighboring property owners pay a special assessment, but the Authority does not?

Under Section 720(c) there is authority for the Authority to agree to payments in lieu of taxes. May the Authority agree with one municipality to make payments in lieu of taxes and not agree with the other municipality in which it is located? Considering that generally the largest part of the tax revenues of a municipality go to support education, this restrictive use of payments-in-lieu seems unwarranted. While it is true that the Authority will be an industry that will create jobs, the people who hold those jobs have children who must attend school and the restriction on the objects of expenditure for the payment-in-lieu revenues seems unrelated to the general burdens created by the enterprise.

The declaration of inapplicability of certain statutes under Section 750 might be examined to determine whether they are necessary and whether, on balance, they accomplish a desired result. For example, is it necessary to exempt the Authority from Title 19? Title 19 governs the highways and public (state) projects that are undertaken by DOT/PF. New projects undertaken by the Authority would not appear to be public projects falling under Title 19. There are provisions of Title 19 that apply to areas near highways, however these sections are called out as exceptions to the Authority's immunity from the application of Title 19. What, in particular, within Title 19 was thought would apply to port authorities that would have made it difficult or impossible for Port Authorities to function?

What is it in Title 35 (Public Buildings, Works and Improvements) that was thought would apply to Authorities and would prevent them from operating efficiently? Public facilities and buildings as used in that chapter generally applies only to those controlled, held or constructed by the state of Alaska. One deviation from this is in A.S. 35.10.015 that requires DOT/PF to prepare, adopt and enforce regulations governing the construction of public buildings by the state, the university and political subdivisions to ensure that public facilities are accessible to and usable by the physically handicapped, aged and infirm.

Title 38 deals with public lands. Among its many provisions are ones that give upland property owners a preference for a negotiated lease of tidelands abutting their property and the authority for the state to convey lands to public entities at less than market value. Do Authorities want to divest themselves of these rights through a blanket disavowal of the application of Title 38? Again, what specific provisions of Title 38 were thought to impede the ability of Authorities to function?

What is it under Title 39 that would appear to impede the functioning of a Port Authority? Do municipalities not want to be able to make available to Port Authority employees access to PERS? Of course, if they do, not only will this exception from Title 39 need to be removed, but there should also probably be considered amendments to Title 39 to ensure that Authorities have access to PERS. Although it appears that the director and appointed Authority board members are exempt from the conflicts of interest statute, if that statute is applicable to city or borough managers and planning or zoning commission members, is there a sound policy reason to exempt the members of

a Port Authority board of directors and the executive director of the Authority from filing such statements? Perhaps the statute should be amended to include them.

Although, if there were a judicial challenge, I suppose that a court would put reasonable limits on the scope of the word "port" as it is defined in Section 790(5), nevertheless a port being any "facility of commerce" located in the state seems awfully broad for what most people think of as a Port Authority. Ports, at least in my mind, are generally associated with transportation facilities, typically marine ports and airports. Marine ports might also include associated rail facilities. However, even limiting it to transportation facilities are we talking about truck and highway facilities that are relatively independent of marine or airports? Are we including overland passenger transportation facilities? Are we intending it to go beyond just transportation facilities to include anything that involves the buying or selling of goods under the broader definition of "commerce."

As to the need for these bills, I do recognize that there may be reasons beyond simply some nagging doubts that some may have about whether municipalities really can join together under agreements for the cooperative or joint administration of functions or powers as provided in the constitution and in Title 29. One of these relates to the issuance of tax exempt obligations. If the entity is not the state or a political subdivision of the state, the IRS has established requirements with which other governmental entities must comply if they are to be permitted to issue tax exempt obligations. If these special requirements of the IRS are thought to require such legislation, then it may be helpful for someone to produce the specific IRS requirements so that the legislation may be examined in light of the specific requirements of the IRS. Then, those concerned with the Port Authority bills will be better able to evaluate what is required and what is surplusage in the bills.

I would urge you to bear in mind that if the perceived local government powers questions could be answered with very much abbreviated but more general legislation, then that may be the approach to take. Again, my concern is that we not put something on the books that will lead to the argument (or worse yet the conclusion) that these types of powers must be specifically delegated to municipalities by statute; but if there is to be such a delegation, it should be as short, uncomplicated and unrestrictive as possible. What may work for a Southcentral Port may not work for the Pribilofs or for Southeast Alaska. Those of us who were involved in drafting the present Title 29 attempted to rid it of all detail that seemed unnecessary. As I recall, presently there are only two areas in Title 29 that deal in what I think may be unnecessary detail with respect to the exercise of certain rather narrow powers. The Port Authority bills would add to Title 29 more extremely fine details than I believe could be found in Title 29 since its first major revision twenty years ago. Unlike a Dillon's Rule state, Alaska does not require detailed delegation of power. And, unlike this memo, Title 29 should be kept as short, simple and uncluttered as possible.

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STATE OF ALASKA  
1992 LEGISLATIVE SESSION

No. 1  
Bill Version: CSHB 399 (TRA)  
(H) Publish Date: 2/7/92

FISCAL NOTE

Revision Date:

Department Affected: DOT&PF

Title: An Act relating to the establishment  
of a pct authority by municipalities

BRU: Headquarters

Component: Plans, Programs & Budget

Sponsor: Representative Baker

Requestor: Representative Baker

Component Serial Number: 0542

EXPENDITURES/REVENUES:

(Thousands of Dollars)

	FY93	FY94	FY95	FY96	FY97	FY98
OPERATING						
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

FUNDING:

(Thousands of Dollars)

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

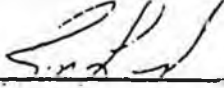
POSITIONS:

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: 0

ANALYSIS: (Attach a separate page if necessary)

No direct impact on this agency.

Prepared by: Rich Poor 

Phone: 465-2171

Division: DOT&PF, Plans Programs and Budget

Date: 1/27/92

Approved by the Commissioner: 

Phone: 465-3900

Frank G. Turpin

Agency: Department of Transportation and Public Facilities

Date:

Distribution by Preparer: Legislative Finance, Legislative Sponsor, Requestor, UMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies)

# Alaska State Legislature


**SESSION**  
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(907) 465-4931



**INTERIM**  
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ANCHORAGE, ALASKA 99503  
(907) 561-7612

**Representative Larry Baker**  
**MEMORANDUM**

DATE: December 16, 1991  
TO: Members of the House  
RE: Sponsor Statement for Port Authority Legislation



Public transportation facilities are critical to the economic future of Alaska. Our resource exports pass through ports as well as all of our goods and supplies in order to provide services to our state residents. Tourists, intrastate business and numerous other activities move through Alaska's ports and harbors. The economic importance of ports justifies a focused, separate economic entity for the future of the State of Alaska.

The State of Alaska is slowly making the transition from totally paying for, owning and operating public transportation facilities in Alaska. In some cases facilities have already transitioned to local governments. In recent years, facilities have been built by revenue bonds rather than solely with state grants.

Port authorities have been an important economic development tool by other states and nations. Authorities often bridge municipal, state and international boundaries to achieve economies of scale in order to be self-sufficient.

Regional port authorities will be vital to the State of Alaska as we progress toward a more diverse economic base.

If you have any questions, please give my office a call.

LB:elm

# HOUSE COMMITTEE REPORT

(7)

Date Referred: January 15, 1992

FURTHER REFERRALS: Community & Regional Affairs  
Finance

Date of Committee Action: 2/6/92

The TRANSPORTATION Committee considered:

HB 399

HOUSE BILL NO. 399

AUTHORIZE PORT AUTHORITIES

"An Act relating to the establishment of port authorities by municipalities; and providing for an effective date."

**RECOMMENDATIONS:**

be replaced with CS HB 399 (Trans)  the same title  
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): \_\_\_\_\_ (Dept)

APPROVES PREVIOUS: \_\_\_\_\_ (Dept/Date)

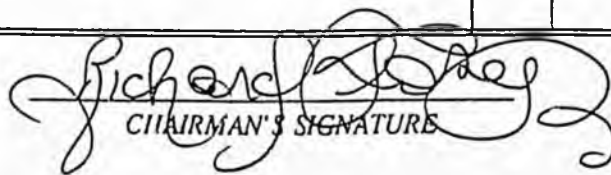
fiscal impact \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note Dept of Transportation

zero fiscal note(s) \_\_\_\_\_

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Eugene J. Kubera</i>	X				
<i>Bill Hudson</i>	X				
<i>Ron D. Leman</i>	✓				
<i>Gail Phillips</i>	✓				
<i>Jimmy Mah</i>	✓				
<i>Richard Joseph</i>	*				

  
 CHAIRMAN'S SIGNATURE

**THE ANCHORAGE CHAMBER OF COMMERCE**  
Legislative Priority

**Title Port Authority Legislation**

**THE ISSUE**

Municipalities are restricted in their abilities to provide revenue bond authority and independent political identity for its port. Municipalities rely on state funding to develop ports. As state revenues decline over the next decade, the amount of funding provided for port development will diminish.

**THE IMPORTANCE**

Empower Anchorage port development by:

1. Allow establishment of an independent port authority.
2. The port authority would have the power to raise bonds, collect fees, own or lease land and develop port projects.
3. Development plans by the authority would be subject to review by the municipality. The authority would not have the power to raise taxes.

The above powers would allow increasing the scope of business activity at the Port of Anchorage without state assistance. Economic development in the port will help diversify the economy and capture a larger share of maritime business.

**CHAMBER POSITION**

The Chamber supports Port Authority legislation that will benefit the Anchorage economy by allowing the Municipality to independently develop its port and increase port related business.

Approved January 17, 1992



Department of Transportation  
and Public Facilities

# POSITION PAPER

BILL NO: HB 399

APPROVED: *J. J. [Signature]*

TITLE: Authorizes Port Authorities

DATE: February 4, 1992

The intent of this bill is to allow municipal governments the authority to establish a port authority within certain jurisdictions and to spell out the power of that authority. This bill will allow municipalities to establish port authorities. Once established, the authority will have separate and independent legal authority. The bill does not determine how a board member is selected or the length of term in office. This is established by the municipality. The port authority will have all normal powers to allow for efficient operations, but will also have Power of Eminent Domain, leasing and bonding authority, be exempt from taxation, but would not have taxation authority. The Department of Transportation proposes an amendment to allow powers of Eminent Domain only if approved by the municipality.

A Resolution of the Alaska Municipal League Board of Directors

Board Resolution No. 92-1

A RESOLUTION URGING THE PASSAGE OF LEGISLATION  
TO ALLOW FOR LOCAL AND REGIONAL PORT AUTHORITY

WHEREAS, the people of Alaska find themselves with many opportunities in maritime and aviation commerce, international trade, tourism, fisheries, oil and mineral development, timber development, transportation, and other industries in Alaska;

WHEREAS, ports are vital to Alaska's economic well-being and future economic development of these industries and new industries in Alaska;

WHEREAS, the future development of ports in Alaska will require the expenditure of large sums of money and the close cooperation of the State of Alaska, its regions, and political subdivisions in the encouragement of the investment of capital and the formulation and execution of the necessary physical plans;

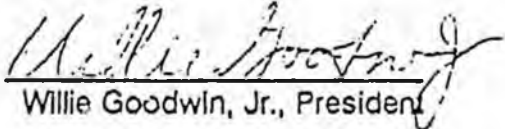
WHEREAS, it is confidently believe that a better coordination of ports, harbors, transportation, and other facilities of commerce in, about and through ports in Alaska, will result in greater economies, benefiting the people of Alaska;

WHEREAS, the foregoing are best accomplished through the enactment of legislation expressly authorizing the formation of local or regional port authorities, defining the purposes, jurisdictions, powers, and duties for such authorities, and authorizing the issuance of self-liquidating revenue bonds by them to finance acquiring, constructing, equipping, maintaining and operating of their ports;

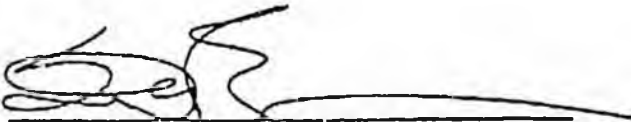
WHEREAS, the foregoing can best be accomplished through the cooperation of one or more of the regions and communities in Alaska by and through one or more joint and common port authorities;

NOW, THEREFORE, BE IT RESOLVED that the Alaska Municipal League urges the Alaska legislature to proceed with all due speed to enact legislation expressly to allow and to provide for the structure for the formation of local and regional port authorities within Alaska and that once enacted, the legislation be signed into law by the Governor of the State of Alaska.

Adopted this 16th day of November 1991.

  
Willie Goodwin, Jr., President

Attest:

  
Scott A. Burgess, Executive Director

President R. B. Stiles  
1227 West 9th Ave. Suite 201  
Anchorage, Alaska 99501  
Tel. (907) 276-6868  
Fax. (907) 276-2395



## Alaska Coal Association

Secretary Charles P. Boddy  
122 First Avenue Suite 302  
Fairbanks, Alaska 99701  
Tel. (907) 452-2625  
Fax. (907) 451-6543

Representative Larry Baker

Subject: Port Authority Legislation

Dear Representative Baker,

Attached please find a resolution in support of the enactment of legislation enabling the establishment of local and regional Port Authorities. This resolution was passed by the Alaska Coal Association at our annual meeting in November of 1991.

We believe that the establishment of local and, more importantly, regional Port Authorities is essential to the health and growth of the coal industry in the State of Alaska.

While Alaska is rich in natural resources, in state markets for coal, timber and minerals are small to non-existent. In state sources of capital needed to develop these resources are equally small. Thus, developers and producers of Alaska's natural resources must pursue external markets and sources of capital. A critical concern of both customer and capital markets is the inadequate transportation and port infrastructure of Alaska.

Development of transportation systems and port facilities is, for the most part, a function and responsibility of the public sector. While transportation systems are developed largely in response to a general public need, ports are developed in response to more specific needs. Development of ports in Alaska is, at best, an uncoordinated and marginally effective effort of various public and private sector entities. We believe that legislation enabling the establishment of Port Authorities has the potential for significantly increasing the effectiveness of port development.

