

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672

10128 SENATE RESOURCES

*that the Commission might have been vindictive. There seems to be some unevenness in the application of due process — sometimes overly rigid.*

*There has been little use of alternative methods of dispute resolution (ADR). The lack of skilled staff and the governing statutes prohibit better use of ADR. Stipulations are sometimes reached after dockets are filed. In a fairly high percentage of cases, there is some stipulation. Sometimes Commissioners want a detailed overview of stipulations. Staff might be too disputative to serve as mediators.*

*The Executive Director leads the advocacy team and does a final review of the staff case. The Docket Manager is the day-to-day leader. All voices are heard in case development. Sometimes the Executive Director overrules staff.*

## **EXTERNAL RELATIONS**

*The legislative experience of Commissioners is an asset. The Legislature has been responsive to the difference between the APUC and other agencies. The Commission is frequently asked for advice by the Legislature. The Legislature regards the Commission as a resource. The Commission has a good relationship with the Legislature. The Commission attempts to avoid lobbying. The relationship with the Legislature has been reactive except in limited situations.*

*The environment is more political than in the past. There is now more interaction with the Governor. Commission decisions are rarely overturned. There is now more contact with the public, which is more knowledgeable than before.*

*Commissioners have limited contacts with external stakeholders due to lack of time. Overall, external relations are good. Public contact is increasing and the public is now more knowledgeable. The public doesn't understand the Commission process.*

*Some regulated utilities might be afraid to be direct with the Commission for fear of reprisals. They are definitely frustrated by the lack of timeliness and the concern with form over substance.*

## **CONSUMER PROTECTION**

*The Consumer Protection section is working well.*

*I'm totally satisfied with the job Consumer Protection does.*

*I see no problems in consumer affairs [Consumer Protection]. [As a technical staff person] I get involved in lots of the complaints.*

*The state does not have a consumer protection agency. Consumer protection needs to be beefed up. It should be at the forefront of what we do.*

*There has been a dramatic increase in complaints in telecommunications. We now have three competitors in Anchorage.*

*The number of complaints has doubled and there are only two intake people. The section cannot do administrative stuff [because the complaint handling takes all the time]. The section was promised a half time clerk but received a one-quarter [-time clerk] instead. Disposition of a complaint takes up to six weeks. It's taking longer because complaints are becoming more complicated. Telecommunications is the majority of the complaints.*

*There are not enough resources and [there is] high stress. The Consumer [Protection] section should have enough resources to do what other commissions are doing in this area.*

*They [Consumer Protection section] keep to themselves. They get a lot of work. Complaints have risen. They do call on me [a technical staff person] for assistance, such as drafting letters. Sometimes (but rarely) I talk to consumers.*

*There is not enough community outreach. I would like the Consumer Protection section to do more.*

*A Consumer [Protection] section representative does do some outreach — visiting churches and senior groups.*

*The amount of time it takes the Commission to decide issues harms [the] Consumer Protection [section]. Often the Commission has to be defended for delays. Consumers may think that information is being withheld [when in fact there has not been a decision].*

*Commissioners should not promise results from the Consumer Protection section. Often the issues they refer are not even jurisdictional to the Commission.*

*The Consumer [Protection] section reports to the Commission once a month in a public meeting.*

*The Consumer [Protection] section does not prepare literature on the Commission.*

*The Commission used to be more consumer conscious. As the state becomes more deregulated it will become more important to consider consumers.*

*The Consumer [Protection] section has cooperative relationships with larger utilities [for complaint resolution].*

*The Consumer Protection section is starting to get utility-to-utility complaints, or a utility filing complaints on behalf of customers of another utility. These are now being treated as informal complaints but are typically complex issues. The APUC wants to [handle a*

*complaint of this sort] quicker as an informal complaint but may have to bump them up to formal complaint status.*

*Consumer complaint processing is a slow process. It would be good to shorten the time period for a utility to respond to a complaint.*

## **INFORMATION FLOWS/COMMUNICATIONS**

*The Commission arranged a presentation from Alascom in an effort to broaden external sources of information. This was successful — more information than we ever could have otherwise.*

*Communications among Commissioners are good. The Chairman is very informative.*

*Communications are fairly good: this is a small community. But sometimes the Commission has questions for staff that come out at a hearing but would be nice to know about ahead of time. It would be good to know what information they're seeking. The scope of a proceeding and Commissioner questions are sometimes not clear. I'm not sure how you'd do this effectively.*

*The staff is less politically aware [than Commissioners] and technical staff may respond to Commissioner concerns in numbers, without input in the context of a political situation.*

*There probably is some isolation for Commissioners.*

*We have problems with information flow. Every Commissioner who is not the Chair complains they have no idea w/ at's going on.*

*Staff likes to work independently but Commissioners need to hear opposing viewpoints in staff. We don't have contact with individual [staff]. Information is tightly controlled.*

*External communications are limited for the Commission. The Commissioners keep getting down to details and don't have time to understand the substantive issues.*

*There is room for improvement on vertical communications. We are an hourglass with the Executive Director in the neck.*

*It's not always clear what Commissioners want. We have Commissioners who want to administer and an Executive Director who does substantive stuff because that's where the vacuum is.*

*Internal communications are poor.*

*Lack of communication [is a problem]. Lateral communications are better than vertical but lateral aren't great. If you're not working on an order it doesn't get to you. We should have electronic means to see a brief summary of an order [because there may be one related to one you are working on].*

*These Commissioners rely a lot on industry. They get a sense of what's important and what industry wants. Often the Commissioners come in with their minds made up. In adjudicatory hearings it's even more obvious.*

*Out of necessity, the Administrative division has become very close.*

*Commissioners do not respond to their e-mail.*

*We have differences of opinion partly because we have Commissioners that aren't thinking alike [aren't evenly prepared on substantive matters].*

*Communications are laterally good and vertically relatively cordial.*

*The Commission considers staff the enemy because "you're staff" or because "they know more than we do."*

*It is disheartening when you are named to brief the subject and they [the Commissioners] argue with you with no information.*

*There is not always clear direction from Commissioners about what they want [from staff advisers]. Since you don't know what they want, it is hard to prepare.*

*This place is a big gossip house. But you don't get communications on things you need to know and aren't told. Commissioners' information doesn't flow down. They don't know what demands they're placing on us.*

# Audit Report



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DEPARTMENT OF COMMERCE AND  
ECONOMIC DEVELOPMENT  
ALASKA PUBLIC UTILITIES COMMISSION

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December 23, 1998

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Audit Control Number:

08-1459-99

Division of Legislative Audit  
P.O. Box 113300, Juneau, Alaska 99811-3300

# LEGISLATIVE BUDGET AND AUDIT COMMITTEE

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## LEGISLATIVE BUDGET AND AUDIT COMMITTEE

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December 23, 1998

Members of the Legislative Budget  
and Audit Committee:

In accordance with the provisions of Titles 24 and 44 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF COMMERCE AND  
ECONOMIC DEVELOPMENT  
ALASKA PUBLIC UTILITIES COMMISSION

December 23, 1998

Audit Control Number

08-1459-99

This review examined the activities of the Alaska Public Utilities Commission to determine if there is a demonstrated public need for its continued existence and if the commission has been operating in an efficient and effective manner.

The audit was conducted in accordance with generally accepted government auditing standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are discussed in the Objectives, Scope, and Methodology section. Audit results may be found in the Report Conclusions, Findings and Recommendations, and in the Analysis of Public Need sections of this report.

Handwritten signature of Pat Davidson in cursive.

Pat Davidson, CPA  
Legislative Auditor

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## OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Titles 24 and 44 of the Alaska Statutes, we have examined the activities of the Alaska Public Utilities Commission (hereinafter referred to as APUC or the commission) to determine if there is a demonstrated public need for its continued existence and if the commission has operated in an efficient and effective manner.

Legislative intent requires consideration of this report during the legislative oversight hearings to determine whether the commission should be extended. The law now specifies that the commission will terminate June 30, 1999 and have one year from that date to conclude its affairs.

Discussion of the objectives, scope, and methodology of our review follows.

### Objectives

APUC was created to protect and promote the public interest by certifying and economically regulating qualified public utilities and pipeline carriers. It oversees the availability, affordability, and quality of utility services throughout Alaska. The primary objective of this audit was to determine whether the public need for this commission continues to exist.

A secondary objective was to review the commission's major functions, such as certification of utilities, tariff actions, and investigations and complaint follow-up for effectiveness in meeting the public need. A third objective was to evaluate these functions in particular and the commission's operations in general, for economy and efficiency of operation.

Our analysis of public need, findings and recommendations and our conclusions have been summarized in the applicable sections of this report.

### Scope and Methodology

Alaska Statute 44.66.050 requires the factors outlined in the Analysis of Public Need section of this report be evaluated as part of this audit in order to determine need for the commission's continued existence. To address these areas, we analyzed the need for regulation of the various industries; considered the regulatory status and trends nationwide; interviewed commissioners and staff members; reviewed applicable statutes and regulations; contacted the acting ombudsman, attorney general, Alaska Human Rights Commission, and Equal Employment Opportunity offices; analyzed consumer complaints against utilities filed with the commission; and reviewed decisions made by the commission.

The effectiveness and efficiency of APUC was addressed through the above procedures, by requesting input from a random sample of 43 of the 127 currently regulated utilities, and by reviewing individual files.

Our review of decisions, complaints, tariff actions, hearings, investigations and certifications was performed primarily on a sample of these items drawn from FY 98 activities. These were selected on a judgmental basis in order to allow us to focus on certain activities and industries.

## ORGANIZATION AND FUNCTION

Public utility regulation in Alaska has evolved substantially since the creation of the Public Services Commission (PSC) in 1959. That three-member body had jurisdiction over electric power, heat, water, gas, oil or other petroleum products (except by pipeline), telephone or telegraph communications, and community sewer services. In 1960, PSC gained responsibility for transportation utilities which it regulated until the creation of the Alaska Transportation Commission in 1966.

PSC was replaced by a three-member Alaska Public Utilities Commission in 1970. Regulated industries included: electric; telecommunications; water; steam; sewer; gas and petroleum when no competition existed. A 1973 amendment added garbage, refuse, trash and other waste to the list. Amendments passed in 1980 provided exemptions from economic regulation for cable television services and other utilities with low annual gross revenues as well as establishing a provision allowing economic deregulation by consumer vote for certain utility groups. With abolition of the Alaska Pipeline Commission in 1981, jurisdiction over pipelines passed to APUC.

In addition to jurisdictional changes, the composition of APUC also changed. Alaska Statute 42.05.040 originally required one member to be a law school graduate, one to be a university graduate with a major in engineering, and one to be a university graduate with a major in finance, accounting or business administration. Two additional positions were added to the commission in 1975 for which no specific qualifications were required. All members are appointed by the governor and confirmed by the legislature in joint session for six-year terms.

Under AS 42.05 and 42.06, APUC is charged with the responsibility to ensure the furnishing of adequate service to all public utility patrons, without discrimination and at reasonable rates consistent with the interests of both the public and the utility. Statutory provisions direct the commission, after determining an applicant is fit, willing, and able to provide utility service, to issue that applicant a Certificate of Public Convenience and Necessity. After issuance of this certificate, the commission then regulates the rates, classifications, rules, regulations, practices, services, and

### Alaska Public Utilities Commission Members

Sam Cotten, Chairman  
Finance seat  
Term expires March 1999

Alyce Hanley  
Consumer seat  
Term expires March 2000

Dwight Ornquist  
Engineering seat  
Term expires March 2000<sup>1</sup>

Tim Cook  
Legal seat  
Term expires March 2001

James Posey  
Consumer seat  
Term expires March 2002

<sup>1</sup> Chapter 1, SLA 95 revised the engineering seat term to four years for the next appointment only. This change was required to stagger all seat terms so that no two seats expire in the same year. After the one-time adjustment from a six-year to a four-year term, the seat will return to a six-year term as established in AS 42.05.030(a).

facilities of a public utility, unless it is exempted or deregulated. The commission has the authority to adopt regulations and to hold formal, quasi-judicial hearings to accomplish these purposes.

The staff of APUC is divided into the six major functions of administration, engineering, communication carriers, consumer protection, finance, and tariff. In total, APUC employs 40 people with an operating budget for FY 99 of \$4.4 million. A brief description of the services provided by these functions follow.

- Administration. An executive director, hired by the commission, is responsible for directing all staff functions and acts as a liaison between staff and commissioners and between the commission and the legislature. The executive director is responsible for records and document management, fiscal and personnel administration, and budget preparation. The director is assisted in these duties by an administrative assistant, document processing personnel, and other clerical support staff.
- Engineering. This section is responsible for the investigation of utility procedures and practices affecting quality of service also reviews legal descriptions for service areas, plans for plant expansion, and plant-in-service and depreciation schedules. These evaluations are presented in proceedings before the commission.
- Communication Carrier. This section was established to develop, recommend, and administer policies and programs with respect to the regulation of rates, services, accounting, and facilities of communications carriers within the State involving the use of wire, cables, radio and space satellites.
- Consumer Protection. Major responsibilities for this section include investigation and resolution of consumer complaints, public relations, and information dissemination.
- Finance. Activities carried out by this section include the examination, analysis, and evaluation of financial statements submitted for rate cases, audits of financial records of utilities, examination of financial information comprising historical operating year and pro forma adjustments, and the presentation of these analyses at proceedings before the commission.
- Tariff. This section examines, analyzes, and investigates tariff filings and presents recommendations to the commission at biweekly tariff action meetings. Administrative functions include organizing those meetings, ensuring that public notice requirements on tariff filings are met, and maintaining current master tariffs for all utilities.

## REPORT CONCLUSIONS

While the recommendations included in this report may improve its efficiency and effectiveness, in our opinion, the Alaska Public Utilities Commission operates in a reasonably effective and efficient manner and should continue to regulate public utilities and pipelines. We believe that the public interest is being served by requiring public utilities and pipelines to be certificated and economically regulated by the commission. The regulatory process stabilizes the availability of utility services. Economic regulation by the commission ensures that, despite the absence of competition, utilities provide adequate service at reasonable rates.

We recommend that Alaska Statute 44.66.010(a)(4) be amended to extend the life of the Alaska Public Utilities Commission to June 30, 2003.

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## FINDINGS AND RECOMMENDATIONS

### Status of Prior Audit Recommendations

In our previous sunset audit,<sup>2</sup> we made five recommendations. All have been partially or fully implemented, except for those on Regulatory Cost Charge (RCC) allocations and employee timekeeping. These remaining issues are discussed again in this audit as part of Recommendation No. 1.