Given that, in many circumstances, an area served by a port would encompass multiple local political subdivisions it is essential that legislation enabling the establishment of Port Authorities allow for both local and regional authorities.

Development of adequate transportation and port infrastructure is a long term and evolving process. We believe that legislation such as HB 399 is essential to this long term process. Such legislation sends a clear message to both customer and capital markets that Alaska is not only committed to fostering the development of its natural resources; but is equally committed to the development of the transportation and port infrastructure systems needed to get these resources to market.

President R. E. Stiles  
122 West 9th Ave. Suite 201  
Anchorage, Alaska 99501  
Tel (907) 276-6868  
Fax (907) 276-2395



Secretary: Charles P. Boddy  
122 First Avenue, Suite 302  
Fairbanks, Alaska 99701  
Tel (907) 452-2625  
Fax (907) 451-6543

## Alaska Coal Association

### RESOLUTION

WHEREAS, the people of Alaska find themselves with many opportunities in maritime and aviation commerce, international trade, tourism, fisheries, oil and mineral development, timber development, transportation, and other industries in Alaska;

WHEREAS, ports are vital to Alaska's economic well-being and future economic development of these industries and new industries in Alaska;

WHEREAS, the future development of ports in Alaska will require the expenditure of large sums of money and the close cooperation of the State of Alaska, its regions, and political subdivisions in the encouragement of the investment of capital and the formulation and execution of the necessary physical plans;

WHEREAS, it is confidently believed that a better coordination of ports, harbors, transportation and other facilities of commerce in, about and through ports in Alaska, will result in greater economies, benefiting the people of Alaska;

WHEREAS, the foregoing are best accomplished through the enactment of legislation expressly authorizing the formation of local or regional port authorities, defining the purposes, jurisdictions, powers, and duties of such authorities, and authorizing the issuance of self-liquidating revenue bonds by them to finance acquiring, constructing, equipping, maintaining and operating of their ports;

WHEREAS, The foregoing can best be accomplished through the cooperation of one or more regions and communities in Alaska by and through one or more joint and common port authorities;

NOW THEREFORE BE IT RESOLVED, that the undersigned urges the Alaska legislature to proceed with all due speed to enact legislation expressly to allow and to provide the structure for the formation of local and regional port authorities within Alaska and that once enacted, the legislation be signed into law by the governor of the State of Alaska.

Passed by the members of the Alaska Coal Association on November 6, 1991.

TESTIMONY OF J. J. BRECHT  
BEFORE THE  
HOUSE TRANSPORTATION COMMITTEE  
ON  
HOUSE BILL 399

Anchorage, Alaska  
January 30, 1992

Good morning. My name is Julius J. Brecht, and I am an attorney in private practice with the law firm of Wohlforth, Argetsinger, Johnson and Brecht, with offices in Anchorage, Alaska. I wish to thank the committee for the opportunity to offer this written testimony to the record on House Bill 399.

In the way of further introduction of myself and the bill before you, I am the former Director of the Alaska Division of Banking and Securities and practice law in the corporate, finance, and securities areas. I have resided in Anchorage since leaving the division in 1980. I have been involved with various civic and professional groups studying issues of importance to Alaska. Over the past year, I have chaired an ad hoc committee composed of representatives of the Matanuska-Susitna Borough, the Municipality of Anchorage, and several private individuals including myself. We call ourselves the Port Authority Committee.

The common interest of the committee members has been the consensus that port authorities offer an opportunity to support and encourage economic development in an area as yet essentially untapped in Alaska. It is true that Alaska has many harbors and ports. However, with limited exception, these present facilities are woefully underutilized and with limited exception are not in a position to compete in a world marketplace even though Alaska has many resources to offer in that marketplace.

The first charge of the committee was to prepare a resolution to encourage individuals and organizations in Alaska to support the introduction and

enactment of legislation providing for the establishment of port authorities in Alaska. It soon became apparent subsequent to the preparation of that resolution that precious time was being lost in waiting for a draft of such legislation to be produced. I personally volunteered to prepare a first draft of the legislation. That first draft has become HB 399 which is before you today.

The resolution prepared by the Port Authority Committee notes that the people of Alaska find themselves with many opportunities in waterborne and other commerce and other industries in Alaska. The resolution further states that ports are vital to Alaska's economic well-being and future economic development of these industries and new industries in Alaska. In some respects, Alaska can have the greatest natural resource wealth in a number of areas. However, without the infrastructure to get it to market, it is, in large respect, worthless and, in any case, it contributes very little to the economic base in this state. The net result is that we become even more dependent upon existing sources of economic activity, e.g., oil, and even more dependent upon government to "spend" its way out of problems.

An alternative means for economic development and a proven use in other states and countries is the establishment of port authorities and the development of ports in Alaska.

The HB 399 is an attempt to allow for the establishment of such port authorities. Please note that the legislation permits, but does not require, the formation of port authorities.

Briefly, the mechanism set forth in the bill is to allow one or more municipalities to form a port authority by the adoption of parallel ordinances. The port authority would be formed as a public corporation and instrumentality of the municipality or municipalities creating it. It will have separate legal existence from those municipalities. The bill sets out various powers that a port authority may have. One very critical power will be the authority to issue revenue bonds. However, the bill expressly provides that neither the faith and credit of the state nor of the municipalities participating in a port authority will be involved in the issuance of such bonds or other obligations of the port authority.

The bill provides for the establishment of port authorities by local government and not by the state. The bill then does not provide for simply establishing another state program which would be in competition with other state programs for shrinking state revenues in the future. That is, the bill will allow access by a port authority to the revenue bond marketplace separate from that of the state revenues. Furthermore, the particular project which is the subject of the revenue bonds will have to be economically feasible in order to be sold in that marketplace.

The bill provides for a structure of a port authority including the appointment of a board of directors by the governing bodies of the municipalities participating in the port authority. That board of directors will, in turn, hire an executive director to carry out the directives and manage the day-to-day operations of the port authority.

The bill expressly provides that the port authority will have no taxing authority.

The bill, in essence, provides that one or more municipalities may contract with one another to establish a port authority and carry out economic development within that port authority.

I would be most pleased to respond to any questions which you may have regarding the bill, the resolution, or the concept of port authorities. Thank you again for the opportunity to submit testimony before this body.

# Alaska Association of Harbormasters & Port Administrators, Inc.

334 Front Street  
Ketchikan, Alaska 99901

November 12, 1991

Jerome Selby, President  
Alaska Municipal League

Post-it™ brand fax transmittal memo 7671		# of pages ▶
To	RICH WILSON	From DOUG ENSLEY
Co.	City of Ketchikan	Co. CITY OF KETCHIKAN
Dept.	2171	Phone # 228-5632
Fax #	561-4674	Fax # 225-5075

Dear Mr. Selby:

The Alaska Association of Harbormasters and Port Administrators recently held its annual conference in Kenai, Alaska. One of the presentations and items of discussion was the Department of Transportation and Public Facilities Ports and Harbors Task Force proposal: Sustaining and Developing Alaska's Ports and Harbors.

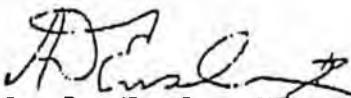
Our Association supports the proposal and the essential program elements outlined in the report. The three components: Development Plan, Financial Foundation, and Cooperation must be supported to enhance our facilities and local economies.

The Alaska Association of Harbormasters and Port Administrators feels very strongly that a Financial Foundation must be established as the first step in implementing the proposal. Our Association also feels that harbor maintenance which the State has deferred can be deferred no longer. To that end we request the State appropriate sixty million dollars to perform deferred maintenance of existing facilities, provide matching funds for U. S. Army Corps of Engineers projects, and fund new harbor development.

Please convey our position to your members as you discuss the State-wide Proposal. We are aware that funds are limited and other programs may have a higher priority. We are the operators of facilities that are twenty to forty years old; facilities that are the property of the citizens of our State; facilities that are of great importance to our/your local economy.

Please support us in our efforts.

Sincerely,



A. D. Ensley II, President  
Alaska Association of Harbormasters  
and Port Administrators

**PORT AUTHORITY LEGISLATION  
BILL COMPARISON**

<b>design</b>	<b>SB 352/CSHB 399 Pierce/Baker</b>	<b>SB341 Duncan</b>
establishment	ordinance by municipal govnmnt	ordinance approved by vote of the people
dissolution	not addressed	ordinance approved by vote of the people
applicability	municipality	municipality, other than 2nd class city
scope of powers	muni decides which powers apply	authority possesses all powers addressed
board	by muni design; one has 5 yrs port experience	3 members; six year terms
multiple municipal coverage	single authority - by adoption of parallel muni ordinances	by agreement of multiple authorities
revenue bonds	specific requirements given	under muni bonding statute
budget	annual report required	muni approval of annual budget before commission approval
confidentiality	proprietary info protected; muni auditor has full access	not addressed
taxing/taxes	authority has NO taxing powers, and is not taxed, muni may negotiate with authority for payment "in-lieu of taxes"; muni taxes individual operators/businesses	not specifically addressed, (financing available through specified actions, taxes not mentioned)
eminent domain	authority has power	muni may exercise on behalf of the the authority



ANCHORAGE  
ECONOMIC  
DEVELOPMENT  
CORPORATION

February 11, 1992

Representative Larry Baker  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801

RE: Introduced Legislation on HB 309

Dear Representative Baker,

At the last A.E.D.C. board meeting, January 29th, there were questions raised as to whether all of the points important to our organization were addressed in your bill.

After talking to you about our concerns, I feel quite sure that at the next meeting of March 4, 1992, the A.E.D.C. will offer its full support of this legislation.

However, as President of the Western Alaska Building and Construction Trades, I can at this time give you the support of that organization. We feel it is a very positive piece of development legislation.

Pat Smutz is the Building Trades voice in Juneau, any questions may be addressed to him.

Sincerely,

Phil Thingstad  
Chairman, A.E.D.C. Legislative Committee  
President, Western Alaska Building Trades

PAT/sh

cc: Pat Smutz



# Southwest Alaska Municipal Conference

*Putting Resources to Work For People*

3300 Arctic Blvd., Suite 203 • Anchorage, Alaska 99503 • (907) 562-7380 • FAX (907) 562-0438

## RESOLUTION 92-14

### A RESOLUTION SUPPORTING THE ESTABLISHMENT OF STATE PORT AND HARBOR DEVELOPMENT FUND

WHEREAS, the ports and harbors of Southwest Alaska are one of the lifelines and engines of economic development to communities on the waterfront and others, serving as transportation access and home port facilities for Southwest Alaska's fishermen and other business people; and

WHEREAS, the current condition of many existing facilities is universally considered deteriorated, uneconomic or even unsafe due to the deferral of maintenance over the past decades; and

WHEREAS, Southwest Alaska's competitive position in world markets depends on developing new and improved port and harbor facilities; and

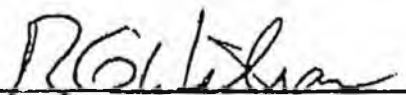
WHEREAS, satisfying statewide port and harbor needs require that the State of Alaska adopt and implement a different approach to funding, one that builds a stable financial base -- a "Port and Harbor Development Fund;" and

WHEREAS, the Statewide Ports and Harbors Task Force, supported by municipal harbormasters and Port Administrators Association representatives, makes such recommendations in its report, "Sustaining and Developing Alaska's Ports and Harbors".

NOW, THEREFORE, BE IT RESOLVED, that the Southwest Alaska Municipal Conference strongly supports the recommendations in the report calling for a stable funding source and specifically supports an FY93 appropriation of \$60 million for deferred maintenance, matching funds for Army Corps of Engineers harbor projects and new port and harbor facilities.

PASSED AND APPROVED ON THIS 19TH DAY OF JANUARY, 1992.

  
Marideth Sandler, Executive Director

  
Richard G. Wilson, President

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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FAX (907) 465-2029  
Mail Stop 3101

240 Main Street, Suite 500  
Juneau, Alaska 99801-2101

### MEMORANDUM

February 11, 1992

**SUBJECT:** Port Authorities (SB 341 and SB 352)

**TO:** Senator Curt Menard  
Attn: Johanna

**FROM:** Jerry Luckhaupt *JEL*  
Legislative Counsel

#### Questions Presented

Question 1. May municipalities currently form a port authority under existing law or is additional legislation required?

Answer: It is my opinion that municipalities may form a port authority under existing law.

Question 2. May two or more municipalities jointly form a port authority under existing law or is additional legislation required?

Answer: Two or more municipalities may cooperate and jointly operate any power or function. Art. X, § 13, Alaska Constitution; AS 29.35.010(13).

Question 3. What is need under IRS rules to ensure that a port authority of a single or multiple municipalities may issue tax exempt bonds?

Answer: Per my conversation with Johanna, I have enclosed copies of the Internal Revenue Service Code relating tax exempt bonds issued by governmental units. Please be advised that under SB 341 any revenue bonds for the authority would be issued not by the authority but by the municipality or municipalities setting up the authority. AS 29.47.240(a) provides that a municipality may issue revenue bonds "for a public enterprise or public corporation of the municipality where the only security is the revenue of the public enterprise or corporation." Art. IX, § 11, of the Alaska Constitution also provides that the restrictions on contracting debt in article IX of the constitution do not apply to the issuance of revenue bonds by a public corporation of a political subdivision of the state. SB 352 provides that the bonds

would be issued by the authority itself but only after approval by the governing body of the municipality or municipalities creating the authority.

Question 4. What specific powers or activities outlined in SB 341 and SB 352 cannot be done under current law?

Answer: In SB 352, new AS 29.35.630(b) would create an exception to the public records provisions that may not otherwise be available. As noted earlier and in that same bill a port authority would be able to issue its own bonds. AS 29.47.-240(a) currently provides for a municipality to issue the bonds of its public corporations.

Question 5. Is the operation of a port authority an areawide, non-areawide, or service area power?

Answer: The operation of a port authority by a first or second class borough would be considered an areawide power regardless of whether the power was considered to be a transportation system (AS 29.35.200(b)(1) and 29.35.210(a)(1)) or another power acquired under AS 29.35.300. SB 352 provides that a municipality must first comply with AS 29.35.300 and add the power to operate a port authority before utilizing its provisions. A third class borough would only be able to operate a port authority on a service area basis. AS 29.35.220(d). The concepts of areawide and non-areawide powers have no application to cities, except that a home rule or general law city within a borough may not exercise a power if the power is being exercised on an areawide basis by the borough unless the borough ordinance provides otherwise. AS 29.35.250(b).

Question 6. What in SB 341 and SB 352 can be left to the municipality or municipalities to set forth in establishing a port authority?

Answer: Except as provided in answer to Question 4, a municipality or municipalities establishing a port authority could provide the structure they desired by ordinance.

Question 7. Would the a port authority as described in SB 341 and SB 352 be a municipality particularly as that term is used in AS 21.76 regarding joint insurance arrangements?

Answer: A port authority as envisioned by these bills would not be a municipality in and of themselves. Municipalities are classified in AS 29.04. A port authority of a municipality would probably be considered to be part of the municipality, even though the port authority is a public corporation and has separate status, just as public corporations of the state are considered for most purposes to be agencies of the state. An opposite opinion could be reached, though, so it might be

Senator Curt Menard  
February 11, 1992  
Page 3

wise to amend AS 21.76.010(a) to include any public corporations of a municipality that participates in the joint insurance arrangement.

If you have further questions, please contact me at your convenience.

GPL:gc  
92-121.glc

Enclosure

7-LS1445M  
Luckhaupt  
2/26/92

CS FOR HOUSE BILL NO. 399 ( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES BAKER, Larson, Choquette, B.Davis, C.Davis, Gonzales, Gruenberg, Hudson, Jacko, Mackie, M.A.Miller, G.Phillips, R.Phillips, Taylor, Ulmer, Zawacki, Sharp, Ivan, Kubina

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the establishment of port authorities by municipalities; relating to  
2 public corporations of a municipality; and providing for an effective date."

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

4 \* Section 1. LEGISLATIVE FINDINGS AND POLICY. (a) The legislature finds that

5 (1) the development of ports for waterborne and other commerce is vital to attainment  
6 of an efficient and effective transportation network in the state;

7 (2) the development of ports is vital to the economic well-being of the state and of the  
8 future development of industry in the state;

9 (3) article X, sec. 13, Constitution of the State of Alaska, authorizes municipalities to  
10 make agreements for cooperative or joint administration of functions or powers and, under that authority,  
11 two or more municipalities may by agreement establish an authority;

12 (4) bond holders are not familiar with the state constitution and the authority granted to  
13 municipalities under the state constitution;

14 (5) it is in the interest of the state to provide port authorities with the power to issue

1 revenue bonds when permitted by a municipality in a port authority enabling ordinance.

2 (b) It is the policy of the state and, in the interest of promoting the health, security, and general  
3 welfare of all of the people of the state, a public purpose to provide a means for establishing a more  
4 efficient transportation system and to encourage economic growth in the state, including the development  
5 of its natural resources, by making it clear that municipalities are authorized to create municipal port  
6 authorities with the power to acquire, construct, and operate ports for waterborne and other commerce  
7 and to borrow money for the same.

8 \* Sec. 2. AS 29.35 is amended by adding new sections to read:

9 ARTICLE 9. PORT AUTHORITIES.

10 Sec. 29.35.600. PURPOSE OF AUTHORITIES. The purpose of a port authority is to  
11 provide for the development of a port or ports for waterborne and other commerce within the  
12 territory of the authority.

13 Sec. 29.35.605. ESTABLISHMENT OF PORT AUTHORITIES. (a) A port authority  
14 may be created by one of the following means:

15 (1) the governing body of a municipality may create by ordinance a port authority  
16 as a public corporation of the municipality;

17 (2) the governing bodies of two or more municipalities may create by parallel  
18 ordinances adopted by each of the governing bodies a port authority as a public corporation of  
19 the municipalities.

20 (b) One or more municipalities may join an authority established under (a)(1) or (2) of  
21 this section upon the adoption of parallel ordinances by the governing bodies of each affected  
22 municipality.

23 (c) A port authority created under this section is a body corporate and politic and an  
24 instrumentality of the municipality or municipalities creating it but having a separate and  
25 independent legal existence.

26 (d) Creation of a port authority under AS 29.35.600 - 29.35.730 is an exercise of a  
27 municipality's transportation system powers.

28 (e) The enabling ordinance by which a port authority is established must specify the  
29 powers, boundaries, and limitations of the port authority.

30 (f) An ordinance creating a port authority may require approval by the voters of the  
31 municipality or municipalities participating in the authority in order for the authority to be

1 established.

2 Sec. 29.35.610. DISSOLUTION OF A PORT AUTHORITY. (a) The enabling  
3 ordinance by which a port authority is created must provide for the manner by which a port  
4 authority may be dissolved.

5 (b) If an authority ceases to exist, its assets shall be distributed to the municipalities that  
6 participated in the authority in proportion to the difference between their contributions to the  
7 authority and any outstanding debt or obligation of that municipality to the authority, provided  
8 that any obligation to bondholders then outstanding shall first be satisfied in full.

9 Sec. 29.35.615. MUNICIPAL PROPERTY. (a) A municipality may transfer and  
10 otherwise convey or lease real property, and any improvements to it, to an authority for use by  
11 the authority for the purposes set out in the ordinance adopted under AS 29.35.605.

12 (b) A municipality may transfer and otherwise assign or lease personal property to an  
13 authority for use by the authority for the purposes set out in the ordinance adopted under  
14 AS 29.35.605.

15 Sec. 29.35.620. CONVEYANCE OF OTHER LAND TO PORT AUTHORITY. An  
16 authority and a municipality participating in the authority may enter into an agreement with the  
17 state, the federal government, or a person for the conveyance, transfer, or lease to the authority  
18 of land that is necessary or useful for present or future purposes of the authority.

19 Sec. 29.35.625. POWERS. In addition to its other powers, and if provided in the  
20 enabling ordinance, an authority may

21 (1) sue and be sued;

22 (2) have a seal and alter it at pleasure;

23 (3) adopt and amend bylaws for its organization and internal management;

24 (4) adopt regulations governing the exercise of its corporate powers;

25 (5) acquire an interest in a project as necessary or appropriate to provide financing  
26 for the project, whether by purchase, gift, or lease;

27 (6) lease to others a project acquired by it and upon the terms and conditions the  
28 authority may consider advisable, including, without limitation, provisions for purchase or  
29 renewal;

30 (7) sell, by installment sale or otherwise, exchange, donate, convey, or encumber  
31 in any manner by mortgage or by creation of another security interest, real or personal property

- 1 owned by it, or in which it has an interest, including a project, when, in the judgment of the  
2 authority, the action is in furtherance of the authority's purposes;
- 3 (8) accept gifts, grants, or loans from, and enter into contracts or other  
4 transactions regarding them, with a federal agency or an agency or instrumentality of the state,  
5 a municipality, private organization, or other source;
- 6 (9) deposit or invest its funds, subject to agreements with bondholders;
- 7 (10) purchase or insure loans to finance the costs of projects;
- 8 (11) provide for security within the boundaries of the authority;
- 9 (12) enter into loan agreements with respect to one or more projects upon the  
10 terms and conditions the authority considers advisable;
- 11 (13) acquire, manage, and operate projects as the authority considers necessary  
12 or appropriate to serve the authority's purposes;
- 13 (14) assist private lenders to make loans to finance the costs of projects through  
14 loan commitments, short-term financing, or otherwise;
- 15 (15) charge fees or other forms of remuneration for the use or possession of  
16 projects in accordance with the agreements described in this section, other agreements relating  
17 to the projects, covenants, or representations made in bond documents relating to the projects,  
18 or regulations of the authority relating to the projects;
- 19 (16) exercise the power of eminent domain within its physical boundaries under  
20 AS 29.35.030 to acquire land or materials for authority purposes;
- 21 (17) regulate land use within the boundaries of the authority; the power conferred  
22 by this paragraph is exercised for the common health, safety, and welfare of the public and may  
23 not be limited by the terms and conditions of leases, contracts, or other transactions;
- 24 (18) defend and indemnify a current or former member of the board, employee,  
25 or agent of the authority against all costs, expenses, judgments, and liabilities, including attorney  
26 fees, incurred by or imposed upon that person in connection with civil or criminal action in  
27 which the person is involved as a result of the person's affiliation with the authority if the person  
28 acted in good faith on behalf of the authority and within the scope of the person's official duties  
29 and powers;
- 30 (19) purchase insurance to protect and hold harmless its employees, agents, and  
31 board members from an action, claim, or proceeding arising out of the performance, purported

1 performance, or failure to perform in good faith, of duties for, or employment with the authority  
2 and to hold them harmless from expenses connected with the defense, settlement, or monetary  
3 judgments from that action, claim, or proceeding; the purchase of insurance is subject to the  
4 discretion of the board; insurance purchased under this paragraph may not be considered  
5 compensation to the insured person; and

6 (20) protect its assets, services, and employees by purchasing insurance or  
7 providing for certain self-insurance retentions; an authority may also maintain casualty, property,  
8 business interruption, marine, boiler and machinery, pollution liability, and other insurance in  
9 amounts reasonably calculated to cover potential claims against the authority or a municipality  
10 for bodily injury, death or disability, and property damage that may arise from or be related to  
11 authority operations and activities.

12 Sec. 29.35.630. BONDS OF A PORT AUTHORITY; SUPERIOR COURT  
13 JURISDICTION. (a) If authorized by the enabling ordinance, an authority may borrow money  
14 and may issue bonds on which the principal and interest are payable

15 (1) exclusively from the income and receipts of, or other money derived from,  
16 the project financed with the proceeds of the bonds;

17 (2) exclusively from the income and receipts of, or other money derived from,  
18 designated projects or other sources whether or not they are financed, insured, or guaranteed in  
19 whole or in part with the proceeds of the bonds; or

20 (3) from its income and receipts or other assets generally or a designated part or  
21 parts of them.

22 (b) All bonds may be sold at public or private sale in the manner, for the price or prices,  
23 and at the time or times that the authority may determine.

24 (c) Before issuing bonds, an authority shall provide for consideration by lease or  
25 agreement at least sufficient, in the judgment of the authority, to pay the principal and interest  
26 on the bonds as they become due and to create and maintain the reserve for the payment that  
27 the authority considers necessary or desirable and meet all obligations in connection with the  
28 lease or agreement and all costs necessary to service the bonds, unless the lease or agreement  
29 provides that the obligations are to be met or costs are to be paid by a party other than the  
30 authority.

31 (d) Bonds shall be authorized by resolution of the authority, be dated, and shall mature

1 as the resolution may provide, except that a bond may not mature more than 40 years from the  
2 date of its issue. Bonds shall bear interest at the rate or rates, be in the denominations, be in the  
3 form, either coupon or registered, carry the registration privileges, be executed in the manner, be  
4 payable in the medium of payment, at the place or places, and be subject to the terms of  
5 redemption that the resolution or a subsequent resolution may provide.

6 (e) All bonds issued under this section, regardless of form or character, are negotiable  
7 instruments for all of the purposes of AS 45.01 - AS 45.09 (Uniform Commercial Code).

8 (f) The superior court has jurisdiction to hear and determine suits, actions, or proceedings  
9 relating to an authority, including suits, actions, or proceedings brought to foreclose or otherwise  
10 enforce a mortgage, pledge, assignment, or security interest brought by or for the benefit or  
11 security of a holder of the authority's bonds or by a trustee for or other representative of the  
12 holders.

13 Sec. 29.35.635. BONDS ELIGIBLE FOR INVESTMENT. Bonds issued under  
14 AS 29.35.630 are securities in which all public officers and public bodies of the state and its  
15 political subdivisions, all insurance companies, trust companies, banks, investment companies,  
16 executors, administrators, trustees, and other fiduciaries may properly and legally invest funds,  
17 including capital in their control or belonging to them. The bonds may be deposited with a state  
18 or municipal officer of an agency or political subdivision of the state for any purpose that the  
19 deposit of bonds of the state is authorized by law.

20 Sec. 29.35.640. VALIDITY OF PLEDGE. The pledge of assets or revenue of an  
21 authority to the payment of the principal or interest on bonds or notes of the authority is valid  
22 and binding from the time the pledge is made, and the assets or revenue are immediately subject  
23 to the lien of the pledge without physical delivery or further act. The lien of a pledge is valid  
24 and binding against all parties having claims of any kind against the authority irrespective of  
25 whether those parties have notice of the lien of the pledge.

26 Sec. 29.35.645. CREDIT OF STATE OR A MUNICIPALITY NOT PLEDGED. (a) The  
27 state and municipalities participating in an authority are not liable for the debts of that authority.  
28 Bonds issued under AS 29.35.630 are payable solely from the revenue or assets of the authority  
29 and do not constitute a

30 (1) debt, liability, or obligation of the state or a municipality; or

31 (2) pledge of the faith and credit of the state or a municipality.

1 (b) An authority may not pledge the credit or the taxing power of the state or its  
2 municipalities. A bond issued under AS 29.35.630 must contain on its face a statement that

3 (1) the authority is not obligated to pay it or the interest on it except from the  
4 revenue or assets pledged for it; and

5 (2) the faith and credit for the taxing power of the state or of a political  
6 subdivision of the state is not pledged to the payment of it.