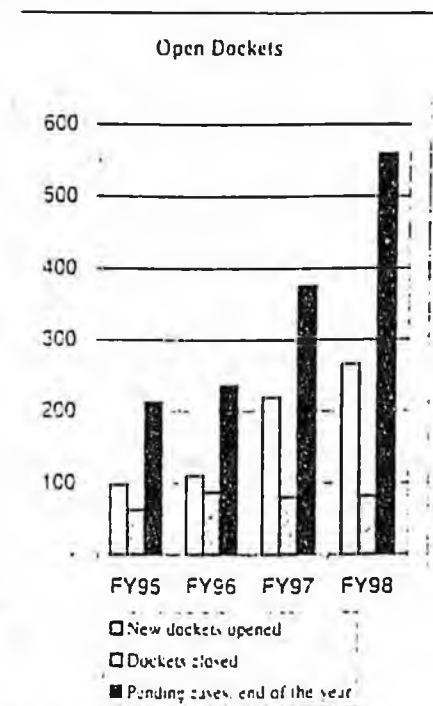
### Recommendation No. 1

The commission should develop an integrated management information system.

The commission does not have ready access to the information which would enhance its ability to efficiently run its operation. An integrated database system could provide search and reporting routines for electronic filings, document tracking, staff assignments, process timelines, employee timekeeping, cost tracking, and cost and time budgeting. While the commission does function with the information it currently has, we believe the rapidly rising caseload and accompanying backlog requires the management function to be more efficient. It will enhance the Alaska Public Utilities Commission's (APUC) ability to prioritize, plan, schedule, and monitor its efforts.

The commission's workload has increased tremendously over the years. The graph illustrates these changes. Much of this increase is attributable to the Telecommunications Act of 1996. As such, we expect this aspect of the commission's workload to eventually stabilize, rather than continuing the apparent trend. This graph illustrates that new filings and the backlog far exceed the commission's current capacity. Before considering whether to request additional staff, we strongly urge APUC to develop a management information system to make its processes as efficient as possible.

As part of our audit, we obtained input from 43 of APUC's regulated utilities. Many of the respondents were concerned

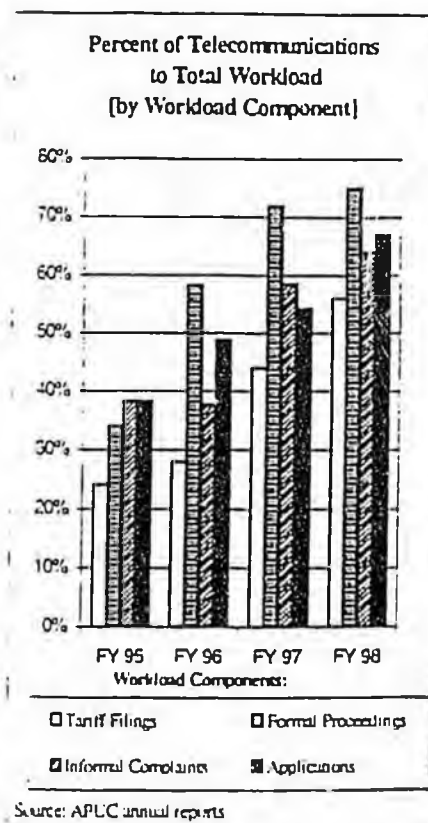


<sup>2</sup> Department of Commerce and Economic Development, Alaska Public Utilities Commission, January 26, 1993. Audit Control Number 08-1404-93.

about the commission's ability to respond in a timely manner. The National Regulatory Research Institute (NRRI) also voiced this concern in a report<sup>1</sup> on the commission. We believe a management information system will allow APUC to begin to address this concern. It will allow management to track the timeline, workload, and staffing and to reallocate resources as necessary.

In designing this information system, the commission should consider implementing past Legislative Audit recommendations on cost allocation and employee timekeeping.

As we suggested in our 1994 audit of APUC, the RCC should be more reasonably allocated to cost-causing utilities. We believe a true user-fee design can establish basic fairness in that only those who benefit from the regulatory process bear its cost; it can also encourage consumers to recognize and eliminate unwarranted regulation through deregulation elections. However, these benefits will only be realized to the extent that the RCC program reasonably links the cost-causer to the cost-payer. As demonstrated in our 1994 report, the cost-causers were not the cost-payers. Telecommunications was substantially underpaying its share. This misallocation is even greater today. The graph shows how telecommunications has continued to absorb even more of the commission's resources. The formal proceedings component is by far the most time consuming of the four workload components shown. In FY 98, telecommunications accounted for 75% of APUC's formal proceedings filings. The applications component is also significant and, in FY 98, telecommunications accounted for 67% of the total application workload. Telecommunications was the dominant industry in FY 95 and has grown to where it now absorbs the vast majority of APUC resources.



The current RCC allocation is a straight percentage of each utility's revenue. While it serves as an alternative funding source, it fails to provide any of the above benefits of a true user fee. The commission should consider including this information in its design of a management information system. Regardless of whether the commission currently intends to pursue a user-fee approach, this type of data needs to be captured. It is needed to comply with AS 42.05.254(a), which requires APUC to bill utilities exempt from regulation for the actual cost of services provided by the commission.

<sup>1</sup> *Report on the Alaska Public Utilities Commission*, October 1998. This report was commissioned and paid for by APUC at a cost of \$24,300. The study was conducted through interviews of APUC personnel; no utilities were interviewed. See further discussion in Recommendation No. 2. Copies of the report may be requested from APUC.

We also recommend that an employee timekeeping routine be included in the management information system. As we outlined in 1994, the costs to implement and operate timekeeping would be minimal, while the benefits would be substantial. In addition to giving APUC the tools to manage, it may increase staff efficiency as a result of timesheet accountability. Further, timesheets are essential to the "actual cost" calculations required under AS 42.05.254(a).

#### Recommendation No. 2

The commission should fully explore the findings and recommendations it received from the National Regulatory Research Institute (NRRI).

The commission engaged NRRI to "assist [APUC] in an Organizational Self-Assessment As It Undertakes Efforts Toward Large-scale Change." In its October 1998 report, NRRI concluded that APUC was serving the public interest. Yet, it went on to say that "[t]here is a fear, however, that the agency cannot continue to perform its important functions without real reform." The areas most in need of attention were deemed to be:

- Commissioner-staff and commissioner-to-commissioner relations, which includes issues of leadership and morale
- Timeliness
- The quality and speed of commission orders
- The increase in consumer complaints, the likelihood that complaints will increase further, and the implications for the adequacy of current staffing levels
- Electronic filing and management information systems

In addition, throughout the report NRRI identified weaknesses and made suggestions for improvement. Examples of the interview notes, observations, and suggestions are as follows:

- . . . *substantial repairs need to be made to internal relationships if APUC is to thrive.*
- . . . *mitigation of morale problems and the application of leadership could go far to create a better internal cohesion . . . .*
- [There is a perceived need to improve] *vertical communication throughout the agency.*
- . . . *too frequent use of suspensions and extensions . . . .*

- . . . perceptions that commissioners do not 'pull their weight' were voiced several times in interviews.
- The morale at APUC appears to be low.
- . . . it appears that some APUC commissioners are too involved with administration. . . . One way to avoid this would be to strengthen the Chairman's direction of purely administrative matters.
- Those interviewed expressed concern that the assignment of existing staff resources of APUC did not give adequate attention to the advisory function. Two general options are available for providing more staff assistance to commissioners. First, APUC could hire additional advisory staff or permanently assign staff to commissioners from existing staff resources. . . . Second, APUC could adopt administrative models that allow commissioners to have greater access to existing experts on the staff.
- The commission needs improved management information systems, but increased computerization will not solve information problems by itself. . . . [S]ystems for managing commission processes at APUC need to be improved.
- [There was a] sense of an absence of clear priorities throughout APUC that contributes to a crises mentality.
- The lack of timeliness and growing case backlog is a measure of impaired commission effectiveness. . . . The first step is to identify more clearly the nature of the backlog by industry and current status.
- . . . APUC might also consider changing the manner in which cases are heard. . . . In some cases around the nation, a single commissioner will hear a case; in other instances, several commissioners (less than the full commission) can hear cases. In other states, albeit typically larger ones, hearings are conducted by hearing examiners, who later present their findings to the commissioners for ratification or amendment.
- Increases in consumer complaints are beginning to strain the capacity of the Consumer Protection section.

Several of the above are clearly symptoms, while others may be the causes of inefficiency. As noted in the first graph in Recommendation No. 1, the commission's workload far exceeds its current capacity. Before considering whether to request additional staff, we urge APUC to make its processes as efficient as possible. We encourage the commission to take full advantage of the observations and suggestions contained in NRRI's report.

## A ANALYSIS OF PUBLIC NEED

### Limited Analysis

The following analyses of commission activities address both positive and negative conditions related to the public need factors established in AS 44.66.050. These analyses are not intended to be all-inclusive, but rather address those areas we were able to cover within the scope of our review.

#### *The extent to which the board, commission, or program has operated in the public interest.*

The commission has made a conscientious effort to allow only qualified applicants to provide utility services and to regulate them in such a manner as to ensure adequate service at a reasonable cost. Upon finding that no public interest would be served by regulation, the commission administratively exempts certain utilities through its discretionary power granted by AS 42.05.711(d).

#### *The extent to which the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices that it has adopted, and any other matter, including budgetary, resource, and personnel matters.*

The Telecommunications Act of 1996 (the act) imposed considerable new duties on state regulatory bodies. In FY 98, the commission initiated rulemaking and requested public comments in the areas of intrastate access charge reform, universal service, and market structure rules for competitive local exchange service mandated by the act.

As outlined in Recommendation No. 1, the commission's workload has increased tremendously over the past few years, primarily due to the Telecommunications Act. New filings far exceed the commission's current capacity and the backlog is overwhelming. Before considering whether to request additional staff, we strongly urge APUC to develop a management information system to make its processes as efficient as possible. This system should allow management to track the timeline, workload, and staffing and to reallocate resources as needed.

Along with this backlog situation, APUC is hampered by a number of management weaknesses and other operational problems. These issues were brought to the commission's attention in a report by the National Regulatory Research Institute. See Recommendation No. 2. We urge APUC to fully explore these findings and to make its processes as efficient as possible.

*The extent to which the board, commission, or agency has recommended statutory changes that are generally of benefit to the public interest.*

The commission supported statute changes, as recommended by the Division of Legislative Audit, to increase the revenue thresholds for deregulation exemptions. The amendments to AS 42.05.711 gave consumers greater ability to opt out of regulation.

Also as recommended by the Division of Legislative Audit, terms of the commissioners were adjusted to allow for one commissioner term to expire in each year. The commission supported this amendment to AS 42.05.030. Multiple expirations in a given year could have substantially impacted commission expertise.

*The extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service that it has provided.*

Formal proceedings are properly and timely noticed and are open to the public. The commission has held public hearings and formal proceedings within the service areas of the utilities before them to facilitate the public attendance and participation. The commission also staffs a Consumer Protection section to resolve complaints and disseminate information.

Beginning in FY 97, APUC increased its accessibility to the public by publishing its annual reports on its Internet website (<http://www.state.ak.us/apuc>). It also began to publish its orders on the Internet to make them readily available and established a pilot project for accepting electronic filings by public utilities and pipeline carriers.

Approximately once a year, the commission holds an informal work session for attorneys representing utility clients and other interested parties in order to answer questions and solicit feedback.

*The extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.*

All formal proceedings, including hearings on proposed regulations, are noticed and open to the public. Any interested person or party may intervene in a formal proceeding if the intervention will benefit, but not unduly delay, the proceeding. The commission has also held informal workshops with attorneys and utility representatives in an attempt to be more responsive to the needs and concerns of these groups.

*The efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the Office of the Ombudsman have been processed and resolved.*

The commission has adopted regulations for informal and formal complaint procedures, including a requirement that the complaint be made first to the utility before being filed with the commission. If the complaint cannot be resolved informally, formal procedures, including an investigation, may be initiated. The Office of the Ombudsman handled one case in the period from FY 94 through FY 98 regarding a complaint against the commission. The complaint resolution process appeared to be operating satisfactorily.

*The extent to which the board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public.*

Prior to granting a Certificate of Public Convenience and Necessity to a public utility, the commission determines that the applicant is fit, willing, and able to provide the service. To that end, it employs utility financial analysts and utility engineers to perform the appropriate analyses to make this determination.

*The extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area of activity or interest.*

We found no evidence of hiring practices or commission appointments that were contrary to state personnel practices. No complaints have been filed with the Alaska Human Rights Commission or the Division of Equal Employment Opportunity.

*The extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.*

Please refer to the Findings and Recommendations section.

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APPENDIX

Department of Commerce and Economic Development  
 Alaska Public Utilities Commission  
Summary of Appropriations and Expenditures  
 For Fiscal Years 1998 and 1999  
 (Unaudited)

Authorized Expenditures	FY 98		FY 99
	Authorized	Expenditures	Authorized
Personal Services	2,567,600	2,628,190	2,850,800
Travel	35,000	51,346	35,000
Contractual	1,780,759	983,478	1,961,400
Supplies	62,500	71,868	62,500
Equipment	<u>13,800</u>	<u>16,172</u>	<u>13,800</u>
Total	<u>4,459,659</u>	<u>3,751,054</u>	<u>4,923,500</u>

Appropriated Revenues	FY 98		FY 99
	Appropriated	Actual Receipts	Appropriated
APUC Receipts	4,015,000	3,775,601	4,923,500
APUC Carryforward Receipts	<u>444,659</u>	<u>67,571</u>	<u>-0-</u>
Total	<u>4,459,659</u>	<u>3,843,172</u>	<u>4,923,500</u>

The information included in this summary was obtained from the State's accounting records. We have not audited this information and, accordingly, we express no opinion on it.