7 Sec. 29.35.650. PLEDGES OF THE STATE AND MUNICIPALITIES. The state and  
8 municipalities participating in the authority pledge to and agree with the holders of bonds issued  
9 under AS 29.35.630 and with the federal agency, if any, that loans or contributes funds in respect  
10 to a project of the authority, that the state and the municipalities participating in the authority will  
11 not limit or alter the rights and powers vested in the authority by its enabling ordinance or other  
12 law so that it is unable to fulfill the terms of a contract made by the authority with those holders  
13 or that federal agency, or in any way impair the rights and remedies of those holders or that  
14 federal agency until the bonds, together with the interest on them and interest on unpaid  
15 installments of interest, and all costs and expenses in connection with an action or proceeding  
16 by or on behalf of those holders or that federal agency, are fully met and discharged. An  
17 authority is authorized to include this pledge and agreement of the state and the municipalities  
18 participating in the authority, insofar as it refers to holders of bonds of the authority, in a contract  
19 with those holders, and insofar as it relates to a federal agency, in a contract with that federal  
20 agency.

21 Sec. 29.35.655. LIMITATION OF LIABILITY. A liability incurred by an authority shall  
22 be satisfied exclusively from the assets or revenue of the authority. A creditor or other person  
23 does not have a right of action against the state or a municipality participating in an authority  
24 because of a debt, obligation, or liability of an authority.

25 Sec. 29.35.660. FIDELITY BOND. An authority shall obtain a fidelity bond in an  
26 amount determined by the board for board members and each executive officer responsible for  
27 accounts and finances of that authority. A fidelity bond must be in effect during the entire tenure  
28 in office of the bonded person.

29 Sec. 29.35.665. NO TAXING AUTHORITY. An authority may not levy an income or  
30 other tax.

31 Sec. 29.35.670. EXEMPTION FROM TAXATION. (a) An authority exercising the

1 powers granted under AS 29.35.600 - 29.35.730 is in all respects for the benefit of the people  
2 of the municipalities participating in the authority and the people of the state in general, for their  
3 well-being and prosperity, and for the improvement of their social and economic condition. The  
4 real and personal property of an authority and its assets, income, and receipts are exempt from  
5 all taxes of the state or a political subdivision of the state.

6 (b) Bonds issued by the authority under AS 29.35.630 are issued for an essential public  
7 and governmental purpose; therefore, the bonds, interest and income from them, and all fees,  
8 charges, funds, revenue, income, and other money pledged or available to pay or secure the  
9 payment of the bonds or interest on them are exempt from taxation except for inheritance,  
10 transfer, and estate taxes.

11 (c) Notwithstanding the provisions of (a) of this section, an authority and the  
12 municipalities participating in the authority may enter into agreements under which the authority  
13 agrees to pay the participating municipalities payments in lieu of taxes on real and personal  
14 property of the authority that is within the taxing jurisdiction of the municipality.

15 (d) Nothing in this section creates a tax exemption with respect to the interests of a  
16 business enterprise or other person, other than the authority, in property, assets, income, or  
17 receipts, whether or not financed under AS 29.35.600 - 29.35.730.

18 Sec. 29.35.675. DEVELOPMENT PLAN. In the enabling ordinance establishing the  
19 authority under AS 29.35.605 the authority may be

20 (1) required to submit a development plan to the governing body of the  
21 municipality or municipalities participating in the authority; or

22 (2) prohibited from undertaking the construction or acquisition of a project unless  
23 the project appears in a development plan submitted to and approved by the governing body of  
24 the municipality or municipalities participating in the authority.

25 Sec. 29.35.680. ADMINISTRATION OF PORT AUTHORITIES; BOARD. (a) An  
26 authority shall be governed by a board of directors, which shall exercise the powers of the  
27 authority. The enabling ordinances establishing the authority under AS 29.35.605 must specify  
28 the number, qualifications, manner of appointment or election, and terms of members of the  
29 board.

30 (b) The board shall appoint a chief executive officer of the authority who serves at the  
31 pleasure of the board. The board shall fix the compensation of the chief executive officer.

1           Sec. 29.35.68. CONTINUATION OF COLLECTIVE BARGAINING AGREEMENTS.

2           A collective bargaining agreement for employees of the state or its political subdivisions who are  
3           transferred to an authority under AS 29.35.600 - 29.35.725 shall remain in effect for the term of  
4           the agreement and shall be binding on the authority.

5           Sec. 29.35.690. BYLAWS AND REGULATIONS. (a) A board shall adopt bylaws and  
6           appropriate regulations to carry out its functions and the purposes of AS 29.35.600 - 29.35.730,  
7           including regulations to safeguard property owned, managed, or transported by the authority and  
8           to protect employees and persons using the authority's property or services.

9           (b) A board shall adopt bylaws as soon after the establishment of the authority as  
10          possible and may from time to time, amend those bylaws. The bylaws may contain any  
11          provision not in conflict with law for the management of the business of the authority and for  
12          the conduct of the affairs of the authority, including

13                 (1) the time, place, and manner of calling, conducting, and giving notice of  
14          meetings of the board and committees of the board, if any;

15                 (2) the compensation of directors, if any;

16                 (3) the appointment and authority of committees of the board, if any;

17                 (4) the appointment, duties, compensation, and tenure of officers, directors, chief  
18          executive officer, and other employees, if any;

19                 (5) procedures for adopting regulations;

20                 (6) procedures for adopting bylaws;

21                 (7) procedures for making annual reports and financial statements; and

22                 (8) other matters for the conduct of business by the board.

23          Sec. 29.35.695. PUBLIC DISCLOSURE OF INFORMATION. (a) Except as provided  
24          under (b) of this section, information in the possession of an authority is public and is open to  
25          public inspection at reasonable times.

26                 (b) Notwithstanding AS 09.25.100 - 09.25.220, an authority may through its bylaws or  
27          by regulation designate and withhold public disclosure of matters of a privileged or proprietary  
28          nature. Those matters include personnel records, communications with and work product of legal  
29          counsel, and other information including proprietary information associated with specific shippers  
30          and contract rate agreements.

31          Sec. 29.35.700. ANNUAL REPORT. Within 90 days following the end of the fiscal year

1 of an authority, the board shall distribute to the mayor and governing body of each municipality  
2 participating in the authority a report describing the operations and financial condition of the  
3 authority during the preceding fiscal year. The report may include suggestions for legislation  
4 relating to the structure, powers, or duties of the authority or operation of facilities of the  
5 authority. Subject to AS 29.35.695, the report must itemize the cost of providing each category  
6 of service offered by the authority and the income generated by each category.

7 Sec. 29.35.705. AUDITS. (a) The board shall have the financial records of an authority  
8 audited annually by an independent certified public accountant.

9 (b) An authority shall make all of its financial records available to an auditor appointed  
10 by a municipality participating in the authority for examination.

11 Sec. 29.35.710. REMEDIES. A holder of bonds or notes or coupons attached to the  
12 bonds issued by an authority under AS 29.35.630, and a trustee under a trust agreement or  
13 resolution authorizing the issuance of the bonds, except as restricted by a trust agreement or  
14 resolution, either at law or in equity, may

15 (1) enforce all rights granted under AS 29.35.600 - 29.35.730, the trust agreement  
16 or resolution, or another contract executed by the authority; and

17 (2) compel the performance of all duties of the authority required by  
18 AS 29.35.600 - 29.35.730 or the trust agreement or resolution.

19 Sec. 29.35.715. CLAIMS. For the purpose of actionable claims, undertakings, payments  
20 of judgments, execution, interest, punitive damages, statutes of limitations, bonds, costs, and  
21 similar matters related to the presentation and prosecution of claims by and against an authority,  
22 an authority and its board members and employees enjoy the same rights, privileges, and  
23 immunities as a municipality and municipal officers.

24 Sec. 29.35.720. CONFLICTING LAWS INAPPLICABLE. If provisions of  
25 AS 29.35.600 - 29.35.730 conflict with the provisions of other state law, the provisions  
26 AS 29.35.600 - 29.35.730 prevail.

27 Sec. 29.35.725. DEFINITIONS. In AS 29.35.600 - 29.35.730, unless the context  
28 otherwise requires,

29 (1) "authority" means a port authority established under AS 29.35.605;

30 (2) "board" means the board of directors of an authority;

31 (3) "bonds" includes bonds, bond anticipation notes, notes, refunding bonds, or

1 other forms of indebtedness of the authority;

2 (4) "bylaws" or "bylaws of the authority" means the guidelines adopted by and  
3 amended by the board from time to time in accordance with AS 29.35.600 - 29.35.730;

4 (5) "port" means a facility of commerce located within the state;

5 (6) "project" means a port, dock, and administrative facilities, including property  
6 necessary in connection with the operation of a port;

7 (7) "project cost" or "cost of a project" means all or any part of the aggregate  
8 costs determined by an authority to be necessary to finance the construction or acquisition of a  
9 project, including without limitation to the cost of acquiring real property, the cost of constructing  
10 buildings and improvements, the cost of financing the project, including, without limitation,  
11 interest charges before, during, or after construction or acquisition of the project, costs related  
12 to the determination of the feasibility, planning, design, or engineering of the project and, to the  
13 extent determined necessary by the authority, administrative expenses, the cost of machinery or  
14 equipment to be used in the operation or rehabilitation of a port, and all other costs, charges,  
15 fees, and expenses that may be determined by the authority to be necessary to finance the  
16 construction or acquisition;

17 (8) "real property" or "land" means any interest in real property, including tidal  
18 and submerged land, and any right appurtenant to the interest, and without limitation, interests  
19 less than full title such as easements, uses, leases, and licenses;

20 (9) "regulation" means a standard of general application or the amendment,  
21 supplement, revision, or repeal of a standard adopted by an authority to implement, interpret, or  
22 made specific the law enforced or administered by it or to govern its procedure.

23 Sec. 29.35.730. SHORT TITLE. AS 29.35.600 - 29.35.730 may be referred to as the  
24 Municipal Port Authority Act.

25 \* Sec. 3. AS 21.76.010(a) is amended to read:

26 (a) Municipalities and their public corporations, city and borough school districts, and  
27 regional educational attendance areas may enter into cooperative agreements with each other for  
28 the purpose of establishing, operating, or participating in joint insurance arrangements through  
29 which the participating members agree to pool contributions in order to either assume risks from  
30 losses to the participants on a group basis or purchase coverage for the participants on a group  
31 basis.

1 \* Sec. 4. AS 29.45.030(a) is amended to read:

2 (a) The following property is exempt from general taxation:

3 (1) municipal property, including property held by a public corporation of a  
4 municipality, or state property, except that

5 (A) a private leasehold, contract, or other interest in the property is taxable  
6 to the extent of the interest;

7 (B) notwithstanding any other provision of law, property acquired by an  
8 agency, corporation, or other entity of the state through foreclosure or deed in lieu of  
9 foreclosure and retained as an investment of a state entity is taxable; this subparagraph  
10 does not apply to federal land granted to the University of Alaska under AS 14.40.380  
11 or 14.40.390, or to other land granted to the university by the state to replace land that  
12 had been granted under AS 14.40.380 or 14.40.390;

13 (C) an ownership interest of a municipality in real property located outside  
14 the municipality acquired after December 31, 1990, is taxable by another municipality;  
15 however, a borough may not tax an interest in real property located in the borough and  
16 owned by a city in that borough;

17 (2) household furniture and personal effects of members of a household;

18 (3) property used exclusively for nonprofit religious, charitable, cemetery,  
19 hospital, or educational purposes;

20 (4) property of a nonbusiness organization composed entirely of persons with 90  
21 days or more of active service in the armed forces of the United States whose conditions of  
22 service and separation were other than dishonorable, or the property of an auxiliary of that  
23 organization;

24 (5) money on deposit;

25 (6) the real property of certain residents of the state to the extent and subject to  
26 the conditions provided in (e) of this section;

27 (7) real property or an interest in real property that is exempt from taxation under  
28 43 U.S.C. 1620(d), as amended;

29 (8) property of a political subdivision, agency, corporation, or other entity of the  
30 United States to the extent required by federal law; except that a private leasehold, contract, or  
31 other interest in the property is taxable to the extent of that interest.

1 \* Sec. 5. AS 38.05.810 is amended by adding a new subsection to read:

2 (i) Subject to AS 38.05.820, the commissioner shall lease state land, including tideland,  
3 to a port authority established under AS 29.35.600 - 29.35.730, if the state land is within the  
4 physical boundaries of the authority and is needed by the authority for purposes provided in  
5 AS 29.35.600 - 29.35.730. A lease of state land under this section may be for less than the  
6 appraised market value.

7 \* Sec. 6. AS 44.85.410(3) is amended to read:

8 (3) "municipal bond" means a bond or note or evidence of debt that constitutes

9 (A) a general obligation bond that is a direct and general obligation of a  
10 political subdivision of the state, all the taxable property within which is subject to  
11 taxation to pay the bond, note or evidence of debt, and the interest without limitation, as  
12 to rate or amount generally to the extent permitted by law or to avoid a default as  
13 provided for second class cities under AS 29.45.590;

14 (B) a revenue bond, except a revenue bond for electrical generation  
15 purposes other than diesel-powered generation, issued by a municipality or a port  
16 authority that [WHICH] pledges the revenue of a revenue-producing capital  
17 improvement and that [WHICH] is payable solely from the revenue of the  
18 revenue-producing capital improvement;

19 (C) a general obligation bond or revenue bond combined or additionally  
20 secured;

21 (D) a bond of a borough issued as a general obligation of a service area  
22 under AS 29.47.440 or former AS 29.58.340; or

23 (E) an obligation of a municipality secured only by

24 (i) special assessments on benefited property;

25 (ii) tax increments and a letter of credit or equal security; or

26 (iii) a lease for equipment or building improvements if the state is

27 not a lessee;

28 \* Sec. 7. This act takes effect immediately under AS 01.10.070(c).

Amendment #1

Page 1, Line 5 Delete "and other" after "waterborne"  
Page 2, Line 3 Delete "and other" after "waterborne"  
Page 3, Line 3 Delete "and other" after "waterborne"  
Page 12, Line 15 Add "waterborne" between "of" and  
"commerce"

Amendment #2

Page 2, Line 8 Add ",subject to voter approval," after  
"ordinance"  
Page 2, Line 13 Add ",and subject to voter approval," after  
"bodies"  
Page 2, Line 18 Add "subject to voter approval" after  
"municipality"

Amendment #3

Page 11, Line 26 Delete "(2) AS 23.40.070-23.40.260" and  
renumber accordingly.

Amendment #4

Page 11, Line 26 Delete "(2) AS 23.40.070-23.40.260" and  
renumber accordingly.

R.G.P. Adopting Amend:

See overl. cont

TESTIMONY OF THE

ALASKA PUBLIC EMPLOYEES ASSOCIATION/AFT  
ALASKA STATE EMPLOYEES ASSOCIATION/AFSCME LOCAL #52  
PUBLIC EMPLOYEES LOCAL #71

on

CS for HOUSE BILL 399 (TRANSPORTATION)  
"MUNICIPAL PORT AUTHORITIES"

before the

HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

We appreciate the opportunity to address the committee on CSHB 399 (Transportation) which enables municipalities to create Port Authorities to develop our ports in an orderly and efficient manner. This is a worthwhile endeavor and deserves the attention of the Legislature, and the support of the public. However, because of some very serious concerns we have about the bill as currently drafted, we cannot support, and will actively oppose CSHB 399 (Transportation).

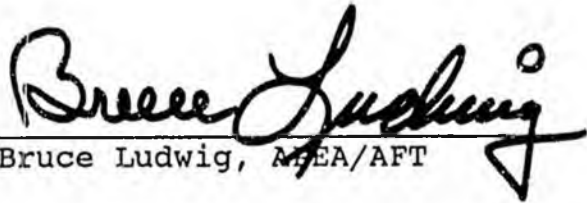
These concerns are:

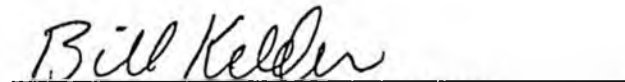
1. While specifically specifying "ports for waterborne commerce," the bill also includes "ports for other commerce." whatever that is. This could also include airports, highways and other modes of transportation. We recommend limiting the use of Authorities at this time to waterborne facilities.
2. CSHB 399 (Tra) allows authorities to be created by simple ordinance, without voter approval. Because of the possible liability to the municipality, potential loss of tax base and other impacts upon a municipality, we believe that the establishment of a Port Authority should be approved by the voters. A public vote will ensure a complete disclosure of the effects and impact of creating a Port Authority on the affected municipality, and its citizens.
3. CSHB 399 (Tra) specifically denies employees of an authority the right to bargain collectively over their wages, hours and working conditions. This is a basic right enjoyed by most Americans. This bill will take that right away. This is unacceptable.
4. CSHB 399 (Tra) specifically excludes Authority employees access to the Public Employees Retirement System, State Health Insurance, Supplemental Benefit System and other rights guaranteed by Title 39. This, too, is unacceptable.

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

While we agree with the concept of municipalities being permitted the opportunity to establish Port Authorities, we are adamantly opposed to CSHB 399 (Tra) as currently written, and respectfully request this Committee to modify the bill to address the concerns we are raising.

  
Bruce Ludwig, ASEA/AFT

  
Bill Kelder, ASEA/AFSCME

  
Ed Flahigan, Local #71

H B

4 0 8

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:*

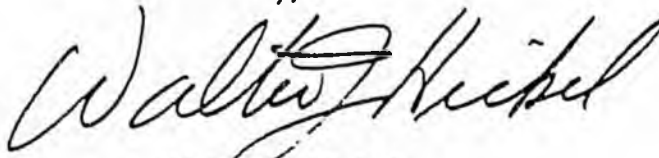
*Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill authorizing the Department of Environmental Conservation (DEC) to award grants for the purposes of forming or operating local emergency planning committees (LEPCs) under AS 46.13.070.*

*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

# STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

## DEPT. OF ENVIRONMENTAL CONSERVATION

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

Phone: (907) 465-5000  
Fax: (907) 465-5070

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

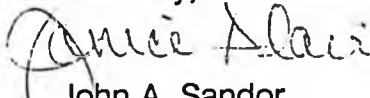
The Honorable Jerry Mackie

-2-

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.

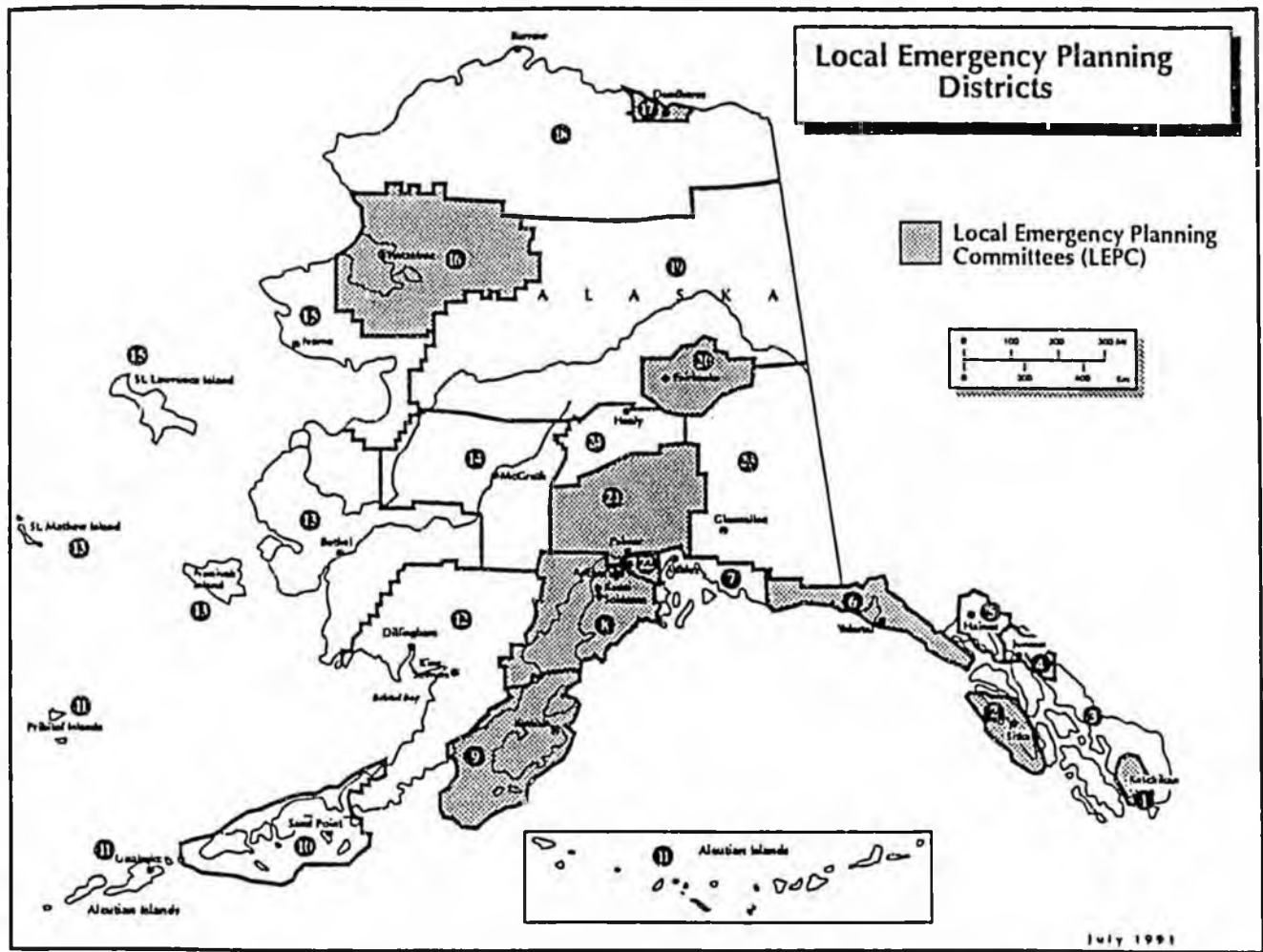
Sincerely,

  
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



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	Haines	
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*	Koziyuk	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	Glennallen	
24	Denali Borough	Healy	

FISCAL NOTE

No. 2

Bill Version: HB 408

(H) Publish Date: 1/16/92

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_

Department Affected: Environmental Conservation

Title: Authorizing DEC to award grants for LEPC; efd

BRU: Spill Prevention & Response

Sponsor: Governor

Component: Spill Prevention, Planning

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						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

CAPITAL						
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REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
FUND SOURCE:						
<b>TOTAL</b>	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 Ann Seider

Agency: Department of Environmental Conservation Date: December 12, 1991

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

Rev 10/7/91

Page \_\_\_ of \_\_\_

**COMMITTEE COPY**

FISCAL NOTE

No. 1  
 Bill Version: HB 408  
 (H) Publish Date: 1/16/92

STATE OF ALASKA  
 1992 LEGISLATIVE SESSION

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			
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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	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: 12/18/91

**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**

H B

4 2 3

CS FOR HOUSE BILL NO. 423 ( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVE IVAN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the bulk fuel storage facilities grant program; and providing for an  
2 effective date."

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

4 \* Section 1. AS 44.83 is amended by adding a new section to read:

5 ARTICLE 11A. BULK FUEL STORAGE FACILITIES GRANT FUND.

6 Sec. 44.83.660. BULK FUEL STORAGE FACILITIES GRANT FUND. (a) There is  
7 established in the Alaska Energy Authority the bulk fuel storage facilities grant fund. Grants may  
8 be made by the authority from this fund to a rural community to acquire and install, repair, or  
9 replace rural community bulk fuel storage facilities.

10 (b) The total of grants made to a rural community under this section for the acquisition  
11 and installation, repair, or replacement of a bulk fuel storage facility may not exceed \$200,000.

12 (c) If the governing bodies of two or more rural communities determine that their fuel  
13 requirements may be served by a single bulk fuel storage facility, the rural communities may  
14 jointly apply for a grant to acquire and install, repair, or replace a single bulk fuel storage

1 facility. When rural communities apply jointly under this subsection, the limitation in (b) of this  
2 section is multiplied by the number of rural communities that submit the joint application.

3 (d) Before a grant is made under this section,

4 (1) the governing body shall agree in writing to maintain and operate the bulk fuel  
5 storage facility to be constructed, repaired, or replaced with the proceeds of the grant; and

6 (2) all necessary regulatory permits for the bulk fuel storage facility shall be  
7 obtained by the governing body; the authority shall provide expertise and assist the governing  
8 body in this process.

9 (e) In this section,

10 (1) "governing body" means a governing body of a municipality or a reasonably  
11 representative body of a place that is not incorporated as a city and in which 25 or more persons  
12 reside as a social unit;

13 (2) "rural community" means a city in the unorganized borough or a place located  
14 within a borough or within the unorganized borough that is not incorporated as a municipality  
15 in which 25 or more people reside as a social unit, and if the city or place is in the

16 (A) second, third, or fourth judicial district of the state with a population  
17 of 5,500 or less and is not connected by road or rail to Anchorage or Fairbanks, or with  
18 a population of 1,500 or less and is connected by road or rail to Anchorage or Fairbanks;  
19 or

20 (B) first judicial district of the state with a population of 5,000 or less.

21 \* Sec. 2. AS 44.47.130(7), 44.47.130(8), and 44.47.145 are repealed.

22 \* Sec. 3. This Act takes effect July 1, 1992.

Alaska State Legislature  
House of Representatives

COMMITTEES  
CHAIRMAN  
SPECIAL COMMITTEE ON  
MILITARY & VETERANS AFFAIRS  
MEMBER  
LABOR & COMMERCE  
RESOURCES  
FINANCE SUBCOMMITTEES  
MILITARY & VETERANS AFFAIRS  
PUBLIC SAFETY



P.O. BOX 886  
BETHEL, AK 99559  
(907) 543-3541  
DURING SESSION  
STATE CAPITOL  
JUNEAU, AK 99801-1182  
(907) 465-4527

Representative Juan M. Juan

SECTIONAL ANALYSIS - CS FOR HB 423

SECTION ONE - Places the bulk fuel storage facilities grant fund under the direction of the Alaska Energy Authority by adding a new section to AS 44.83. This language is adopted from the statutes that are currently found under AS 44.47.145. The amounts of the grant is raised from \$100,000 to \$200,000. Adds a definition of the communities that will be eligible for assistance under this program.

SECTION 2 - Repeals the statutes under AS 44.47 that authorize the program in the Department of Community and Regional Affairs.

SECTION 3 - Effective date of July 1, 1992.

DISTRICT 25

AKIACHAK, AKIAK, ATMAUTLUAK, BETHEL, CHEFORNAK, EEK, GOODNEV'S BAY, KASIGLUK, KIPNUK, KONGIGANAK, KWETHLUK, KWIGILLINGOK, MEKORYUK, NAPAKIAK, NAPASKIAK, NEWTOK, NIGHTMUTE, NUNAPITCHUK, OSCARVILLE, PLATINUM, QUINHAGAK, TOKSOOK BAY, TUNTUTULIAK, TUNUNAK

Register , 1991 COMMERCE AND ECONOMIC DEVELOPMENT 3 AAC 94.610  
 3 AAC 94.610

ARTICLE 9. BULK FUEL LOANS

Section	Section
610. Application process	655. Costs
615. Examination	660. Assumptions
620. Loan committee	665. Modifications
625. Eligibility	670. Reconsideration of loan request
630. Financial and credit record	675. Confidentiality of loan information
635. Ability to repay	695. Definitions
640. Lending practices	
645. Disbursement of loan money	
650. Supervision of loans	

3 AAC 94.610. APPLICATION PROCESS. To apply for a loan for the purchase and transportation of bulk fuel, an applicant shall file with the authority

- (1) a completed application for a bulk fuel loan, on a form provided by the authority;
- (2) proof that the application is for a community with a population under 2,000;
- (3) written endorsement from the governing body of the community for an individual applying for a bulk fuel loan on behalf of the community;
- (4) a letter of intent, on a form provided by the authority,

3 AAC 94.615. EXAMINATION. (a) The authority will process the material described in 3 AAC 94.610 and evaluate the eligibility of the community and the applicant's eligibility, financial and credit history, and ability to repay. Applications for loans submitted on or after January 1, 1992 will also be evaluated regarding the condition of the applicant's fuel tanks.