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TONY KNOWLES, GOVERNOR

**DEPARTMENT OF COMMERCE AND  
ECONOMIC DEVELOPMENT**

ALASKA PUBLIC UTILITIES COMMISSION

1016 WEST SIXTH AVENUE, SUITE 400  
ANCHORAGE, ALASKA 99501-1963  
PHONE: (907) 276-6222  
FAX: (907) 276-0160  
TTY: (907) 276-4533

March 4, 1999

Pat Davidson, Legislative Auditor  
Division of Legislative Audit  
Legislative Budget and Audit Committee  
Alaska State Legislature  
P.O. Box 113300  
Juneau, Alaska 99811-3300

RECEIVED  
MAR 10 1999  
LEGISLATIVE AUDIT

Ref: 08-1459-99, Legislative Audit of APUC

Dear Ms. Davidson:

On behalf of the Alaska Public Utilities Commission the Commission is pleased to respond to your request for a written and electronic response to the legislative sunset audit, and specifically to the recommendations.

You have confirmed and described the reality that we face every day: the tremendous increase in the Commission's workload. The number of new formal cases increased 174% between FY95 and FY98, resulting in more than 559 open cases on June 30, 1998. The Legislature has responded to this substantially increased workload with additional funding, appropriating a total of \$4,912.6 for FY99. This level would support 51 positions as requested in the governor's FY00 budget request for the Commission.

It has always been a priority for the Commission to make timely decisions in response to utility and pipeline carrier filings, and they are even more important as the level of competition in a market increases. Utilities expect - and deserve - timely regulatory decisions. By using roll-forward funds last year the Commission was able to hire additional staff. Last year we increased the number of substantive orders produced by the Commission by 36% to 432.

The telecommunications workload of the Commission has skyrocketed with the advent of local competition under the Federal Telecommunications Act of 1996. The legislature is considering electric and other utility restructuring this session, which has already increased the size and complexity of the Commission's electric caseload. We do not see an end in sight.

**We recommend that Alaska Statute 44.66.010(a)(4) be amended to extend the life of the Alaska Public Utilities Commission to June 30, 2003. (Audit, p. 5)**

The Commission concurs. Four years ago the Commission was allowed to slip into its wind-down year by legislative inaction, producing substantial uncertainty for the regulated utilities as

well as the Commission. Continuity in utilities regulation is extremely important.

**Recommendation No. 1: The commission should develop an integrated management information system.** (p. 7)

The Commission concurs. We have earmarked Contractual funds to retain a professional services consultant to work with the Commission to develop a management information system (MIS). We expect to have the consultant on board this month. Based on the Commission's review of the recommendations developed by the consultant, an RFP will be issued by mid-October, with purchase and roll-out by then end of the year.

The potential benefits of an integrated database you described would be extremely useful to the Commission. The ability to track documents and docket assignments would be especially helpful. The Commission agrees that in designing the system the Commission should consider past Legislative Audit recommendations on cost allocation and employee timekeeping.

The 1994 audit suggested that the Regulatory Cost Charge (RCC) should be more reasonably allocated to cost causers. In 1995 the Legislature, in response to electric utilities assertions that they were paying too much RCC, changed the statutes by adding AS 42.05.254(c)(3):

an electric utility shall reduce its gross revenue by subtracting the cost of power; in this paragraph, "cost of power means the costs of generation and purchased power reported to the commission.

Exclusion of the cost of power has reduced electric utility customers' RCC payments by more than 43%.

The Commission agrees that the Commission should consider the cost-effectiveness of a timekeeping component within its management information system. The experience of some other agencies suggests that the "minimal cost of such a system varies, especially when the cost of implementation is factored in. In addition, of concern is the time required to document work would take away from the already too limited time spent doing regulatory analysis. Those dockets requiring documentation of actual cost charges, such as power cost equalization, are computed in accordance with a Commission regulation that developed rates using a sampling methodology. Timesheets are not required for this purpose.

**Recommendation No. 2: The commission should fully explore the findings and recommendations it received from the National Regulatory Research Institute (NRRRI).** (p. 9)

Once again the Commission concurs with this recommendation. The Commission initiated this study because we believed that it would assist us to focus on the positive change that is needed for an agency simultaneously facing a significantly increased workload as well as proposals for regulatory reform.

The Commission has repeatedly considered agenda items related to the NRRRI study on the

public meeting calendar and expects to continue to do so on a regular basis.

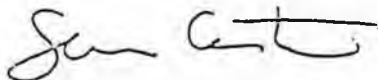
For example, recently we directed staff to analyze the backlog by utility type and case type and expect a report back next week. Recently the Commission analyzed the NRRI recommendation to increase its use of hearing officers. This is consistent with successful efforts we have employed to resolve interconnection arbitration disputes under the federal telecommunications legislation. The Commission is developing an RFP to contract for Hearing Officers with increased authority to hear cases on their own and bring back recommended decisions to the Commission for its review. This will help materially in addressing the backlog of pending cases.

The Commission recognizes the overload in consumer complaints faced by the Consumer Protection Section. We have created a new Consumer Protection position utilizing a vacant slot. Recruitment for this position is scheduled to occur next week.

At a recent<sup>1</sup> informal "bench and bar" session of practitioners sponsored by the Commission, participants told Commissioners that they appreciated the faster case processing that resulted from the Commission's occasional use of Civil Rule 77 and would like to see it used more often. The Commission opened a rulemaking docket to make the use of this rule standard Commission practice.

The audit quoted some of NRRI's anecdotal notes from interviews they conducted. We recognize the large workload that we face and therefore the importance of pulling together to minimize the impact of internal divisions.

Sincerely,



Sam Cotten  
Chairman

---

<sup>1</sup> These meetings occur every other month, rather than annually.

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# ALASKA STATE LEGISLATURE

## LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



March 12, 1999

P.O. Box 113300  
Juneau, AK 99811-3300  
(907) 465-3830  
FAX (907) 465-2347  
Internet e-mail address:  
legaudit@legis.state.ak.us

Members of the Legislative Budget  
and Audit Committee

We have reviewed the Alaska Public Utilities Commission's (APUC) response to our preliminary audit report. APUC generally concurs with our findings and recommendations.

However, in its response to Recommendation No. 1, while the commission agreed that an integrated management information system was needed, it also indicated that it believed a timekeeping component was not necessary for computing the charges to be billed to various dockets. The commission states that:

*[t]hose dockets requiring documentation of actual cost charges, such as power cost equalization, are computed in accordance with a commission regulation that developed rates using a sampling methodology. Timesheets are not required for this purpose.*

We offer the following additional observations.

- A timekeeping system that is only used occasionally may not be as effective and efficient as a permanent system that is familiar to all employees.
- Our review of power cost equalization (PCE) billings indicates that APUC is not recouping actual costs. The commission only billed \$24,480 and \$15,240 in FY 97 and FY 98, respectively. We understand that actual personal service costs were approximately \$100,000 in each of these years for the PCE effort.

We continue to believe that a timekeeping system is needed to comply with AS 42.05.254(a), which requires the commission to bill utilities exempt from regulation for the actual cost of services provided. The above PCE example shows that current procedures are ineffective.

In summary, we reaffirm the report findings.

Handwritten signature of Pat Davidson.

Pat Davidson, CPA  
Legislative Auditor

# LAUSEN'S DEPENDABLE DISPOSAL "THE EXCESS EXPRESS"

P.O. Box 365 • Otto Lake Road • Healy, Alaska 99743

(907) 683-3333

4-12-99

Rc. House bill 178 and Senate bill 133

Dear Legislature,

My Alaska family owned and operated business is strongly opposed to House Bill 178 or any bill ( SB 133) having to do with the deregulating the refuse hauling or collection from the APUC.

We agree with and on points made by Pam and Phil from Valley Refuse Inc. as we are in the same category as they are.

We are a small family business operating in the Denali Borough and Nenana area. Our area is about 100 miles long on the highway system and is very sparsely populated. We collect year round, but the major portion of our business is during the summer tourism season.

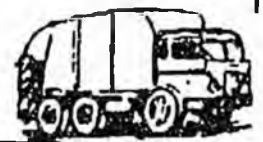
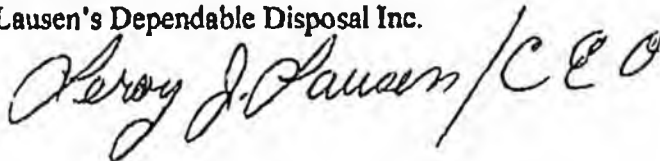
We need that season to be able to survive the winter and provide a service year round to our customers.

We have a very good relationship with APUC and feel strongly about the support they provide for us.

At this time in our business plans and goals we feel deregulation would not be in our best interest and the interest of the smaller refuse collectors. We need all of our customers to make our business work and if larger companies are allowed to go into any area they will run the smaller companies out of business.

Thank you for your time,

Leroy Lausen  
Lausen's Dependable Disposal Inc.





APR 13 1999

April 9, 1999

Senator Rick Halford,  
Chairman, Resources Committee  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Re: Senate Bill 133  
(Removal of Regulation of Refuse Utilities)

Dear Senator Rick Halford and Resource Committee Members,

I am the owner and President of Commercial Refuse, Inc., an Alaskan owned and operated, regulated and certificated refuse utility in Anchorage. I am opposed to certain elements of SB 133, particularly the language that will deregulate refuse. I have spoken with the other "remaining Alaskan owned independent refuse utilities" in this area and believe that their views and comments are the same as those in this letter.

Specifically, the language as found in Article 2, Section 2, Section 3 and Section 9, relating to "deregulation of refuse" and the possible removal of associated statutes to accomplish that objective as found in Section 27 and Section 31 are objectionable.

These Sections simply state that "refuse" will be deregulated. This is not a simple matter. I believe one of the motivations of this legislation is to pass state regulatory powers to the municipalities. I am also aware that Waste Management, Inc. (WMI) has made attempts to secure introduction and passage of the same type of legislation through the House.

The Senate should be aware that the refuse world in Alaska has been transformed by WMI into one large monopoly. WMI now controls over 95% of all refuse business in this state. If there was ever a time to recognize the need for regulation, now is that time. In fact, this is the most improper moment to consider deregulation of refuse.

The goal of WMI has been to control the market, from collection to disposal (landfills). Regulation is not in their best interest, for they require an unregulated market to achieve their goals. For the public however, the lack of regulation in a market where one company (WMI) has such a dominant monopoly, such as Alaska, this can hardly be considered to be in the public's best interest. Unlike other states, Alaska does not possess comparably sized competitive refuse companies to assist in controlling market pricing and service. In fact, many communities here have only one company to receive service from.

## **Commercial Refuse**

**INCORPORATED**

750 E. International Airport Rd.  
Anchorage, AK 99518

PHONE (907) 562-3700  
FAX (907) 562-3750

Senator Rick Halford,  
Chairman, Resources Committee  
Page Two  
April 9, 1999

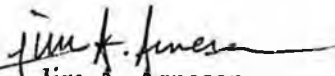
The Alaska Public Utilities Commission (APUC) has regulated refuse utilities for many years in Alaska. While there has been some discussion about deregulation, at this time such action would be ill advised. WMI's latest attempt to have legislation introduced that will deregulate the refuse industry here in Alaska is purely self-serving and will benefit only WMI.

While I have not had time to digest all the implications of the other aspects of this legislation, such as the creation of the Alaska Energy Conservation Commission, those aspects do not appear to be objectionable on the surface. However, this statement is conditioned upon the continuance of regulation for the refuse industry on a state wide level. Local municipalities are ill equipped to properly handle the regulation from a local level. The most important consideration here is that WMI is a large statewide monopoly and requires a statewide regulatory approach to handle.

Since Alaska lacks a consumer protection agency at this time, what viable mechanism would exist for consumer problems if deregulation were to occur? At the present, most communities and municipalities are ill equipped to handle functions such as the APUC provides. In fact, many may not be able to.

I find it difficult to comprehend any valid reason at this time or the near future, for deregulation. The present status with the APUC, or a new agency, maintaining statewide regulatory control is highly appropriate and recommended. The APUC does have all the needed functions to protect the public and provide a forum for consumer problem resolutions. For all the reasons mentioned, I am opposed to any attempt to deregulate refuse at this time. **However, the most important aspect is the protection of the public from monopolistic practices from an entity such as WMI. If we ever needed regulation, now is the time!**

Sincerely,

  
Jim A. Arnesen  
President

Enclosure: Copy of letter to Rep. Bill Hudson  
Utility Restructuring Committee  
March 20, 1999



March 20, 1999

Representative Bill Hudson  
Alaska State Legislature  
Utility Restructuring Committee  
State Capitol  
Juneau, AK 99801-1182

Re: Removal of Regulation of Refuse Utilities by the Alaska Public Utilities Commission  
(A proposal requested by Waste Management, Inc. to Deregulate Refuse in Alaska)

Dear Representative Bill Hudson,

I am the owner and President of Commercial Refuse, Inc., a regulated and certificated refuse utility in Anchorage. I wish to comment on the proposed legislation I have recently been informed of. I can assure you that I have spoken with the other "remaining refuse utilities" in this area and believe that my views and comments mirror their concerns as well.

Specifically, I have been informed that Waste Management, Inc. (WMI) has requested legislation that will deregulate refuse utilities at the state level, and pass any regulatory powers to the municipalities. I have read the proposed legislation and am strongly opposed to deregulation at this time and hope that it will not be introduced.

Last year the same attempt was made by the same entity, although at that time they were known as USA Waste of Alaska. Since then, later in 1998, USA Waste of Alaska "merged" with Waste Management, Inc. (WMI). *Additionally, the combined entity now known as WMI has purchased virtually all the refuse utilities in the state and now controls at least 95% of the refuse market in Alaska. This is a monopoly!*

WMI is not an Alaskan company, nor is USA Waste of Alaska an Alaskan company. They are outside companies (Delaware Corporations) that are based outside. The goal of WMI has been to control the market, from collection to disposal (landfills). Regulation is not in their best interest, for they require an unregulated market to achieve their goals. For the public however, the lack of regulation in a market where one company (WMI) has such a dominant monopoly, such as Alaska, this is not in the public interest. Unlike other states, Alaska does not possess comparably sized competitive refuse companies to assist in controlling market pricing and service. In fact, many communities here have only one company to receive service from.

## **Commercial Refuse**

**INCORPORATED**

750 E. International Airport Rd.  
Anchorage, AK 99518

PHONE (907) 562-3700  
FAX (907) 562-3750

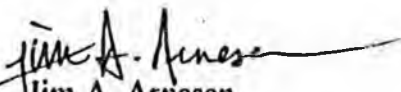
Representative Bill Hudson  
Alaska State Legislature  
Utility Restructuring Committee  
March 20, 1999

The Alaska Public Utilities Commission (APUC) has regulated refuse utilities for many years in Alaska. While there has been some discussion about deregulation, at this time such action would be ill advised. WMI's latest attempt to have legislation introduced that will deregulate the refuse industry here in Alaska is purely self-serving and will benefit only WMI. If we ever needed regulation, now is the time. The APUC is well equipped to handle this function and serves the industry well. *However, the most important aspect is the protection of the public from monopolistic practices from an entity such as WMI.*

Another aspect that should be considered is the fact that the regulated utility companies "pay their way" through the RCC (Regulatory Cost Charge). This is not necessarily a budgetary concern for the state since the services of the APUC are paid for. Since Alaska lacks a consumer protection agency at this time, what viable mechanism would exist for consumer problems if deregulation were to occur? At the present, most communities and municipalities are ill equipped to handle functions such as the APUC provides. In fact, many may not be able to.

I find it difficult to comprehend any valid reason at this time or the near future, for deregulation. The present status with the APUC maintaining statewide regulatory control is highly appropriate and recommended. The APUC does have all the needed functions to protect the public and provide a forum for consumer problem resolutions. For all the reasons mentioned, I am opposed to any attempt to deregulate refuse at this time.

Sincerely,

  
Jim A. Arnesen  
President

Enclosure: Copy of letter sent last year on same subject

cc: Rep. John Cowdery, Vice Chair  
Rep. Pete Kott  
Rep. Norman Rokeberg  
Rep. Brian Porter  
Rep. John Davies  
Rep. Ethan Berkowitz  
Rep. Joe Green

**AWTi**

11811 S. Gambell St.  
Anchorage, Ak. 99515

**Alaska Waste Transfer, Inc.**

Phone: 907-344-9490  
Fax: 907-243-8659

April 8, 1999

Senator Rick Halford  
Alaska State Legislature  
State Capitol  
Juneau, Ak. 99801-1182

Ref: Senate Bill 133 (Removal of Regulation on Waste Collection)

Dear Senator Rick Halford,

I am writing to ask for your consideration with respect to the legislation that will be introduced at the request of Waste Management Inc.

This proposed legislation, if passed, would amount to a limitation of competitive choices.

Most of the Alaska based businesses in the field of solid waste collection and disposal are small and competitive, but they lack the financial resources, capitalization and access to substantial bank lending necessary in order to sustain a defense against a larger national Corporation that might choose to compete with aggressive pricing tactics.

My concern, and the concern of my colleagues, is for a level working field. I do not fear fair competition.

Already, Waste Management is proving itself aggressive, by virtue of its use of lobbyist and suggesting legislation which favors to its advantages.

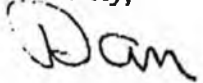
My colleagues and I would be grateful if you would consider our concerns and look into the reasons that solid waste collection is regulated by Alaska Public Utilities Commission in the first place. Our business is one that requires substantial and expensive capital. And as waste collection is a necessity for all citizens, it is worthy of a reasonable level of overseeing. Alaska Public Utilities Commission exists to maintain a level playing field and ensure a fair cost of services to the public.

If Alaska Public Utilities Commission ceases to regulate solid waste collection and disposal services, it would place the responsibility with local communities, many of whom are ill equipped to quickly manage this issue. This would give an aggressive

*Waste Management Inc. an opportunity to influence matters in their favor.*

*Thank you for your attention and consideration of our concerns.*

Sincerely,

A handwritten signature in black ink that reads "Dan". The letters are cursive and somewhat stylized.

Daniel R. Zipay  
President

**VALLEY REFUSE, INC.  
PO BOX 879109  
WASILLA, ALASKA 99687  
(907) 892-6606**

April 9, 1999

Senate Resources Committee  
Senator Rick Halford, Chair  
State Capital  
Juneau, Alaska

RE: Senate Bill 133

Dear Senator Halford:

I have recently received text of the above-referenced bill which seeks to combine the Alaska Oil and Gas Conservation Commission and the Alaska Public Utilities Commission. As a result of this proposed merger, refuse hauling will be removed from state-wide regulation. The removal of state-wide oversight of this industry concerns me.

Waste Management, Inc. is the largest waste hauling conglomerate in the United States. USA Waste, a wholly owned subsidiary of Waste Management, Inc., has purchased almost all of the refuse hauling companies in the state within the last two years. USA Waste of Alaska (Waste Management, Inc.) now owns Anchorage Refuse, Eagle River Refuse, Peninsula Sanitation (Kenai Peninsula), Wasilla Refuse, Star Sanitation, Drake Sanitation-Hite Construction (Fairbanks), Arrow Refuse (Juneau), Jason Enterprises (Seward), and operations in Ketchikan, Kodiak, and Dutch Harbor. They are in the process of purchasing other companies.

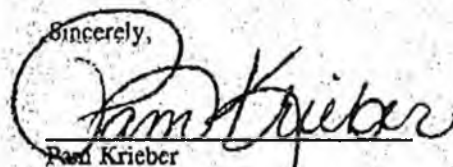
The lobbyists from Waste Management approached House legislators last month, attempting to get a bill sponsored to remove state-wide oversight. It would be in the best interest of their operation to have no one entity reviewing their actions state-wide. Representative Hudson received considerable communications regarding this issue; please contact his office for more information.

I am enclosing a copy of my letter to him. I know you are tremendously busy right now, but I urge you to spend a few moments reviewing it. The following points are most important:

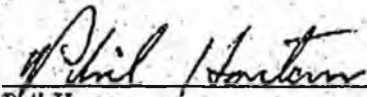
1. Waste Management, Inc. owns all of the major refuse hauling companies in the state. If regulation is left to local governments, no overall review of their operations statewide is possible.
2. Local regulation will burden the Mat-Su Borough with additional governmental responsibilities. This will result in more government at the local level and more tax dollars spent.
3. Competition in refuse hauling is in the best interest of all Alaskans. If Waste Management becomes the only company operating in the state, competition will not exist. Alaskans will suffer by being forced to pay higher rates for decreased service.

Senator Halford, thank you for your time and attention to this important matter.

Sincerely,



Paul Kriebler



Phil Horton  
Enclosure

**VALLEY REFUSE, INC.  
PO BOX 879109  
WASILLA, ALASKA 99687  
(907) 892-6606**

March 23, 1999

Utility Restructuring Committee  
Representative Bill Hudson, Chair  
Alaska State Legislature, State Capital  
Juneau, Alaska 99801-1182

RE: Proposed Legislation to Deregulate Refuse Hauling

Dear Representative Hudson and Committee;

We have received the proposed legislation to remove refuse hauling from the jurisdiction of the Alaska Public Utilities Commission and place this responsibility upon local governments. We are opposed to this legislation and hope you choose to NOT sponsor it.

This legislation has been requested by USA Waste of Alaska, a wholly-owned subsidiary of Waste Management, Inc. Waste Management is the largest waste hauling conglomerate in the world. They have become a strong presence in Alaska in the last two years, beginning their takeover by purchasing Anchorage Refuse and Eagle River Refuse. They have purchased Peninsula Sanitation on the Kenai Peninsula, Wasilla Refuse in the Mat-Su Borough, Star Sanitation and Drake Sanitation in Fairbanks, Arrow Refuse in Juneau, and operations in Kodiak, Dutch Harbor, Seward and Ketchikan.

Their primary goal is to make money, sending large profits from Alaska to their shareholders Outside. This proposed legislation will definitely assist them in achieving this goal by removing state-wide regulatory oversight administered by the Alaska Public Utilities Commission. This is their main motivation in seeking legislative relief from state-wide supervision.

Waste Management is proposing that municipalities and boroughs bear the burden of local control by either providing the collection and disposal service directly or granting franchises to private carriers. If the governmental agency assumes the role of refuse hauler, this would put government in direct competition with private enterprise. In the Mat-Su Borough, this would require that all Borough residents use the Borough's refuse service and be taxed accordingly in order to generate enough revenue to make this feasible.

Alternatively, if the Borough chose to franchise this service, the franchisee would pay a fee to the Borough to cover the cost of administration. A fee of 2.5% is proposed, but there is no guarantee that this 2.5% fee would cover the administrative costs of the Borough. This fee would be passed on to the customers, who would end up paying more money for the same service. Currently, customers do pay a regulatory commission charge in the amount of .663%, considerably less than the proposed 2.5%. Customers could see even higher fees assessed if the administrative costs exceeded the revenue generated.

Page 2

March 23, 1999

RE: Proposed Legislation

Should the Borough choose to franchise to only one entity, Waste Management would definitely have the advantage in negotiating contracts due to their greater financial assets. They would certainly benefit by having a large residential and commercial customer base locked into their revenue stream.

With local governments strapped for funds to pay for necessary functions such as schools, roads and infrastructure improvements, the burden of providing additional governmental services, or APUC-like regulation, or an added level of administration could be cost prohibitive even with the suggested revenue sources included in the proposed legislation. It would certainly be in Waste Management's best interest if local governments should choose to not regulate refuse service at all.

They would then have free rein to charge fees that would provide the greatest profit margin, regardless of what is fair or appropriate. Their response to this is that the market would self-correct; if they charged unfair or exorbitantly high prices, this would allow competitors to come into the market. However, garbage companies are not easy to start from scratch. They require a large investment in equipment and working capital and time to develop a customer list. This is the reason major companies prefer to buy smaller ones. As it stands now, Waste Management has no major competitors in the State of Alaska. Other nationwide competitors are not inclined to invest capital resources to come into a limited, remote market where one huge company has already locked up the entire state.

Continued regulation through the Alaska Public Utilities Commission will assure that the best interests of all people of the State of Alaska are served. The Commission supports and promotes competition in refuse service, and has taken steps to open areas of the state to competition by issuing overlapping certificates, while retaining rate-setting oversight to ensure fairness among competitors.

In Anchorage, commercial collection is open to competition while residential collection is a monopoly held by Anchorage Refuse (Waste Management) and the Municipality of Anchorage. In the Mat-Su Borough, residential collection is open to competition and the commercial collection is a monopoly held by Wasilla Refuse (Waste Management). In Fairbanks, competition was in place until Waste Management bought both Star Sanitation and Drake Sanitation.

Waste Management would like very much to purchase a landfill other than the one in Juneau, and has approached the Mat-Su Borough with these desires. If they realize this goal of owning everything from the ground up, they will have achieved vertical integration. Competition will be stifled, as other haulers will be forced to charge higher rates to their customers in order to pay the higher landfill tipping fees Waste Management charges them. Please see enclosed news clipping from Refuse News dated March 1999 relating to recent landfill tipping fee increases in the Lower 48.

Page 3

March 23, 1999

RE: Proposed Legislation

We own Valley Refuse, Inc., one of the last privately owned refuse hauling companies in the state. Valley Refuse, Inc. is a small operation, but is the largest residential hauler in the Mat-Su Borough. We provide a necessary service to over 1,500 residences. Our rates are fair and competitive. By providing competition in the residential refuse market in the Mat-Su Borough, we have made refuse service affordable for all households.

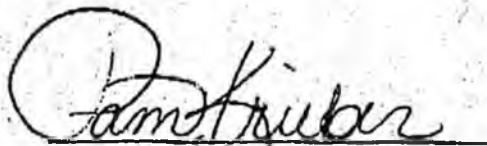
Wasilla Refuse (Waste Management), our competitor in the Mat-Su Valley, does not have even 250 residential customers. The profit in residential refuse collection is not as high, so they prefer to concentrate on areas of higher margins. They have offered to sell us their residential collections IF we sold them our container collections. We are not interested in any such deals.

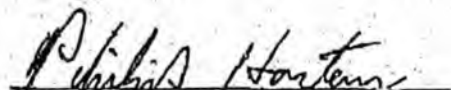
We are active members of our local community. Our activities include serving on the board of United Way, membership in the local Rotary club, participation in the Chamber of Commerce, charter membership in the local community recycling movement and participation in local church programs. We have collected used clothing donations from our customers and have distributed them to local assistance agencies and to the Russian relief movement. We have assisted in spring community clean-ups for years. We support our local economy by purchasing our fuel, supplies, containers, and equipment from local vendors. We donate blood when the need arises.

We believe in putting something back into our community. In general, large Outside corporations are not active at the local level; their donation decisions are made at the corporate level and benefit the community in which their corporate headquarters exist.

We want competition to remain in refuse hauling and APUC oversight, at this time, is the best way to see that this happens. Competition is in the best interests of the people of the State of Alaska. If competition ceases and Waste Management becomes the only company operating in the state, prices for service will climb, service options will be limited, all profits made will go directly Outside and very little will be put back into our communities, except for garbage deposited into the landfills owned by Waste Management.

Sincerely,

  
Pam Krieber

  
Phil Horton

## **WMI raises fees at select sites**

HOUSTON-Waste Management Inc. announced an average tipping fee increase of two to three percent at selected landfill sites across the country in late February. Other major players in the landfill industry are expected to follow suit this month.

The WMI increases will be larger for customers that do not have contracts with the company, said Cherie Rice, vice president of investor relations.

Specific rate hikes at specific landfills and other disposal facilities owned by WMI would not be released by the company.

The rate increases were not greeted with applause, Rice noted, but reflect increased costs of operating modern, state-of-the-art landfills.

Indeed, in New York some independent haulers have complained to the city's Waste Trade Commission, which said it would investigate after tipping fees nearly doubled at WMI's Hunts Point recycling station.

Haulers complained the hike violates antitrust regulations or fair trade practices.

The largest increase so far came at WMI's American landfill in Ohio, which raised rates 138 percent.