(b) On the basis of the evaluation, the authority will either inactivate the application, due to lack of information required in 3 AAC 94.610 or ineligibility of the applicant, or recommend proposed action on the loan request to the loan committee. The recommendation of the authority is not binding on the loan committee. (Eff. \_\_/\_\_/\_\_, Register )

Authority: AS 44.83.080  
AS 44.83.610  
AS 44.83.625

3 AAC 94.620. LOAN COMMITTEE. (a) A loan committee consists of one or more persons appointed by the executive director to act on a loan request.

(b) A loan committee may approve, deny, or modify and approve a loan request, or may table a loan request subject to obtaining additional information.

(c) A loan committee shall consider the eligibility of the community, the applicant's eligibility, financial and credit

record, and ability to repay, and the recommendations of the authority. The loan committee may consider any other relevant information. The loan committee shall also consider the condition of the applicant's fuel tanks as to applications submitted on or after January 1, 1992.

(d) A loan committee may fix, within the limitations set by AS 44.83.610(b), the term of a loan and repayment schedule.

(e) If a loan request is denied or significantly modified by the loan committee, the loan committee shall provide the applicant with a statement of the reasons for the action and the information relied on.

(f) A material misstatement or omission of fact made by an applicant constitutes grounds for denial of a loan request.

(Eff. \_\_/\_\_/\_\_, Register )

Authority: AS 44.83.080

AS 44.83.610

AS 44.83.615

AS 44.83.625

3 AAC 94.625. ELIGIBILITY. To be eligible for a loan

(1) an applicant must intend to use the loan for purchase of fuel for an emergency or annual supply, including the necessary costs of transporting the fuel;

SELECT - QUERY  
0006 ALL SECTION = 44.47.130.

44.47.130 DOCUMENT= 1 OF 1

TITLE = 44  
CHAPTER = 44.47  
SECTION = 44.47.130

HEADINGS

TITLE 44  
STATE GOVERNMENT  
CHAPTER 47  
DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS  
ARTICLE 01  
ORGANIZATION AND ADMINISTRATION  
SECTION 44.47.130  
POWERS AND DUTIES.

CITATION

44.47.130

CATCH LINE

POWERS AND DUTIES.

TEXT TO PROMOTE DEVELOPMENT OF RURAL AREAS OF THE STATE, THE DEPARTMENT IS AUTHORIZED TO

(1) INVESTIGATE SOCIAL AND ECONOMIC CONDITIONS OF RURAL AREAS TO DETERMINE THE NEED TO EXPAND ECONOMIC OPPORTUNITIES AND IMPROVE LIVING CONDITIONS;

(2) FORMULATE A COORDINATED PROGRAM TO BROADEN AND DIVERSIFY THE ECONOMIC BASE OF RURAL AREAS;

(3) COORDINATE ADMINISTRATION OF EMERGENCY RELIEF, SURPLUS FOOD DISTRIBUTION, OR OTHER PUBLIC ASSISTANCE PROGRAMS, EXCEPT THE REGULAR RELIEF AND ASSISTANCE PROGRAMS OF THE FEDERAL GOVERNMENT IN RURAL AREAS;

(4) FORMULATE AND CONDUCT A PROGRAM OF CONSTRUCTION OF BASIC FACILITIES TO IMPROVE HEALTH, WELFARE AND ECONOMIC SECURITY AND PROVIDE EMPLOYMENT AND INCOME IN THE RURAL AREAS;

(5) PROMOTE TRAINING AND EDUCATIONAL PROGRAMS DESIGNED TO EXPAND EMPLOYMENT OPPORTUNITIES FOR RESIDENTS OF RURAL AREAS;

(6) ENTER INTO AGREEMENTS WITH OTHER STATE AGENCIES AND DEPARTMENTS TO PROVIDE FOR THE DISTRIBUTION IN RURAL COMMUNITIES OF SURPLUS ELECTRICAL POWER FROM STATE-OWNED POWER SOURCES LOCATED IN THOSE COMMUNITIES AND TO EXPEND FUNDS FOR THIS PURPOSE;

(7) MAKE GRANTS TO COMMUNITIES FOR BULK FUEL STORAGE FACILITIES;

(8) COOPERATE WITH THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION AND OTHER AGENCIES TO PROVIDE TECHNICAL ASSISTANCE TO COMMUNITIES IN THE INSTALLATION, OPERATION AND MANAGEMENT OF BULK FUEL STORAGE FACILITIES.

HISTORY

(SEC. 2 CH 200 SLA 1972; AM SEC. 1 CH 183 SLA 1972; AM SEC. 38 CH 83 SLA 1980)

REVISORS NOTES

PARAGRAPH (6) WAS ENACTED AS AS 44.19.610(12). RENUMBERED IN 1972.

0601 \* END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

SELECT - QUERY  
0007 ALL SECTION = 44.47.145

44.47.145 DOCUMENT= 1 OF 1

TITLE = 44  
CHAPTER = 44.47  
SECTION = 44.47.145

HEADINGS

TITLE 44  
STATE GOVERNMENT  
CHAPTER 47  
DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS  
ARTICLE 01  
ORGANIZATION AND ADMINISTRATION  
SECTION 44.47.145  
BULK FUEL STORAGE FACILITIES GRANT FUND.

CITATION

44.47.145

CATCH LINE

BULK FUEL STORAGE FACILITIES GRANT FUND.

TEXT

(A) THERE IS ESTABLISHED IN THE DEPARTMENT THE BULK FUEL STORAGE FACILITIES GRANT FUND. GRANTS MAY BE MADE BY THE DEPARTMENT FROM THIS FUND TO A COMMUNITY TO ACQUIRE AND INSTALL COMMUNITY BULK STORAGE FACILITIES.

(B) GRANTS MADE UNDER THIS SECTION FOR THE ACQUISITION AND INSTALLATION OF A BULK FUEL STORAGE FACILITY MAY NOT EXCEED \$100,000 PER COMMUNITY.

(C) IF THE GOVERNING BODY OF TWO OR MORE COMMUNITIES DETERMINE THAT THEIR FUEL REQUIREMENTS MAY BE SERVED BY A SINGLE BULK FUEL STORAGE FACILITY, THE COMMUNITIES MAY JOINTLY APPLY FOR GRANTS TO ACQUIRE AND INSTALL A SINGLE BULK FUEL STORAGE FACILITY. WHEN COMMUNITIES APPLY JOINTLY UNDER THIS SUBSECTION, THE LIMITATION IN (B) OF THIS SECTION IS MULTIPLIED BY THE NUMBER OF COMMUNITIES WHICH SUBMIT THE JOINT APPLICATION.

(D) BEFORE A GRANT IS MADE UNDER THIS SECTION, THE CITY COUNCIL OR, IF THE COMMUNITY IS NOT INCORPORATED, A REASONABLE REPRESENTATIVE BODY IN THE COMMUNITY SHALL AGREE IN WRITING TO MAINTAIN AND OPERATE THE BULK STORAGE FACILITY TO BE CONSTRUCTED WITH THE PROCEEDS OF THE GRANT.

HISTORY

(SEC. 40 CH 83 SLA 1980; AM SEC. 2 CH 46 SLA 1981)

0601 \* END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

# Alaska Energy Authority

## BULK FUEL CAPACITY

COMMUNITY [POPULATION]	PRODUCT	SCHOOL	*	CITY/ VILLAGE	*	OTHER GOVT.	*	ELECTRIC UTILITY	*	NATIVE CORP.	*	OTHER PRIVATE	*	TOTAL	*
AKIACHAK [481]	FUEL OIL (gal)	172,000	2	0	0	0	0	76,000	1	60,500	2	0	0	308,500	5
	GASOLINE (gal)	4,300		0		0		0		30,000		0	0	34,300	
AKIAK [285]	FUEL OIL (gal)	68,000	2	0	0	0	0	47,000	1	35,000	1	0	0	150,000	4
	GASOLINE (gal)	5,000		0		0		0		25,000		0	0	30,000	
ALLAKAKET [170]	FUEL OIL (gal)	34,000	1	11,000	2	0	0	0	0	0	0	0	0	45,000	3
	GASOLINE (gal)	0		0		0		0		0		0	0	0	
ANIAK [540]	FUEL OIL (gal)	124,700	1	164,800	3	105,000	1	143,000	1	0	0	58,750	9	596,250	15
	GASOLINE (gal)	25,700		19,900		5,000		0		0		206,250		256,850	
ATMAUTLUAK [258]	FUEL OIL (gal)	65,250	1	0	0	0	0	53,750	1	38,500	1	0	0	157,500	3
	GASOLINE (gal)	0		0		0		0		29,000		0	0	29,000	
BREVIG MISSION [198]	FUEL OIL (gal)	90,000	2	46,500	2	4,500	1	0	0	0	0	11,000	1	152,000	6
	GASOLINE (gal)	0		9,000		0		0		0		0	0	9,000	
CHEFORNAK [320]	FUEL OIL (gal)	116,796	2	4,524	1	3,810	1	43,250	1	31,403	1	0	1	199,783	7
	GASOLINE (gal)	0		0		0		0		33,960		8,445		42,405	
CHEVAK [598]	FUEL OIL (gal)	120,180	1	17,000	1	2,700	1	136,700	1	2,600	1	106,900	3	386,080	8
	GASOLINE (gal)	0		0		0		0		0		55,040		65,040	
CHIGNIK LAGOON [53]	FUEL OIL (gal)	27,000	1	3,000	1	0	0	0	0	75,000	1	1,500	1	106,500	4
	GASOLINE (gal)	0		0		0		0		0		0	0	0	
CHIGNIK LAKE [133]	FUEL OIL (gal)	35,400	1	0	0	0	0	0	0	30,000	1	3,000	1	68,400	3
	GASOLINE (gal)	0		0		0		0		10,000		0		10,000	
CROOKED CREEK [106]	FUEL OIL (gal)	25,450	1	0	0	0	0	17,000	1	6,300	1	37,000	2	85,750	5
	GASOLINE (gal)	0		0		0		0		0		17,000		17,000	
DIOMEDE [178]	FUEL OIL (gal)	40,000	1	62,000	2	0	0	60,000	0	30,000	0	0	0	192,000	3
	GASOLINE (gal)	0		0		0		0		10,000		0	0	10,000	
EEK [254]	FUEL OIL (gal)	46,000	2	8,000	1	2,500	1	68,000	1	27,500	1	0	0	152,000	6
	GASOLINE (gal)	0		0		0		0		32,000		0	0	32,000	
FT. YUKON [580]	FUEL OIL (gal)	49,000	1	4,000	1	0	1	24,000	1	0	0	488,000	2	565,000	6
	GASOLINE (gal)	0		0		35,000		0		0		282,000		317,000	
HOOPER BAY [845]	FUEL OIL (gal)	155,700	1	10,000	1	3,000	1	160,900	1	130,495	4	0	0	460,095	8
	GASOLINE (gal)	0		0		0		0		70,749		0	0	70,749	
KALTAG [240]	FUEL OIL (gal)	30,000	1	17,500	2	5,000	1	0	0	0	0	39,000	3	91,500	7
	GASOLINE (gal)	0		0		0		0		0		35,000		35,000	
KARLUK [71]	FUEL OIL (gal)	20,000	1	50,000	1	0	0	5,000	1	0	0	5,000	2	80,000	5
	GASOLINE (gal)	0		0		0		0		0		0	0	0	
KASIGLUK [425]	FUEL OIL (gal)	95,000	2	0	0	0	0	0	0	69,000	2	0	0	164,000	4
	GASOLINE (gal)	0		0		0		0		57,000		0	0	57,000	

\* INDICATES NUMBER OF TANK FARMS (2/4/92 JSA)

# Alaska Energy Authority

## BULK FUEL CAPACITY

COMMUNITY [POPULATION]	PRODUCT	SCHOOL	*	CITY/ VILLAGE	*	OTHER GOVT.	*	ELECTRIC UTILITY	*	NATIVE CORP.	*	OTHER PRIVATE	*	TOTAL	*
KONGIGANAK [294]	FUEL OIL (gal)	74,100	1	25,734	0	3,700	1	53,467	2	21,000	3	4,170	2	182,171	9
	GASOLINE (gal)	0		0		0		0		39,400		0		39,400	
KOYUK [231]	FUEL OIL (gal)	67,500	1	16,000	1	0	0	64,000	1	25,000	1	0	1	172,500	5
	GASOLINE (gal)	0		0		0		0		60,000		6,000		66,000	
KWIGILLINGOK [278]	FUEL OIL (gal)	80,000	1	2,000	1	0	0	60,000	2	46,000	2	8,500	2	196,500	8
	GASOLINE (gal)	0		0		0		0		64,000		3,300		67,300	
MANOKOTAK [385]	FUEL OIL (gal)	46,050	1	31,000	0	1,500	1	57,000	1	2,000	2	0	0	137,550	5
	GASOLINE (gal)	0		31,500				0		0		0		31,500	
MEKORYUK [177]	FUEL OIL (gal)	90,400	1	91,500	2	2,800	1	84,900	1	61,000	3	11,100	1	341,700	9
	GASOLINE (gal)	0		0		0		0		41,730		6,000		47,730	
NIGHTMUTE [153]	FUEL OIL (gal)	27,500	1	0	0	3,000	1	79,970	2	1,200	3	990	1	112,660	8
	GASOLINE (gal)	0		0		0		0		54,400		0		54,400	
NOORVIK [531]	FUEL OIL (gal)	108,000	2	24,000	1	0	0	145,000	1	73,000	1	41,000	1	391,000	6
	GASOLINE (gal)	0		0		0		0		60,000		7,600		67,600	
NUNAPITCHUK [378]	FUEL OIL (gal)	84,750	2	15,750	1	3,000	1	167,750	1	69,500	1	0	0	340,750	6
	GASOLINE (gal)	0		0		0		0		31,500		0		31,500	
QUINHAGAK [501]	FUEL OIL (gal)	100,500	2	32,200	3	8,020	1	99,400	1	41,030	3	7,500	3	288,650	13
	GASOLINE (gal)	0		6,400		0		0		42,500		15,100		64,000	
RED DEVIL [53]	FUEL OIL (gal)	18,100	1	26,500	1	0	0	0	0	0	0	12,000	2	56,600	4
	GASOLINE (gal)	0		16,000		0		0		0		3,000		19,000	
ST. GEORGE [138]	FUEL OIL (gal)	0	0	330,000	5	0	0	4,000	1	0	0	0	1	334,000	7
	GASOLINE (gal)	0		41,500		0		0		0		4,000		45,500	
ST. MARYS [441]	FUEL OIL (gal)	45,500	4	90,600	6	58,690	5	215,781	1	4,100	2	34,500	23	799,161	41
	GASOLINE (gal)	1,000		72,400		13,250		0		37,100		443,000		566,750	
ST. MICHEAL [295]	FUEL OIL (gal)	79,000	1	22,000	1	2,500	1	75,500	1	0	0	960,000	2	1,139,000	6
	GASOLINE (gal)	0		0		0		0		0		606,000		606,000	
ST. PAUL [763]	FUEL OIL (gal)	3,000	1	1,836,000	5	315,000	5	20,000	1	0	0	17,400	5	2,191,400	17
	GASOLINE (gal)	0		6,000		0		0		0		24,000		30,000	
SAVOONGA [519]	FUEL OIL (gal)	182,050	1	46,775	1	0	0	128,000	1	147,650	1	0		504,475	4
	GASOLINE (gal)	0		0		0		0		67,700		0		67,700	
SCAMMON BAY [343]	FUEL OIL (gal)	60,100	1	8,800	1	3,000	1	81,200	1	65,200	1	0	0	218,300	5
	GASOLINE (gal)	0		0		0		0		49,000		0		49,000	
SELAWIK [596]	FUEL OIL (gal)	141,090	1	0	0	0	0	130,079	1	92,433	1	10,332	1	373,934	4
	GASOLINE (gal)	0		0		0		0		74,998		0		74,998	
SLEETMUTE [106]	FUEL OIL (gal)	30,000	1	0	0	0	0	17,000	1	9,500	1	0	0	56,500	3
	GASOLINE (gal)	0		0		0		0		16,000		0		16,000	