**Subject: Senate Bill 133**

**Date: Mon, 26 Apr 1999 14:25:37 -0800**

**From: "Esther C. Wunnicke" <wunn@alaska.net>**

**To: <Senator\_Rick\_Halford@legis.state.ak.us>**

Respectfully request that additional study and care be given before a decision to place AOGCC in the Public Utilities Commission. The mandates of the two bodies are very different and the purposes to be served by each also very distinct. With the prospect of British Petroleum takeover of ARCO it is extremely important that the expertise on the AOGCC be maintained to protect the public interest and the ownership interest of the State of Alaska. Sincerely, Esther C. Wunnicke, 1406 Sunrise Drive, Anchorage, 99508, email wunn@alaska.net

**S B**

**1 3 4**

# FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL NO. SB134

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected \_\_\_\_\_ Dept. of Admin. \_\_\_\_\_  
 Title WELL REGULATORY COST CHARGE/CONS. TAX BRU AOGCC  
 Component AOGCC  
 Sponsor Sen. Pearce  
 Requester Senate Resources Component Serial No. 2010

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	240.0	240.0	240.0	240.0	240.0	240.0
Travel	48.1	48.1	48.1	48.1	48.1	48.1
Contractual	135.0	135.0	135.0	135.0	135.0	135.0
Supplies	4.0	4.0	4.0	4.0	4.0	4.0
Equipment	7.7	7.7	7.7	7.7	7.7	7.7
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>434.8</b>	<b>434.8</b>	<b>434.8</b>	<b>434.8</b>	<b>434.8</b>	<b>434.8</b>

CAPITAL EXPENDITURES (GF)	440.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ( )	0.0	0.0	0.0	0.0	0.0	0.0
------------------------	-----	-----	-----	-----	-----	-----

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	(1,790.0)	(1,790.0)	(1,790.0)	(1,790.0)	(1,790.0)	(1,790.0)
1005 GF/Program Receipts						
1037 GF/Mental Health						
1108 Stat Desig	2,224.8	2,224.8	2,224.8	2,224.8	2,224.8	2,224.8
<b>TOTAL</b>	<b>434.8</b>	<b>434.8</b>	<b>434.8</b>	<b>434.8</b>	<b>434.8</b>	<b>434.8</b>

Estimate of any current year (FY99) cost: 0.0

**POSITIONS**

Full-time	3	3	3	3	3	3
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)  
(See Attached)

Prepared by Robert Christenson, PE  
 Division Alaska Oil and Gas Conservation Commission  
 Approved by Commissioner *[Signature]*  
 Agency \_\_\_\_\_

Phone 279-1433  
 Date April 12, 1999  
 Date 4/12/99

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## FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION  
Analysis

BILL NO. **SB134**

This bill provides for the AOGCC to set and collect a regulatory cost charge from companies operating oil and gas wells in the State of Alaska, and to use the collections to fund the operating costs of the agency. This will change the primary AOGCC operating budget fund source from General Fund to Statutory Designated Program Receipts.

The AOGCC is the state oversight agency for all subsurface activity in the state and provides permits to drill, well workovers, reservoir management, data management, inspection of drilling activities, gas flaring, conservation measures, and protection of lessees rights. The proposed funding mechanism is a more representative way of allocating our costs among those who require our services. Our workload is directly related to industry activity and under this plan would be paid for directly by industry. It recognizes the long-term effort required of the Commission to follow the events that constitute the lifetime of a well and its reservoir. The expenditures are minimums required to execute the Commission's program and to comply with the Oil and Gas Conservation Act.

This fiscal note includes a FY2000 operating budget increment of \$434.8 and a one time capital budget request of \$440.0. The operating budget increment is based on the AOGCC's estimate of the total necessary to fund the agency's operations. The capital request is for funding necessary to relocate the AOGCC offices and to provide for necessary computer enhancements.

# Alaska State Legislature

*During Interim: (June - Dec.)*  
716 West 4th Avenue, Suite 500  
Anchorage, Alaska 99501-2133  
(907) 269-0200  
Fax (907) 269-0204



*During Session: (Jan. - May)*  
State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-4993  
Fax (907) 465-3872

**Senator Drue Pearce**

## Sponsor Statement

### Senate Bill 134 Alaska Oil & Gas Conservation Commission

The Alaska Oil and Gas Conservation Commission (AOGCC) was created to protect the public interest through enforcement of the Alaska Oil and Gas Conservation Act. The commission's primary goal is to ensure that no hydrocarbons are wasted and that operations are conducted in manner that provides maximum recovery of the resource. SB 134 repeals the existing Oil & Gas Conservation Tax and institutes a stable funding source to assure that the commission is capable of carrying out their objectives.

The original intent of the Legislature was to have the oil & gas industry pay for the function of the commission through the Oil & Gas Conservation Tax. While this system may have been adequate in the past, it no longer is sufficient to cover the costs associated with the operation of the commission. This conservation tax is directly proportional to production with a 4 mils per barrel fee rate. The work of the commission, however, is not proportional to the production of oil and gas. Production is declining but the work of the commission is not.

SB 134 creates a program receipt system in which the regulatory cost charge is directly associated with the total volume of fluids produced or injected. This type of system more accurately reflects the factors directly associated with the workload of the commission. This approach would only assess costs where there is production or injection. Therefore, exploratory wells would not have a burden until they began production. SB 134 also contains a provision to provide for recovery of costs associated with an investigation or hearing. These costs would be allocated to the parties involved.

The commission experienced budget difficulties in the past, even when tax proceeds exceeded annual appropriations. The AOGCC is currently encountering budget difficulties that are directly related to the decline in oil production. SB 134 creates a stable funding source that will enable the AOGCC to provide the monitoring services necessary to protect the future of Alaskan interests.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

## MEMORANDUM

April 6, 1999

**SUBJECT:** Senate Bill 134, relating to the Alaska Oil and Gas Conservation Commission -- sectional analysis (Work Order No. 1-LS0259\I)

**TO:** Senator Drue Pearce

**FROM:** Jack Chenoweth  
Assistant Revisor of Statutes

The measure amends various provisions of the chapter establishing the Alaska Oil and Gas Conservation Commission (AS 31.05), adding provisions that relate to the commission's recovery of its regulatory costs and expenses through calculation and imposition of a regulatory cost charge and to allowing the commission to allocate the costs of its hearings and investigations. The bill also repeals the oil and gas conservation tax (AS 43.57.010); though the revenue from the tax is deposited into the general fund and may be used for various state purposes, the tax is commonly regarded as a source of money for the work of the commission.

**Bill section 1:** The provision adds a new section, AS 31.05.085, under which the commission is authorized to allocate costs of investigations and hearings among the parties-- the lessees subject to the commission's jurisdiction and the commission itself. The provision prescribes the basis for allocation of the costs.

**Bill section 2:** The provision adds a new section, AS 31.05.093, under which the commission is authorized to determine, by regulation, the amount of a regulatory cost charge. Under subsection (a), the charge is to be levied on "[e]very person operating a well for which a permit to drill has been issued under AS 31.05" and from which oil or gas is produced or into which oil, gas, water, or other fluids are re-injected. Subsection (b) specifies a formula by which the commission's regulatory cost charge shall be determined. Subsection (c) directs the commission to adjust the amount of the regulatory cost charge so that, when added to other fees, the charges and fees equal the amount appropriated for the work of the commission. Subsection (d) speaks to the collection and allocation of the amounts recovered from the regulatory cost charges. Subsection (e) authorizes adoption of implementing regulations.

**Bill section 3:** The subparagraph adds the amounts recovered by the Alaska Oil and Gas Conservation Commission under its regulatory cost charge authority to the list of non-general fund agency program receipts in the Executive Budget Act.

Senator Drue Pearce  
April 6, 1999  
Page 2

**Bill section 7:** This transitional provision sets the initial regulatory cost charge of the Alaska Oil and Gas Conservation Commission at \$1,000 per well.

\*

The repeal of AS 43.57.010 by **bill section 6** repeals the state's oil and gas conservation tax-- currently calculated at four mills per barrel of oil or per 50,000 cubic feet of natural gas.

**Bill sections 4 and 5:** The amendments eliminate references to the oil and gas conservation tax in the chapters levying and collecting state severance (AS 43.55) and pipeline property (AS 43.56) taxes.

The repeal of AS 43.82.210(a)(3) by **bill section 6** eliminates a reference to the oil and gas conservation tax in the "Alaska Stranded Gas Development Act," AS 43.82.

\*

**Bill section 8** proposes to give the measure a July 1, 1999, effective date.

JBC:jdr  
99-192.jdr

		Gross Liquid	Gross Gas	Gas,	Total Volume	\$		Conservation Tax Revenue		Calendar Yr 98		
					Liq+BOE	2,300,000		Estimated		Estimated		
Date	Stb	Mscf	BOE			Budget	(Less Royalty)	Conservation Tax	Gas	Total		
						Fee Calc	Net Oil Vol	Oil	\$	Conservation Tax	\$	
						\$	Stb	Mcf				
Cook In + NSB	1998	118,971,563	238,462,516	39,743,753	158,715,316	\$109,454	10,326,431	189,248,808	41,306	15,140	\$ 56,445.8	Cook Inlet + NSB
No Slope	1998	2,163,322,787	6,078,722,981	1,013,120,497	3,176,443,284	\$2,190,546	365,201,657	29,703,288	1,460,807	2,376	\$ 1,463,182.9	No Slope
					3,335,158,600		375,528,087	218,952,090			\$ 1,519,628.5	

Field	Field	Gross Liquid	Gross Gas	Gas,	Total Volume	Fee Calc		Conservation Tax Revenue		Calendar Yr 98		Field
Field	Field				Liq+BOE	2,300,000		Estimated		Estimated		Field
Field	Field	Stb	Mscf	BOE		Budget	(Less Royalty)	Conservation Tax	Gas	Total		Field
						Fee	Net Oil Vol	Oil	\$	Conservation Tax	\$	Field
						\$	Stb	Mcf				Field
Badami	060	1,130,326	464,847	77,475	1,217,801	832.9	639,529	51,643	2558	4	2562	Badami
Beaver Ck	080	120,995	3,743,166	623,861	744,850	513.7	89,734	3,275,270	359	262	621	Beaver Ck
Beluga R.	092	18,591	33,391,407	5,565,235	5,583,826	3850.7	-	29,217,481	0	2337	2337	Beluga R.
Duck Isl U.	220	156,919,158	231,664,510	38,610,752	195,529,910	134841.8	15,192,612	1,454,237	60770	116	60887	Duck Isl U.
E. Barrow	150	-	145,563	24,261	24,261	16.7	-	127,368	0	10	10	E. Barrow
Granite Pt.	280	4,957,028	2,635,226	439,204	5,396,232	3721.4	1,818,879	2,305,823	7276	184	7460	Granite Pt.
Ivan R.	360	647	4,531,576	755,263	755,910	521.3	-	3,965,129	0	317	317	Ivan R.
Kenal GF	448	62,655	12,757,150	2,126,192	2,188,847	1509.5	-	11,182,506	0	893	893	Kenal GF
Kuparuk R.	490	574,567,321	227,116,823	37,852,804	612,420,725	422339.0	84,245,824	1,992,689	336983	159	337143	Kuparuk R.
Lewis R.	500	1,847	101,770	16,967	18,809	13.0	-	89,049	0	7	7	Lewis R.
McArthur R.	520	86,052,419	73,819,275	12,303,213	98,355,632	67028.2	4,214,560	64,591,866	16858	5167	22026	McArthur R.
Mid. Gr. Shoal	524	7,557,341	1,882,426	313,738	7,871,079	5428.1	1,886,204	1,847,123	7545	132	7677	Mid. Gr. Shoal
Milne Pt.	525	81,198,215	16,487,386	2,747,898	83,946,113	57891.1	17,866,551	331,305	71466	27	71493	Milne Pt.
No Cook Inlet	564	21,721	53,963,860	8,993,977	9,015,698	6217.4	-	47,218,378	0	3777	3777	No Cook Inlet
Pretty Crk	580	71	435,347	72,558	72,629	50.1	-	380,929	0	30	30	Pretty Crk
Prudhoe B. Unit	640	1,175,423,125	5,482,885,154	913,814,192	2,089,237,317	1440784.8	205,648,413	23,322,560	822594	1866	824459	Prudhoe B. Unit
Pt McIntyre	666	174,084,042	120,104,261	20,017,377	194,101,419	133856.7	41,608,728	2,451,461	166435	196	166631	Pt McIntyre
So Barrow	764	-	80,717	13,453	13,453	9.3	-	70,627	0	6	6	So Barrow
Sterling GF	768	18	279	47	65	0.0	-	244	0	0	0	Sterling GF
Stump Lake	770	78	80,374	13,396	13,474	9.3	-	70,327	0	6	6	Stump Lake
Swanson R.	772	10,072,299	48,006,411	8,001,069	18,073,368	12463.8	797,094	22,599,716	3188	1808	4996	Swanson R.
Trading Bay Fld	800	6,653,615	1,537,479	256,247	6,909,862	4765.2	612,595	1,345,294	2450	108	2558	Trading Bay Fld
W McArthur R	930	3,452,238	240,952	40,159	3,492,397	2408.4	907,364	210,833	3629	17	3646	W McArthur R.
Walakpa	880	-	1,109,538	184,923	184,923	127.5	-	970,846	0	78	78	Walakpa
					3,335,158,600	\$2,300,000			\$1,502,112	\$17,508	\$1,519,621	

\* Assumes 13% No Slope Gas is Taxable

~~Fluids Cost Per~~  
6600 CF GAS = BARREL OF OIL EQUIVALENT

# SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 4/1/99

FURTHER: Finance

Date of 5-Day Notice: 4/8/99  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 4/12/99

Resources Committee considered

SENATE BILL NO. 134

WELL REGULATORY COST CHARGE/CONS. TAX

and recommends:

- be replaced with \_\_\_\_\_ CS SB 134 ( RES )
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ ( \_\_\_\_\_ )
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

- Senate Bill:  
same title
- new title
- House Bill:  
same title
- technical title
- new: SCR# \_\_\_\_\_

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	✓	<i>[Signature]</i>	✓		
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
CHAIR: <i>[Signature]</i>	✓	CHAIR:			

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal
<i>ADMIN / AOGCL</i>	<i>4/12</i>		<i>434.8</i>

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL NO. SB134

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected \_\_\_\_\_ Dept. of Admin. \_\_\_\_\_  
 Title WELL REGULATORY COST CHARGE/CONS. TAX BRU AOGCC  
 Component AOGCC  
 Sponsor Sen. Pearce  
 Requester Senale Resources Component Serial No. 2010

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	240.0	240.0	240.0	240.0	240.0	240.0
Travel	48.1	48.1	48.1	48.1	48.1	48.1
Contractual	135.0	135.0	135.0	135.0	135.0	135.0
Supplies	4.0	4.0	4.0	4.0	4.0	4.0
Equipment	7.7	7.7	7.7	7.7	7.7	7.7
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>434.8</b>	<b>434.8</b>	<b>434.8</b>	<b>434.8</b>	<b>434.8</b>	<b>434.8</b>

CAPITAL EXPENDITURES (GF)	440.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ( )	0.0	0.0	0.0	0.0	0.0	0.0
------------------------	-----	-----	-----	-----	-----	-----

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	(1,790.0)	(1,790.0)	(1,790.0)	(1,790.0)	(1,790.0)	(1,790.0)
1005 GF/Program Receipts						
1037 GF/Mental Health						
1108 Stat Desig	2,224.8	2,224.8	2,224.8	2,224.8	2,224.8	2,224.8
<b>TOTAL</b>	<b>434.8</b>	<b>434.8</b>	<b>434.8</b>	<b>434.8</b>	<b>434.8</b>	<b>434.8</b>

Estimate of any current year (FY99) cost: 0.0

**POSITIONS**

Full-time	3	3	3	3	3	3
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)  
(See Attached)

Prepared by Robert Christenson, PE  
 Division Alaska Oil and Gas Conservation Commission  
 Approved by Commissioner [Signature]  
 Agency \_\_\_\_\_

Phone 279-1433  
 Date April 12, 1999  
 Date 4/17/99

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## FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION  
Analysis

BILL NO. SB134

This bill provides for the AOGCC to set and collect a regulatory cost charge from companies operating oil and gas wells in the State of Alaska, and to use the collections to fund the operating costs of the agency. This will change the primary AOGCC operating budget fund source from General Fund to Statutory Designated Program Receipts.