\* INDICATES NUMBER OF TANK FARMS (2/4/92 JSA)

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COMMUNITY [POPULATION]	PRODUCT	SCHOOL	*	CITY/ VILLAGE	*	OTHER GOVT.	*	ELECTRIC UTILITY	*	NATIVE CORP.	*	OTHER PRIVATE	*	TOTAL	*
STEBBINS [400]	FUEL OIL (gal)	81,500	1	1,000	1	0	0	81,500	1	65,500	1	16,500	2	246,000	6
	GASOLINE (gal)	0		0		0		0		52,000		0		52,000	
STEVENS VILLAGE [102]	FUEL OIL (gal)	34,000	2	0	0	0	0	28,500	1	0	1	0	0	62,500	4
	GASOLINE (gal)	0		0		0		0		14,200		0		14,200	
TELLER [151]	FUEL OIL (gal)	42,000	1	3,700	1	8,000	2	204,000	1	35,500	1	4,500	1	297,700	7
	GASOLINE (gal)	0		0		0		17,000		27,800		0		44,800	
TULUKSAK [358]	FUEL OIL (gal)	128,000	2	16,000	1	0	0	21,000	1	25,000	1	0	0	190,000	5
	GASOLINE (gal)	3,000		0		0		0		25,000		0		28,000	
TUNTUTULIAK [300]	FUEL OIL (gal)	70,000	1	0	0	0	0	45,000	1	46,000	2	0	0	161,000	4
	GASOLINE (gal)	0		0		0		0		31,000		0		31,000	
UNALAKLEET [714]	FUEL OIL (gal)	113,900	2	71,400	2	40,800	1	359,000	1	428,400	2	175,510	7	1,189,010	15
	GASOLINE (gal)	0		0		0		0		102,660		160,050		262,710	
UPPER KALSKAG [172]	FUEL OIL (gal)	41,200	2	2,000	1	0	0	0	0	21,400	2	11,000	3	75,600	8
	GASOLINE (gal)	8,000		500		0		0		20,000		22,800		51,300	
WALES [161]	FUEL OIL (gal)	40,000	1	43,500	1	60,000	1	50,000	1	40,000	1	0	0	233,500	5
	GASOLINE (gal)	0		0		2,500		0		16,000		0		18,500	
TOTAL	FUEL OIL (gal)	3,102,716	59	3,134,783	54	636,510	30	3,106,647	38	1,653,711	52	2,415,152	83		
	GASOLINE (gal)	47,000		203,200		55,750		17,000		1,224,607		1,914,585			

\* INDICATES NUMBER OF TANK FARMS (2/4/92 JSA)

## Item 2. Bulk Fuel System Upgrades

For the past two years, the Energy Authority has been surveying the condition of bulk fuel systems in communities around the state. In the course of these surveys, emergency repairs have been made when the conditions surveyed were so dangerous that immediate attention was required.

The results of the surveys of the past two years are presently being compiled into a document that will be delivered, as requested, to the Legislature by early March, 1992. In advance of that report, I can provide the following general and typical information that is contained in the report, with some specific examples.

The on-site investigations have revealed that there are deficiencies in the bulk fuel systems of virtually all of the communities surveyed by the Energy Authority. The majority of the deficiencies are of a nature that threaten the health or safety of the community. In order of their priority and cost to correct, the deficiencies fall into the following categories:

### 1. Active leaks at piping connections and tank connections.

These are considered some of the greatest threats to the communities because they are contaminating the ground and water systems of many of the communities. The leaks result from the use of threaded and other pipe connections that leak, and old or worn valves.

### 2. No means of containment or remote impounding of fuel in the event of a spill.

The vast majority of the tank farms in the state have no means of containing the contents of a tank if a valve breaks or a tank ruptures.

### 3. Lack of protection from flooding.

Many of the communities along the Yukon and Kuskokwim rivers, as well as many other waterways in the state, have no protection from flooding. Protection from flooding is typically provided by construction of a raised pad for the tank farm.

### 4. Inadequate separation between tanks and property lines or wells.

There are a number of facilities in the state that are built within a few feet of community wells and water sources and are currently leaking. These facilities need to be moved and placed in a dike. Many of the leaking pipe lines in the communities are generating a similar problem along their length.

**5. Inadequate distance between tanks and dispensing pumps.**

Many of the communities in the state have above ground tanks for dispensing fuels. The Fire Marshall permits this in areas where it is impractical to bury the tanks. There are strict regulations that govern the installations. Many of the installations fail to meet the requirement of adequate separation of the tanks from the dispensing pumps. This generates a tremendous potential for a disaster should a mishap occur at the pump. The remedy typically includes moving dispensing pumps to a safer distance and installing them according to electrical and fire codes.

**6. Improper tank foundations.**

Many of the tanks in the state are currently resting on foundations that are inadequate, allowing the tanks to tip, with a possibility of a spill. Typically the foundations are replaced with properly engineered and installed foundations when the tanks are placed in a new diked enclosure.

**7. No emergency venting.**

Only a handful of tanks in the remote areas of the state have sufficient venting to allow for expanding gases to escape, without exploding the tank in the event of a fire in the facility.

**8. No fencing, warning signs or identification signs.**

The lack of fencing allows unauthorized persons access to the facilities and allows vandalism or theft. Often the hazardous conditions observed during the surveys are the result of unauthorized personnel damaging the bulk fuel system. It is required by regulation of any facility dispensing fuel into motor vehicles. Also, warning and identification signs prevent the inadvertent mixing of fuels and the resulting waste.

As a result of these concerns a number of communities were refused fuel deliveries in 1991 because the barge lines refused to deliver into sub-standard facilities. The problem is becoming acute as barge lines assess their legal liability in relation to fuel delivery.

Attachment I represents excerpts from the survey reports that summarize specific problems observed in the following communities:

Crooked Creek  
Kasigluk  
Manokotak

Sleetmute  
Nunapitchuk

Tuntutuliak  
Atmautluak

Attachment II represents costs estimates associated with correcting bulk fuel system deficiencies in the communities of:

Ft. Yukon    St. Paul    St. George    Chignik Lake    Chefornak

#### Alternative Energy Sources?

This question was an element of the inquiry. At this time, no viable alternative energy sources have been identified for the communities surveyed. However, in the event such were identified, those communities with bulk fuel systems in a hazardous and non-code-compliant condition would still require upgrading.

#### Summary

In submitting a \$12,000,000 request along with a list of potential communities it was not intended that all communities would receive upgrades during FY93. An executive overview indicates that the scope of the need for upgrades is significantly more expensive. The FY93 budget request represents the quantity of work the Energy Authority can administer in one fiscal year. The specific communities chosen for upgrade in FY93 will be determined according to priorities developed by the Agency, along with recommendations from administration and the Legislature.

cc:    Guy Bell, Director, Division of Administrative Services,  
          Department of Commerce and Economic Development  
          Charlie Bussell, Alaska Energy Authority  
          Susan White, Alaska Energy Authority

## ATTACHMENT I

Excerpts from survey reports listing deficiencies observed  
in the following communities:

Crooked Creek  
Sleetmute  
Tuntutuliak  
Kasigluk  
Nunapitchuk  
Atmautluak  
Manokotak

## TANK FARM NUMBER ONE - CROOKED CREEK TRADITIONAL COUNCIL

### Deficiencies

There are several deficiencies and/or code violations in this tank farm. These include, but are not limited to, the following:

- 1) Visible leaks at pipe connections and near fill connection.
- 2) No dike or liquid tight liner or means of remote impounding.
- 3) No fence surrounding the facility
- 4) Tank located too close to a well.
- 5) Tank of excessive capacity piped directly to a heating device.
- 6) No emergency venting.
- 7) Improper tank foundations.
- 8) No warning or identifying labels/signs.
- 9) Use of bronze valves.
- 10) Use of rubber hose for distributing fuel.
- 11) No means of secondary containment at fill point

## TANK FARM NUMBER TWO - DENNIS THOMAS

### Deficiencies

There are several deficiencies and/or code violations in this tank farm. These include, but are not limited to, the following:

- 1) Improper electrical wiring
- 2) No dike or liner
- 3) No fence
- 4) Tanks buried at insufficient depth
- 5) No emergency venting
- 6) Improper tank foundations
- 7) No warning or identifying labels/signs
- 8) Use of bronze drain valves
- 9) Use of a non-rated pump for distribution
- 10) No area lighting

### TANK FARM NUMBER THREE - MIDDLE KUSKOKWIM ELECTRIC CO-OP

#### Deficiencies

There are several deficiencies and/or code violations in this tank farm. These include, but are not limited to, the following:

- 1) Visible leaks at pipe connections.
- 2) No fence.
- 3) No emergency venting.
- 4) Improper tank foundations.
- 5) Excessive standing water in dike.
- 5) No warning or identifying labels/signs.
- 6) Use of bronze valves.
- 7) No means of secondary containment at fill point.

### TANK FARM NUMBER FOUR - LYMAN MINING RESOURCES

#### Deficiencies

There are several deficiencies and/or code violations in this tank farm. These include, but are not limited to, the following:

- 1) No dike or liner
- 2) No fence
- 3) No emergency venting
- 4) Improper tank foundations ( use of small dimension timbers)
- 5) No warning or identifying labels/signs
- 6) Use of bronze valves

### TANK FARM NUMBER FIVE - KUSPUK SCHOOL DISTRICT

#### Deficiencies

- 1) Visible leaks at piping connections.
- 2) No emergency venting, no regular vent on day tank.
- 3) Use of wood in dike construction.
- 4) Excessive water in diked area.
- 4) No warning or identification signs/labels.
- 5) Use of bronze valves.
- 6) No means of containment for tank number (4).
- 7) Tank number (4) is on an unprotected steel platform.

**TANK FARM NUMBER ONE - MIDDLE KUSKOKWIM ELECTRIC COOPERATIVE**

Deficiencies

There are several deficiencies and/or code violations in this tank farm. These include, but are not limited to, the following:

- 1) Visible leaks at pipe connections and near fill connection.
- 2) Inadequate dike capacity, dike leaking.
- 3) No fence surrounding the tank farm.
- 4) Inadequate spacing between tank shells
- 5) Inadequate separation between tanks and well / property line.
- 6) Improper pipe support of fill and distribution line.
- 7) No emergency venting.
- 8) Improper tank foundation.
- 9) No warning or identification signs.
- 10) Valves of inappropriate materials (bronze).
- 11) No means of secondary containment at fill point.

**TANK FARM NUMBER TWO - SLEETMUTE VILLAGE COUNCIL**

Deficiencies

There are several deficiencies and/or code violations in this tank farm. These include, but are not limited to, the following:

- 1) Visible leaks at pipe connections and near fill connection.
- 2) Dike of inadequate size, has several breaches.
- 3) No fence surrounding the facility.
- 4) Tank shell to shell spacing inadequate.
- 5) Inadequate separation between tanks and property lines.
- 6) Dispensing done by gravity feed.
- 7) Improper equipment on tanks for dispensing.
- 8) Rubber hose used in product distribution lines.
- 9) No emergency venting on the tanks.
- 10) Improper materials used for the tank foundations.
- 11) No warning or identification signs.
- 12) Valves of inappropriate materials (bronze).
- 13) No means of secondary containment. at fill point.

**TANK FARM NUMBER THREE - KUSPUK SCHOOL DISTRICT**

Deficiencies

There are several deficiencies and/or code violations in this tank farm. These include, but are not limited to, the following:

- 1) Visible leaks at pipe connections and near fill connection.
- 2) No fence surrounding facility.
- 3) Tank shell to shell spacing inadequate.
- 4) Fill and distribution lines inadequately supported and protected.
- 5) Tanks have no emergency venting.
- 6) Excessive standing water in dike.
- 7) No warning or identification signs.
- 8) Valves of inappropriate material (bronze).
- 9) No means of secondary containment at fill point.

## TUNTUTULIAK

### TANK FARM NUMBER ONE - TUNTUTULIAK TRADITIONAL COUNCIL

#### Deficiencies

- 1) Visible leaks at pipe connections
- 2) Insufficient separation between tanks and community well
- 3) No fence
- 4) Liner not liquid tight
- 5) No emergency venting
- 6) Dike made of combustible material
- 7) Improper tank foundations
- 8) No warning or identifying labels/signs
- 9) Use of bronze drain valves

### TANK FARM NUMBER TWO - TUNTUTULIAK TRADITIONAL COUNCIL

#### Deficiencies

- 1) No fence
- 2) No emergency venting
- 3) Dike made of combustible material
- 4) Wiring is not in compliance with the NEC
- 5) Improper tank foundations
- 6) No warning or identifying labels/signs
- 7) Use of bronze drain valves

### TANK FARM NUMBER THREE - TUNTUTULIAK LAND LIMITED CORPORATION

#### Deficiencies

- 1) Visible leaks at pipe connections
- 2) No means of containment or remote impounding
- 3) No fence
- 4) No emergency venting
- 5) Wiring is not in compliance with the NEC
- 6) Improper tank foundations
- 7) No warning or identifying labels/signs
- 8) Use of bronze drain valves
- 9) Dispensing from a tank in excess of 10,000 gallons

TANK FARM NUMBER FOUR - LOWER KUSKOWUMM SCHOOL DISTRICT

Deficiencies

- 1) No fence
- 2) No emergency venting
- 3) Dike made of combustibile material
- 4) Wiring is not in compliance with the NEC
- 5) Improper tank foundations
- 6) No warning or identifying labels/signs
- 7) Use of bronze drain valves

## KASIGLUK

### TANK FARM NUMBER ONE - KASIGLUK TRADITIONAL COUNCIL

#### Deficiencies

- 1) No fence
- 2) Inadequate separation between tanks and water well
- 3) Wiring does not meet NEC requirements
- 4) No emergency venting
- 5) Improper tank foundations
- 6) No warning or identifying labels/signs
- 7) Use of bronze drain valves

### TANK FARM NUMBER TWO - KASIGLUK INCORPORATED

#### Deficiencies

- 1) No means of spill containment
- 2) No fence
- 3) Use of rubber hose in dispensing fuel
- 4) Tanks closer than 50' to dispensing pumps
- 5) Wiring not in compliance with the NEC
- 6) Dispensing from tanks in excess of 10,000 gallon capacity
- 7) Inadequate tank to tank shell spacing
- 8) Improper tank foundations
- 9) No emergency venting
- 10) No warning or identifying labels/signs
- 11) Use of bronze valves

### TANK FARM NUMBER THREE - LOWER KUSKOKWIM SCHOOL DISTRICT

#### Deficiencies

- 1) No means of spill containment
- 2) Tanks located too close to a well
- 3) Dike made of combustible material
- 4) Inadequate tank to tank shell spacing
- 5) Improper tank foundations
- 6) No emergency venting
- 7) Catwalk made of combustible material
- 8) No warning or identifying labels/signs
- 9) Use of bronze valves

TANK FARM NUMBER FOUR - LOWER KUSKOKWIM SCHOOL DISTRICT

Deficiencies

- 1) Dike made of combustible material
- 2) Inadequate tank to tank shell spacing
- 3) No warning or identifying labels/signs.
- 4) Use of bronze valves

## NUNAPITCHUK

### TANK FARM NUMBER ONE - CITY OF NUNAPITCHUK/VSW PLANT

#### Deficiencies

- 1) Visible leaks in tank fittings
- 2) Dike made of combustible material
- 3) No fence
- 4) Liner not liquid tight
- 5) Inadequate separation between tanks and water well
- 6) Wiring does not meet NEC requirements
- 7) No emergency venting
- 8) Improper tank foundations
- 9) No warning or identifying labels/signs
- 10) Use of bronze drain valves

### TANK FARM NUMBER TWO - NUNAPITCHUK LIMITED CORPORATION

#### Deficiencies

- 1) No containment liner
- 2) No fence
- 3) Dike made of combustible material
- 4) Tanks closer than 50' to dispensing pumps
- 5) Dispensing from tanks in excess of 10,000 gallon capacity
- 6) Improper tank foundations
- 7) No emergency venting
- 8) No warning or identifying labels/signs
- 9) Use of bronze valves

### TANK FARM NUMBER THREE - LOWER KUSKOKWIM SCHOOL DISTRICT

#### Deficiencies

- 1) Liner not liquid tight
- 2) Tanks located too close to a well
- 3) Dike made of combustible material
- 3) Improper tank foundations
- 4) No emergency venting
- 5) Catwalk made of combustible material
- 6) No warning or identifying labels/signs
- 7) Use of bronze valves

## TANK FARM NUMBER FOUR - LOWER KUSKOKWIM SCHOOL DISTRICT

### Deficiencies

- 1) Liner not liquid tight
- 2) Improper tank foundations
- 3) Wiring not in compliance with the NEC
- 4) No emergency venting
- 5) Catwalk is made of combustible material
- 6) No warning or identifying labels/signs
- 7) Use of bronze valves

## TANK FARM NUMBER FIVE - ALASKA VILLAGE ELECTRIC COOPERATIVE

### Deficiencies

- 1) Liner not liquid tight
- 2) Dike made of combustible material
- 3) No fence
- 4) Improper tank foundations
- 5) No emergency venting
- 6) Use of bronze valves

## TANK FARM NUMBER SIX - ALASKA ARMY NATIONAL GUARD

### Deficiencies

There are several deficiencies and/or code violations in this tank farm. These include, but are not limited to, the following:

- 1) Visible leaks in the fill line
- 2) No fence
- 3) No means of spill containment or remote impounding
- 4) Improper support structure
- 5) No emergency venting
- 6) No warning or identifying labels/signs
- 7) Use of bronze valves

## ATMAUTLUAK

### TANK FARM NUMBER ONE - LOWER KUSKOKWIM SCHOOL DISTRICT

#### Deficiencies

- 1) Insufficient dike volume
- 2) No fence
- 3) Insufficient separation between tanks and well
- 4) No emergency venting
- 5) Improper tank foundations (small dimension timbers)
- 6) No warning or identifying labels/signs
- 7) Use of bronze drain valves

### TANK FARM NUMBER TWO - ATMAUTLUAK TRADITIONAL COUNCIL

#### Deficiencies

- 1) No containment or remote impounding
- 2) No fence
- 3) No emergency venting
- 4) Improper tank foundations (small dimension timbers)
- 5) Wiring not in compliance with the NEC
- 6) Use of rubber hose for fuel distribution
- 7) Inadequate tank to tank shell separation
- 8) No warning or identifying labels/signs
- 9) Use of bronze drain valves

### TANK FARM NUMBER THREE - ATMAUTLUAK LIMITED CORPORATION

#### Deficiencies

- 1) No means of containment or remote impounding
- 2) No fence
- 3) No emergency venting
- 4) Dispensing from a tank in excess of 10000 gallons
- 5) Use of rubber in fuel dispensing
- 6) Improper tank foundations (small dimension timbers)
- 7) No warning or identifying labels/signs
- 8) Use of bronze drain valves

## MANOKOTAK

### TANK FARM NUMBER ONE - SOUTHWEST REGION SCHOOL DISTRICT

#### Deficiencies

- 1) Liner not properly installed (not continuous beneath tanks)
- 2) No emergency venting
- 3) Improper tank foundations (unprotected raised stands)
- 4) No warning or identifying labels/signs
- 5) Use of bronze drain valves

### TANK FARM NUMBER TWO - MANOKOTAK NATIVES LIMITED CORPORATION

#### Deficiencies

- 1) No fence, liner or dike
- 2) Insufficient separation to adjacent building
- 3) No emergency venting
- 4) Copper distribution line
- 5) Improper tank foundations (unprotected raised stand)
- 6) No warning or identifying labels/signs
- 7) Use of bronze valves

### TANK FARM NUMBER THREE - MNLC/WASHETERIA

#### Deficiencies

- 1) No fence, liner or dike
- 2) Insufficient separation to adjacent building
- 3) No emergency venting
- 4) Improper tank foundations (unprotected raised stand)
- 5) No warning or identifying labels/signs
- 6) Use of bronze valves

**TANK FARM NUMBER FOUR - MANOKOTAK POWER COMPANY/VILLAGE SALES**

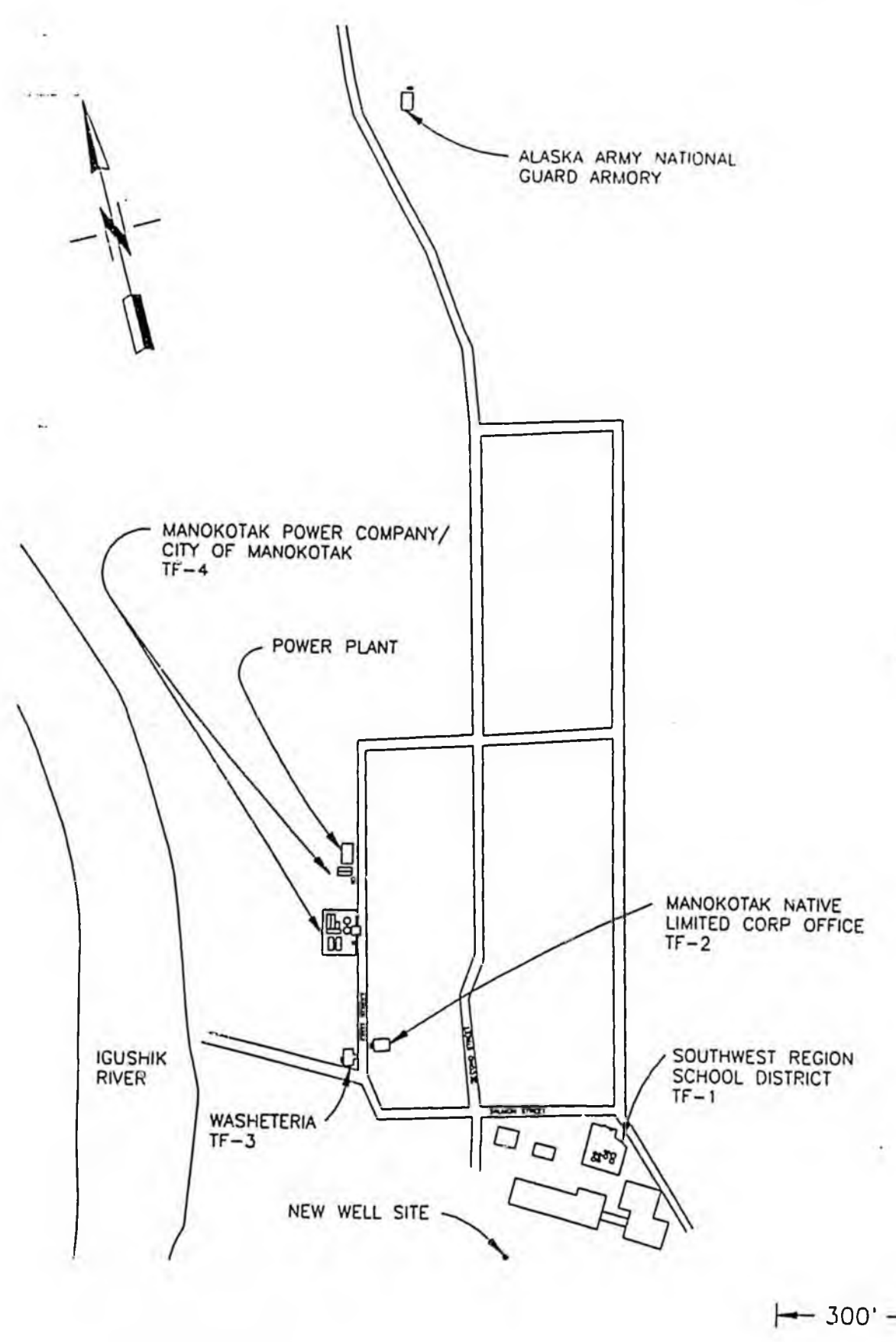
Deficiencies

- 1) No fence, liner or dike for tanks (10) through (13)
- 2) Inadequate fence, dike, and liner for tanks (1) through (9)
- 3) Insufficient separation to adjacent tanks
- 4) Insufficient separation from tanks to dispensers and road
- 5) Dispensing from tanks in excess of 10000 gallon capacity
- 6) Improper tank foundations (unprotected raised stands)
- 7) No emergency venting
- 8) No warning or identifying labels/signs
- 9) Use of bronze valves

**TANK FARM NUMBER FIVE - ALASKA ARMY NATIONAL GUARD**

Deficiencies

- 1) No fence
- 2) No means of overfill protection
- 3) No emergency venting
- 4) No warning or identifying labels/signs
- 5) Use of bronze valves



ALASKA ARMY NATIONAL  
GUARD ARMORY

MANOKOTAK POWER COMPANY/  
CITY OF MANOKOTAK  
TF-4

POWER PLANT

MANOKOTAK NATIVE  
LIMITED CORP OFFICE  
TF-2

IGUSHIK  
RIVER

WASHETERIA  
TF-3

SOUTHWEST REGION  
SCHOOL DISTRICT  
TF-1

NEW WELL SITE

300'

Project	MANOKOTAK BULK FUEL REPORT		DRAWN: SI. AUBIN	APPROVED:
			DESIGNED:	DATE: 25 NOV 91
Title	SITE PLAN		CHECKED:	SCALE: 1" = 300'
			FILE NAME	SHEET
		MANK-SIT	4.0	



State of Alaska  
**ALASKA ENERGY AUTHORITY**  
P.O. Box 19056  
701 East Tudor Road  
Anchorage, Alaska 99519-0609

## ATTACHMENT II

Sample construction cost estimates  
for correcting deficiencies  
noted in the following communities:

Ft. Yukon  
St. Paul  
St. George  
Chignik Lake  
Cheformak