The AOGCC is the state oversight agency for all subsurface activity in the state and provides permits to drill, well workovers, reservoir management, data management, inspection of drilling activities, gas flaring, conservation measures, and protection of lessees rights. The proposed funding mechanism is a more representative way of allocating our costs among those who require our services. Our workload is directly related to industry activity and under this plan would be paid for directly by industry. It recognizes the long-term effort required of the Commission to follow the events that constitute the lifetime of a well and its reservoir. The expenditures are minimums required to execute the Commission's program and to comply with the Oil and Gas Conservation Act.

This fiscal note includes a FY2000 operating budget increment of \$434.8 and a one time capital budget request of \$440.0. The operating budget increment is based on the AOGCC's estimate of the total necessary to fund the agency's operations. The capital request is for funding necessary to relocate the AOGCC offices and to provide for necessary computer enhancements.

**SB**

**139**

# SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 4/12/99

FURTHER: Finance

Date of 5-Day Notice: 4/15/99  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 4/26/99

Resources Committee considered

SENATE BILL NO. 139

"An Act relating to the labeling of fish and fisheries products as farmed, or wild or natural."

and recommends:

- be replaced with \_\_\_\_\_ CS SB 139 ( RES )
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ ( \_\_\_\_\_ )
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

- Senate Bill:**  
 same title  
 new title  
**House Bill:**  
 same title  
 technical title  
 new: SCR# \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>	<input checked="" type="checkbox"/>		
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>		<input checked="" type="checkbox"/>	
CHAIR: <i>[Signature]</i>	<input checked="" type="checkbox"/>	CHAIR:			

*vice*

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal
DEC	4/16	X	

*APPLIES TO CS*

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL NO. SB 139

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Environmental Conservation  
 Title Seafood Labeling BRU Environmental Health  
 Component Food Safety and Sanifation  
 Sponsor Senator Taylor  
 Requester Senate Resources Component Serial No. 2343

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY99) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

There is no fiscal impact on the department.

Prepared by Janice Adair, Director Phone 269-7644  
 Division Environmental Health Date/Time 4/16/99 2:39 PM  
 Approved by Commissioner Michele Brown Date 4/16/99  
 Agency Department of Environmental Conservation

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# Alaska State Legislature

Chairman,  
Judiciary Committee  
Administrative Regulations  
Revenue Committee

Vice Chairman,  
Resources Committee



*Senator Robin L. Taylor*

State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-3873  
Fax: (907) 465-3922

50 Front Street  
Suite 203  
Ketchikan, Alaska 99901  
(907) 225-8088  
Fax: (907) 225-0713

## SPONSOR STATEMENT

SB 139

An Act relating to the labeling of fish and fisheries products as farmed, or wild or natural.

SB 139 adds language to the "misbranded foods" statutes that will require the labeling of all seafood products stating whether they are farmed or wild. The requirements of this bill will be in addition to the requirements for the labeling of salmon already contained in statute.

Presently, many retailers sell farmed shrimp and other farmed seafood. Much of this seafood is farmed in bogs and imported from abroad. Unless a consumer asks a clerk, there is generally no labeling to tell the consumer that the product is farmed. Often, with large prawns, for example, the price would indicate that one was purchasing a wild product.

We pride ourselves on our wild fish stocks. This is true for other species of fish and shellfish as well as for salmon. We have clean cold water in Alaska unlike many of the areas where the farmed shellfish and farmed finfish come from. The quality of our Alaskan fish is far superior to the quality of the farmed product coming into the state. This bill is simply an endeavor to promote the sale of Alaskan wild stock seafood and to provide additional "Truth in labeling" requirements.

District A:

Hyder • Ketchikan • Kupreanof • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangell

1-LS0507D  
Bannister  
4/21/99

CS FOR SENATE BILL NO. 139( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATOR TAYLOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the labeling of farmed fish and fisheries products."

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

3 \* Section 1. AS 17.20.040 is amended by adding a new paragraph to read:

4 (13) it does not comply with the identification requirements of  
5 AS 17.20.048.

6 \* Sec. 2. AS 17.20 is amended by adding a new section to read:

7 Sec. 17.20.048. Identification of farmed fish and fisheries products. (a)

8 In addition to the identification requirements for farmed salmon products under  
9 AS 17.20.040(12) and frozen fish under AS 17.20.044, a person who regularly engages  
10 in the business of selling at retail fish or fisheries products as food may not sell  
11 farmed fish or fisheries products as food in the state unless the fish or fisheries  
12 products are labeled as "farmed" or, if the fish or fisheries products are not packaged,  
13 unless the fish or fisheries products are conspicuously identified as "farmed".

14 (b) In this section,

15 (1) "farmed" means propagated or cultivated in a facility that grows or

1 cultivates the fish or fisheries products in captivity or under positive control but that  
2 is not a salmon hatchery that is owned by the state or that holds a salmon hatchery  
3 permit under AS 16.10.400; "farmed" does not include propagated or cultivated in the  
4 state by mariculture; in this paragraph, "positive control" has the meaning given in  
5 AS 16.40.199;

6 (2) "fish or fisheries products" has the meaning given in AS 17.20.370,  
7 but does not include food that contains other ingredients than the fish or fisheries  
8 products; in this paragraph, "other ingredients" does not include water, oil, salt, or  
9 preservatives used in canning or otherwise preserving fish or fisheries products;

10 (3) "person" does not include an employee while acting in the capacity  
11 of an employee of a business that sells the fish or fisheries products, unless the  
12 employee also owns 10 percent or more of the business;

13 (4) "selling at retail" includes selling by a restaurant or other place  
14 where food is prepared and consumed.

# FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL NO. SB 139

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Environmental Conservation  
 Title Seafood Labeling BRU Environmental Health  
 Component Food Safety and Sanifation  
 Sponsor Senator Taylor  
 Requester Senate Resources Component Serial No. 2343

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY99) cost: 0.0

**POSITIONS**

Full-time					
Part-time					
Temporary					

ANALYSIS: (Attach a separate page if necessary)

There is no fiscal impact on the department.

Prepared by Janice Adair, Director Phone 269-7644  
 Division Environmental Health Date/Time 4/16/99 2:39 PM  
 Approved by Commissioner Michele Brown Date 4/16/99  
 Agency Department of Environmental Conservation

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Thanks to organizations like AMSEA, NPFVOA and SeaGrant, and programs provided by outfits like Fremont Maritime Services, AVTEC and the U.S. Coast Guard, there is a broad network of professionals available to assist any vessel owner, any skipper, any crewman. Groups like the Seattle Fishermen's Memorial Committee will even help pick up the cost.

Ads from attorneys should make you uncomfortable. A diligent safety program can help you in court. But that's just one reason to promote safety. There are better reasons than that.

VIA

## Atlantic 'Kings'

Editor,

I have been spending some time this winter in Northern Idaho and took the enclosed photographs in Fred Meyer's store in September 1998.

It appears to be a rather common practice to display and sell Atlantic salmon as "king salmon." The local merchants and sales persons do not know the difference and when confronted on the subject state: "Well, that's what our suppliers tell us it is."

With all the problems and low prices we have in the Alaskan salmon industry, the last thing we need is to have our competition unfairly misrepresenting their product. We need an investigation of this practice and leg-

islative and/or legal action taken to be sure it is stopped.

The long term solution to our problem lies in developing and implementing an aggressive marketing program that educates the public to the virtues and purity of Alaska naturally grown, wild salmon versus our competition's farmed product. This must be accompanied by our on-going program to continually improve the product quality and develop new, convenient and attractive product presentations.

Sincerely,  
Norman K. Sowards  
F/V Mary Kay

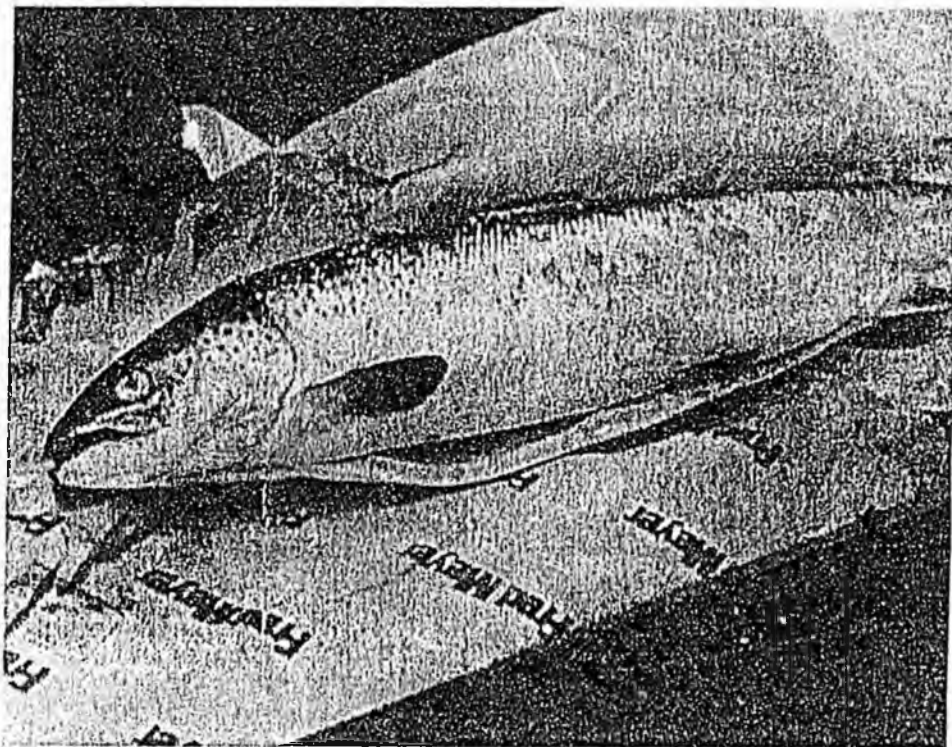
Under Section 11, whether the vessel at anchor were the stand-on or the give-way vessel (depending on the particular aspects the vessels presented during the approach) Rules 16 and 17 required action by the vessel at anchor to avoid the collision. Rule 18 did not apply to this incident, and neither vessel was directed by it to keep out of the way of the other.

rules of the road and reflect on your own never-ceasing responsibility for the safety of passengers and crew.

What the devil were you doing while this boat was bearing down on you for 30 minutes until your deckhand told you to "look"?

Clyde Winter  
Grafton, WI

A rose is a rose, but an Atlantic is not a king.



Norman K. Sowards

**SB**

**140**

1-LS0784M  
Kurtz✓  
4/26/99

**CS FOR SENATE BILL NO. 140(RES)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FIRST LEGISLATURE - FIRST SESSION**

**BY THE SENATE RESOURCES COMMITTEE**

Offered:  
Referred:

Sponsor(s): **SENATE FINANCE COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the powers and duties of the Department of Natural  
2 Resources, modifying that department's power to control and manage land within  
3 the Hatcher Pass Public Use Area, and authorizing municipal selection of that  
4 land, and relating to the Alaska coastal management program; and providing for  
5 an effective date."

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 \* Section 1. AS 39.50.200(b)(38) is amended to read:

8 (38) Alaska Coastal Policy Council members and their alternates  
9 (AS 44.37.060) [(AS 44.19.155)];

10 \* Sec. 2. AS 41.21.492(b) is amended to read:

11 (b) Nothing in AS 41.21.491 - 41.21.495 affects the responsibilities of  
12 (1) the Department of Fish and Game, the Board of Fisheries, or the  
13 Board of Game under AS 16 and AS 41.99.010;

1 (2) the Department of Environmental Conservation under AS 46.03; or  
 2 (3) state agencies and municipalities under AS 44.37.080(2)  
 3 [AS 44.19.145(a)(11)] and AS 46.40.100.

4 \* Sec. 3. AS 41.21.504(b) is amended to read:

5 (b) Nothing in AS 41.21.500 - 41.21.514 affects the applicability of

6 (1) AS 41.99.010 and AS 16 regarding the responsibilities of the  
 7 Department of Fish and Game or the Board of Fisheries or the Board of Game;

8 (2) AS 46.03 regarding the responsibilities of the Department of  
 9 Environmental Conservation; or

10 (3) AS 44.37.080(2) [AS 44.19.145(a)(11)] and AS 46.40.100 regarding  
 11 the responsibilities of state agencies and municipalities.

12 \* Sec. 4. AS 41.23.130 is amended to read:

13 **Sec. 41.23.130. Hatcher Pass Public Use Area.** The vacant and  
 14 unappropriated state-owned land and water and the state land and water acquired in the  
 15 future that lie within the boundaries described in this section are designated as the  
 16 Hatcher Pass Public Use Area, are reserved for all uses compatible with their primary  
 17 function as public use land, and are assigned to the department for control and  
 18 management:

19 Township 19 North, Range 1 East, Seward Meridian

20 Section 1: NW1/4NW1/4, NW1/4NE1/4NW1/4, W1/2SW1/4NW1/4,  
 21 NE1/4SW1/4NW1/4

22 Section 2: NE1/4, SE1/4NW1/4, SE1/4NE1/4NW1/4,  
 23 SE1/4SW1/4NW1/4, SW1/4 exclusive of S1/2SW1/4SW1/4,  
 24 NW1/4SE1/4, SW1/4SE1/4, NW1/4SE1/4SE1/4,  
 25 W1/2NE1/4SE1/4, NE1/4NE1/4SE1/4

26 [SECTION 10: E1/2E1/2]

27 Section 11: W1/2, NW1/4NE1/4, exclusive of Tract A

28 Section 14: W1/2, exclusive of Tract A

29 [SECTION 15: E1/2E1/2]

30 [SECTION 22: E1/2E1/2]

31 Section 23: W1/2

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Section 26: W1/2SW1/4, SW1/4NW1/4

[SECTION 27: E1/2E1/2]

Township 20 North, Range 1 East, Seward Meridian

Section 25: S1/2S1/2SE1/4

Section 35: SE1/4, SE1/4SE1/4NE1/4

Section 36: NE1/4, SW1/4, E1/2NW1/4, SW1/4NW1/4,  
SE1/4NW1/4NW1/4, NW1/4SE1/4, NW1/4NE1/4SE1/4,  
NW1/4SW1/4SE1/4

Township 20 North, Range 2 East, Seward Meridian

Section 9: E1/2SE1/4, E1/2SW1/4SE1/4, SE1/4SE1/4NE1/4

Section 10: W1/2SW1/4, E1/2NW1/4, SW1/4NW1/4,  
E1/2NW1/4NW1/4, W1/2NE1/4SW1/4, NW1/4NE1/4,  
NW1/4SW1/4NE1/4

Section 15: W1/2W1/2NW1/4

Section 16: SE1/4, E1/2NE1/4, E1/2W1/2NE1/4

Section 21: E1/2SW1/4, E1/2SW1/4SW1/4, SW1/4SW1/4SW1/4,  
SE1/4NW1/4SW1/4, NW1/4SE1/4, W1/2SW1/4SE1/4,  
NE1/4SW1/4SE1/4, W1/2NE1/4, W1/2NE1/4NE1/4,  
NW1/4SE1/4NE1/4, SE1/4NW1/4, E1/2NE1/4NW1/4,  
SW1/4NE1/4NW1/4

Section 28: NW1/4, W1/2NW1/4NE1/4, NW1/4SW1/4,  
NW1/4SW1/4SW1/4, NW1/4NE1/4SW1/4

Section 29: E1/2SE1/4, SE1/4NE1/4, SW1/4SE1/4, S1/2 NW1/4SE1/4,  
NE1/4NW1/4SE1/4, S1/2SW1/4, S1/2NE1/4SW1/4

Section 30: S1/2S1/2S1/2, S1/2SE1/4

Section 31: NW1/4, N1/2NE1/4, N1/2S1/2NE1/4

Section 32: N1/2NW1/4, N1/2SW1/4NW1/4, NW1/4NW1/4NE1/4.

\* Sec. 5. AS 41.23.420(d) is amended to read:

(d) The provisions of AS 41.23.400 - 41.23.510 do not affect the authority of

(1) the Department of Fish and Game, the Board of Fisheries, the  
Board of Game, or the Department of Commerce and Economic Development under

1 AS 08.54, AS 16, or AS 41.99.010;

2 (2) the Department of Environmental Conservation under AS 46.03; or

3 (3) state agencies and municipalities under AS 44.37.080(2)

4 [AS 44.19.145(a)(11)] and AS 46.40.100.

5 \* Sec. 6. AS 44.37 is amended by adding new sections to read:

6 **Sec. 44.37.060. Alaska Coastal Policy Council.** (a) There is created in the  
7 Department of Natural Resources the Alaska Coastal Policy Council. The council  
8 consists of the following:

9 (1) nine public members appointed by the governor from a list  
10 composed of at least three names from each region nominated by the municipalities  
11 of each region; the nominees shall be the mayor or member of the assembly or council  
12 of a municipality; one public member shall be appointed from each of the following  
13 general regions:

14 (A) northwest Alaska, including, generally, the area of the North  
15 Slope Borough and the Northwest Arctic Borough;

16 (B) Bering Strait, including, generally, the area of the Bering  
17 Strait regional educational attendance area;

18 (C) southwest Alaska, including, generally, the area within the  
19 Lower Yukon, Lower Kuskokwim, and Southwest regional educational  
20 attendance areas and the Bristol Bay and Lake and Peninsula Boroughs;

21 (D) Kodiak-Aleutians, including the area of the Kodiak Island  
22 and Aleutians East Boroughs and the Aleutian, Adak, and Pribilof regional  
23 educational attendance areas;

24 (E) Upper Cook Inlet, including the Municipality of Anchorage  
25 and the Matanuska-Susitna Borough;

26 (F) Lower Cook Inlet, including, generally, the area within the  
27 Kenai Peninsula Borough;

28 (G) Prince William Sound, including, generally, the area east  
29 of the Kenai Peninsula Borough to 141 West longitude;

30 (H) northern Southeast Alaska, including the area southeast of  
31 141 West longitude and north of 57 North latitude, including the entirety of the

1 City and Borough of Sitka; and

2 (I) southern Southeast Alaska, including that portion of  
3 southeastern Alaska not contained within the area described in (H) of this  
4 paragraph;

5 (2) each of the following:

6 (A) the director of the office of management and budget;

7 (B) the commissioner of commerce and economic development;

8 (C) the commissioner of community and regional affairs;

9 (D) the commissioner of environmental conservation;

10 (E) the commissioner of fish and game;

11 (F) the commissioner of natural resources; and

12 (G) the commissioner of transportation and public facilities.

13 (b) Each public member appointed by the governor under (a)(1) of this section  
14 serves a term of two years and until a successor is appointed and qualified. A public  
15 member may be reappointed.

16 (c) The council shall designate co-chairs, one of whom shall be selected from  
17 among the public members appointed under (a)(1) of this section and one of whom  
18 shall be selected from among the members designated in (a)(2) of this section.

19 (d) Each member of the council shall select one person to serve as a  
20 permanent alternate at meetings of the council. If a member of the council is unable  
21 to attend, the member shall advise the alternate, who may attend and act in the place  
22 of the member. The alternate for a public member appointed under (a)(1) of this  
23 section shall, at the time of the alternate's designation and throughout the period of  
24 service as a permanent alternate, be the mayor or member of the assembly or council  
25 of a municipality within the region from which the permanent member is appointed.  
26 The alternate for the director of the office of management and budget, serving under  
27 (a)(2)(A) of this section, shall be the director's designee within that office. The  
28 alternate for a designated member serving under (a)(2)(B) - (G) of this section shall  
29 be a deputy commissioner of the department or the director of a division in the  
30 department. The names of alternates shall be filed with the council.

31 (e) Four public members and three designated members of the council

1 constitute a quorum, but one or more of the members designated by the council may  
2 hold hearings. All decisions of the council shall be by a majority vote of the members  
3 present and voting.

4 (f) Members of the council or their alternates are entitled to per diem and  
5 travel expenses authorized by law for members of boards and commissions.

6 (g) If an incumbent public member ceases to meet the qualifications prescribed  
7 in (a)(1) of this section for nomination to the council or if a vacancy exists among the  
8 public members for any other reason except for a vacancy due to the expiration of the  
9 term of a public member, the governor shall, within 30 days of the establishment of  
10 the vacancy by lack of qualification or other reason, make an appointment, to be  
11 immediately effective, for the unexpired portion of the term. An appointment by the  
12 governor made under this subsection to fill an unexpired term of a public member shall  
13 comply with the requirements of (a)(1) of this section; however, the governor may  
14 appoint from qualified persons without soliciting from municipalities nominations of  
15 persons to fill the unexpired portion of the term.

16 **Sec. 44.37.065. Powers of the council.** The council may

17 (1) apply for and accept grants, contributions, and appropriations,  
18 including application for and acceptance of federal funds that may become available  
19 for coastal planning and management;

20 (2) contract for necessary services;

21 (3) consult and cooperate with

22 (A) persons, organizations, and groups, public or private,  
23 interested in, affected by, or concerned with coastal area planning and  
24 management;

25 (B) agents and officials of the coastal resource districts of the  
26 state, and federal and state agencies concerned with or having jurisdiction over  
27 coastal planning and management;

28 (4) take any reasonable action necessary to carry out the provisions of  
29 AS 44.37.060 - 44.37.080.

30 **Sec. 44.37.070. Duties of the council.** In conformity with 16 U.S.C. 1451-  
31 1464 (Coastal Zone Management Act of 1972), as amended, the council shall

1 (1) through the public hearing process and the recording of the minutes  
2 of the hearings, develop guidelines and standards for the preparation of, and approve,  
3 in accordance with AS 46.40, the Alaska coastal management program;

4 (2) establish continuing coordination among state agencies to facilitate  
5 the development and implementation of the Alaska coastal management program; in  
6 carrying out its duties under this paragraph, the council shall initiate an interagency  
7 program of comprehensive coastal resource planning for each geographic region  
8 described in AS 44.37.060(a)(1);

9 (3) assure continued provision of data and information to coastal  
10 resource districts to carry out their planning and management functions under the  
11 program.

12 **Sec. 44.37.075. Council staff.** The council shall use the staff of the office of  
13 coastal management within the Department of Natural Resources in discharging its  
14 powers and duties. The coordinator of the office of coastal management, under the  
15 direction of the council co-chair who is selected from among the members designated  
16 in AS 44.37.060(a)(2), may contract with or employ personnel or consultants the  
17 coordinator considers necessary to carry out the powers and duties of the council.

18 **Sec. 44.37.080. Comprehensive plan and consistency determinations.** The  
19 Department of Natural Resources shall

20 (1) prepare and maintain a state comprehensive development plan; and

21 (2) render, on behalf of the state, all federal consistency determinations  
22 and certifications authorized by 16 U.S.C. 1456 (sec. 307, Coastal Zone Management  
23 Act of 1972), and each conclusive state consistency determination when a project  
24 requires a permit, lease, or authorization from two or more state resource agencies.

25 **Sec. 44.37.085. Planning assistance for development and maintenance of**  
26 **district coastal management programs.** The Department of Natural Resources shall  
27 conduct a program of research, training, and technical assistance to coastal resource  
28 districts necessary for the development and implementation of district coastal  
29 management programs under AS 46.40. The technical assistance must include the  
30 direct granting to the coastal resource districts of a portion of any funds received by  
31 the state from the federal coastal zone management program, in amounts to be

1 individually determined for each coastal resource district by the commissioner of  
2 natural resources. State agencies shall assist the department in carrying out the  
3 purposes of this section.

4 \* Sec. 7. AS 44.62.800(1) is amended to read:

5 (1) "agency" means a department, an institution, or a division or other  
6 administrative unit of the executive branch of state government authorized or required  
7 by law to make regulations, except that "agency" does not include

8 (A) a board; a commission; a council, except the Alaska Coastal  
9 Policy Council established in AS 44.37.060 [AS 44.19.155]; an authority; or  
10 a public corporation of the executive branch of state government authorized or  
11 required by law to make regulations; or

12 (B) the Department of Corrections;

13 \* Sec. 8. AS 44.62.800(2) is amended to read:

14 (2) "agency head" means

15 (A) the commissioner or other head of an agency who has the  
16 authority to adopt regulations for the agency; or

17 (B) for the Alaska Coastal Policy Council established in  
18 AS 44.37.060 [AS 44.19.155], the co-chair of the council designated under  
19 AS 44.37.060(a) [AS 44.19.155(c)] from the members listed in  
20 AS 44.37.060(a)(2) [AS 44.19.155(a)(2)];

21 \* Sec. 9. AS 46.40.010(a) is amended to read:

22 (a) The Alaska Coastal Policy Council established in AS 44.37.060  
23 [AS 44.19.155] shall approve, in accordance with this chapter, the Alaska coastal  
24 management program.

25 \* Sec. 10. AS 46.40.094(c)(1) is amended to read:

26 (1) "agency responsible for the consistency determination" means

27 (A) the Department of Natural Resources [OFFICE OF  
28 MANAGEMENT AND BUDGET], for a consistency determination required  
29 to be made under AS 44.37.080(2) [AS 44.19.145(a)(11)]; and

30 (B) the commissioner of the resource agency that coordinates  
31 a consistency review for a proposed use or activity, or for a proposed phase of

1 a use or activity, when required by this chapter for which a permit, lease, or  
2 authorization is required to be approved or issued only by that resource agency;

3 \* Sec. 11. AS 46.40.096(b) is amended to read:

4 (b) If a consistency review is not subject to AS 44.37.080(2)  
5 [AS 44.19.145(a)(11)] because the project for which a consistency review is made  
6 requires a permit, lease, or authorization from only one state agency, that state agency  
7 shall coordinate the consistency review of the project. The state agency shall  
8 coordinate the consistency review according to the requirements of the regulations  
9 adopted by the council under this section.

10 \* Sec. 12. AS 46.40.096(f) is amended to read:

11 (f) For a consistency review subject to AS 44.37.080(2) [AS 44.19.145(a)(11)],  
12 the council may, by regulation, limit consideration of a petition under (e) of this  
13 section seeking review of a proposed consistency determination to the extent necessary  
14 to meet the deadlines set by federal law for timely submission of a federal consistency  
15 determination as allowed by 16 U.S.C. 1456.

16 \* Sec. 13. AS 46.40.096(g)(2) is amended to read:

17 (2) "reviewing entity" means the

18 (A) Department of Natural Resources [OFFICE], for a  
19 consistency review subject to AS 44.37.080(2) [AS 44.19.145(a)(11)];

20 (B) state agency identified in (b) of this section, for a  
21 consistency review not subject to AS 44.37.080(2) [AS 44.19.145(a)(11)].

22 \* Sec. 14. AS 46.40.100(b) is amended to read:

23 (b) A party that is authorized under AS 46.40.096(e)(1) or (g) of this section  
24 may file a petition showing that a district coastal management program is not being  
25 implemented, enforced, or complied with. On receipt of a petition, the council, after  
26 giving public notice in the manner required by (f) of this section, shall convene a  
27 hearing to consider the matter. A hearing called under this subsection shall be held  
28 in accordance with regulations adopted by the council. After hearing,

29 (1) if the petition was filed under AS 46.40.096(e) and the council finds  
30 that

31 (A) the Department of Natural Resources [OFFICE] or the

1 state agency responsible for coordinating the consistency review has not fairly  
2 considered the petitioner's comments in the development of a proposed  
3 consistency determination, the council shall remand the proposed consistency  
4 determination to the Department of Natural Resources [OFFICE], or to the  
5 state agency responsible for coordinating the consistency review, for  
6 preparation of a revised proposed consistency determination that gives fair  
7 consideration to the petitioner's comments;

8 (B) a remand of the consistency determination is not required  
9 under (A) of this paragraph, the council shall dismiss the petition;

10 (2) if the petition was not filed under AS 46.40.096(e), the council may  
11 order that the coastal resource district or a state agency take any action the council  
12 considers necessary to implement, enforce, or comply with the district coastal  
13 management program.

14 \* Sec. 15. AS 46.40.120(b) is amended to read:

15 (b) The commissioner of natural resources [COMMUNITY AND  
16 REGIONAL AFFAIRS] may, after public hearings held in the area affected,  
17 consolidate two or more regional educational attendance areas as a single coastal  
18 resource service area

19 (1) if a substantial portion of the coastal area contains land and water  
20 area owned by the federal government over which it exercises exclusive jurisdiction  
21 or land held in trust by the federal government for Alaska Natives over which the state  
22 would not exercise control as to use; or

23 (2) if, after giving due consideration to the standards applicable to  
24 incorporation of borough governments and the likelihood that a borough will be  
25 incorporated within the area, the commissioner determines that the functions to be  
26 performed under this chapter could be undertaken more efficiently through the  
27 combination of two or more regional educational attendance areas as a single coastal  
28 resource service area.

29 \* Sec. 16. AS 46.40.120(d) is amended to read:

30 (d) For purposes of coastal zone management only, the commissioner of  
31 natural resources [COMMUNITY AND REGIONAL AFFAIRS] may, after public

1 hearings held in the regional educational attendance area affected, divide an existing  
2 regional educational attendance area into no more than three coastal resource service  
3 areas according to geographic, cultural, economic, environmental, or other features  
4 relevant to coastal management planning. However,

5 (1) each coastal resource service area formed by dividing an existing  
6 regional educational attendance area must contain at least one first class city or home  
7 rule city;

8 (2) a city within a coastal resource service area formed by dividing an  
9 existing regional educational attendance area may not elect to exclude itself from the  
10 coastal resource service area; and

11 (3) a coastal resource service area formed before June 1, 1980, may not  
12 be divided for coastal management planning purposes.

13 \* Sec. 17. AS 46.40.140(c) is amended to read:

14 (c) The commissioner of natural resources [COMMUNITY AND  
15 REGIONAL AFFAIRS], after consultation with residents of a coastal resource service  
16 area, may divide a service area into sections only for the purpose of nominating and  
17 electing board members. Division of a service area into sections for the purpose of  
18 nomination and election shall be in accordance with the provisions of AS 14.08.051(a).  
19 Division may be proposed in the petition submitted under AS 46.40.130(a)(1), in the  
20 resolution submitted under AS 46.40.130(a)(2), at the direction of the council under  
21 AS 46.40.130(a)(3), or may be proposed at any time by the members of the coastal  
22 resource service area board. If proposed by the board, the division of the service area  
23 into sections subject to approval of a majority of the qualified voters voting on the  
24 question in the coastal resource service area at the next regular election or at a special  
25 election called for that purpose and, if approved, takes effect at the next regular  
26 election of members of the coastal resource service area board.

27 \* Sec. 18. AS 46.40.170(a) is amended to read:

28 (a) If residents of a coastal resource service area reject organization of the  
29 service area at an election called for the purpose and the council finds, after public  
30 hearing, that major economic development activity has occurred or will occur within  
31 the service area, the council may direct the department [DEPARTMENT OF

1 COMMUNITY AND REGIONAL AFFAIRS] to prepare and recommend for  
2 consideration by the council and for submission to the legislature a district coastal  
3 management program for the service area.

4 \* Sec. 19. AS 46.40.170(b) is amended to read:

5 (b) At the request of the council, the department [DEPARTMENT OF  
6 COMMUNITY AND REGIONAL AFFAIRS] shall complete the district coastal  
7 management program in accordance with this chapter and the guidelines and standards  
8 adopted by the council for a coastal resource service area that [WHICH] has been  
9 organized but [WHICH] has failed to make substantial progress in the preparation of  
10 an approvable district coastal management program within 18 months of certification  
11 of the results of an organization election or [WHICH] has not submitted for approval  
12 to the council a program within 30 months of certification of the results of its  
13 organization election. Preparation of the program shall be conducted in consultation  
14 with the coastal resource service area and shall, to the maximum extent consistent with  
15 this chapter, reflect the expressed concerns of the residents of the service area.

16 \* Sec. 20. AS 46.40.180(a) is amended to read:

17 (a) Before adoption by a coastal resource service area board, or by the  
18 department [DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS] under  
19 AS 46.40.170, a district coastal management program shall be submitted for review to  
20 each city or village within the coastal resource service area. The council of a city or  
21 traditional village council shall consider the program submitted for review. Within 60  
22 days of submission, the council of a city or traditional village council shall either  
23 approve the program or enter objections to all or any portion of the program.

24 \* Sec. 21. AS 46.40.180(d) is amended to read:

25 (d) For purposes of this section, "village" means an unincorporated community  
26 where at least 25 persons reside as a social unit [AS DETERMINED BY THE  
27 DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS].

28 \* Sec. 22. AS 46.40.190(a) is amended to read:

29 (a) A city within the coastal area that [WHICH] is not part of a coastal  
30 resource service area shall be included for purposes of this chapter within an adjacent  
31 coastal resource service area unless its governing body, by resolution adopted by a

1 majority of its membership, chooses to exclude the city from an adjacent coastal  
2 resource service area and a copy of the resolution is filed with the commissioner of  
3 natural resources [COMMUNITY AND REGIONAL AFFAIRS].

4 \* **Sec. 23.** AS 46.40.210(5) is amended to read:

5 (5) "department" means the Department of Natural Resources  
6 [COMMUNITY AND REGIONAL AFFAIRS];

7 \* **Sec. 24.** AS 44.19.145(a)(2), 44.19.145(a)(11), 44.19.155, 44.19.160, 44.19.161,  
8 44.19.162; AS 44.47.095; and AS 46.40.210(6) are repealed.

9 \* **Sec. 25.** AVAILABILITY OF HATCHER PASS PUBLIC USE AREA LAND FOR  
10 GENERAL GRANT LAND ENTITLEMENT OF THE MATANUSKA-SUSITNA  
11 BOROUGH. Notwithstanding the reservation of land, designation of the reserved land as the  
12 Hatcher Pass Public Use Area, and assignment of control and management of the land to the  
13 Department of Natural Resources made by AS 41.23.130, and notwithstanding selection  
14 procedures applicable to municipal general grant land entitlements under AS 29.65.010 -  
15 29.65.140, the following land within Township 19 North, Range 1 East, Seward Meridian, that  
16 is part of the Hatcher Pass Public Use Area is available for selection and conveyance to the  
17 Matanuska-Susitna Borough to fulfill the borough's general grant land entitlement under  
18 AS 29.65.010 - 29.65.140:

19 Section 2: S1/2SW1/4SW1/4

20 Section 10: E1/2E1/2

21 Section 11: Tract A

22 Section 14: Tract A

23 Section 15: E1/2E1/2

24 Section 22: E1/2E1/2

25 Section 27: E1/2E1/2.

26 \* **Sec. 26.** TRANSITIONAL PROVISIONS. (a) This Act does not terminate the existing  
27 Alaska Coastal Policy Council or affect the terms of its current members; this Act moves the  
28 existing Alaska Coastal Policy Council from the Office of the Governor to the Department of  
29 Natural Resources.

30 (b) Litigation, hearings, investigations, and other proceedings pending under a law  
31 amended or repealed by this Act, or in connection with functions transferred by this Act,

1 continue in effect and may be continued and completed notwithstanding a transfer or  
2 amendment or repeal provided for in this Act. Certificates, orders, guidelines, approvals, and  
3 regulations issued or adopted under authority of a law amended or repealed by this Act remain  
4 in effect for the term issued, or until revoked, vacated, or otherwise modified under the  
5 provisions of this Act. Contracts, rights, liabilities, and obligations created by or under a law  
6 amended or repealed by this Act, and in effect on the effective date of this bill section, remain  
7 in effect notwithstanding this Act's taking effect. Records, equipment, appropriations, and  
8 other property of agencies of the state whose functions are transferred under this Act shall be  
9 transferred to implement the provisions of this Act.

10 \* Sec. 27. Sections 1 - 3 and 5 - 28 of this Act take effect June 15, 1999.

11 \* Sec. 28. Section 4 of this Act takes effect on the date of conveyance by the Department  
12 of Natural Resources to the Matanuska-Susitna Borough of all land described in sec. 25 of this  
13 Act. The commissioner of natural resources shall promptly notify the revisor of statutes of  
14 the conveyance made by the Department of Natural Resources to the Matanuska-Susitna  
15 Borough of land described in sec. 25 of this Act.

# FISCAL NOTE

Revision Date: \_\_\_\_\_ Dept. Affected: Community & Regional Affairs  
 Title: An Act relating to the powers and duties BRU: \_\_\_\_\_  
of the Department of Natural Resources ... Component: \_\_\_\_\_  
 Sponsor: Senate Finance Committee  
 Requestor: Senate Resource Committee **COMPONENT SERIAL NO.** \_\_\_\_\_

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
PERSONAL SERVICES	(189.2)	(189.2)	(189.2)	(189.2)	(189.2)	(189.2)
TRAVEL	(2.5)					
CONTRACTUAL	(14.0)					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>(205.7)</b>	<b>(189.2)</b>	<b>(189.2)</b>	<b>(189.2)</b>	<b>(189.2)</b>	<b>(189.2)</b>

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current (FY99) impact \$ none

**ANALYSIS:** (Attach a separate page if necessary)

This legislation would transfer DCRA ACMP activities to DNR. Current DCRA ACMP funding includes \$189.2 to partially fund five positions (2.2 FTE positions). These, DCRA staff manage and administer the ACMP grant program that provides funds to 30 coastal districts; provides technical assistance to districts involved in ACMP planning; provides training to new coastal district staff, city councils, borough assemblies, and planning commissions; and, assists coastal districts with the hiring of new staff. Staff provides assistance and support to districts that receive funding for special projects such as community and regional mapping. (continued on separate page)

Prepared by: Pat Poland, Director Phone: 269-4580

Division: Municipal and Regional Assistance Division Date: 4/26/99

Approved by Commissioner: *Mike Miller* Date: 4/26/99

Agency: Community & Regional Affairs

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**Fiscal Note Analysis Continued**

DCRA also facilitates coastal district formation and provides assistance if a district decides to form a borough. DCRA staff also facilitates the election of CRSA boards and the resectioning of CRSAs for elections purposes. Staff participate in other DGC grant programs that provide funds to coastal.

DCRA also currently receives ACMP funds from L 3C for special projects. During FY 00 DCRA is to receive \$2,500 in travel funds and \$14,000 to work on ACMP Guidebooks. If the program goes to DNR, these funds would not come to DCRA. The total reduction in FY 00 ACMP funds is estimated to be \$205,700.

# SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 4/12/99

FURTHER: Finance

Date of 5-Day Notice: 4/15/99  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 4/26/99

Resources Committee considered

SENATE BILL NO. 140

"An Act relating to the powers and duties of the Department of Natural Resources and to the Alaska coastal management program."

and recommends:

- be replaced with \_\_\_\_\_ CS SB 140 ( RES )
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ ( \_\_\_\_\_ )
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

- Senate Bill:**
- same title
  - new title
- House Bill:**
- same title
  - technical title
  - new: SCR# \_\_\_\_\_

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
		<i>Sam Farrell</i>	✓		
		<i>[Signature]</i>	✓		
		<i>Lynne Beck</i>	✓		
CHAIR: <i>Rick Halford</i>					
		CHAIR:			

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal
DNR	4/19		1,349
GOV / DGC	4/16		(1,206.3)
ADF + G	4/26		ZND.

APPLIES TO CS

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL NO. SB 140

Revision Date: \_\_\_\_\_ Dept Affected: Natural Resources  
 Title: COASTAL ZONE MANAGEMENT TO DNR BRU: Land Development  
 Component: Land Development  
 Sponsor: Senate Finance Committee  
 Requestor: (S)RES Component Serial No. 431

Expenditures/Revenues (Inflation not included unless otherwise noted below) (Thousands of Dollars)

OPERATING EXPENDITURES	FY2000	FY2001	FY2002	FY2003	FY2004	FY2005
PERSONAL SERVICES	1,153.8	1,153.8	1,153.8	1,153.8	1,153.8	1,153.8
TRAVEL	35.0	35.0	35.0	35.0	35.0	35.0
CONTRACTUAL	157.6	157.6	157.6	157.6	157.6	157.6
SUPPLIES	2.6	2.6	2.6	2.6	2.6	2.6
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>1,349.0</b>	<b>1,349.0</b>	<b>1,349.0</b>	<b>1,349.0</b>	<b>1,349.0</b>	<b>1,349.0</b>

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES (fund code)	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match	1,266.8	1,266.8	1,266.8	1,266.8	1,266.8	1,266.8
1004 GF	82.2	82.2	82.2	82.2	82.2	82.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>1,349.0</b>	<b>1,349.0</b>	<b>1,349.0</b>	<b>1,349.0</b>	<b>1,349.0</b>	<b>1,349.0</b>

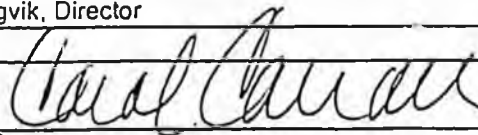
Estimate of any current year (FY99) cost: \$                     none                    

**POSITIONS**

FULL-TIME	26	26	26	26	26	26
PART-TIME	0	0	0	0	0	0
TEMPORARY	2	2	2	2	2	2

ANALYSIS: (Attach a separate page if necessary)

This fiscal note reflects only the state match dollars associated with the transfer of the ACMP from the Division of Governmental Coordination (DGC) to DNR, and GF needed to match federal funds for activities transferred from DCRA to DNR. Federal funds are currently granted to DGC by the National Oceanographic and Atmospheric Administration, Office of Coastal Resource Management. DNR assumes that these federal funds, totaling \$2,812.3, would be provided to DNR under an RSA agreement. The total number of positions reflects 24 full-time and 2 temporary DGC positions currently in the Governor's FY00 budget and 2 positions to carry out activities transferred from DCRA to provide planning assistance and grant administration for AS 44.37.085. This fiscal note does not reflect the cost of physically moving DGC staff to DNR offices. DNR estimates such a move would cost approximately \$15.0. Future years' funding would remain the same.

Prepared by: Jane Angvik, Director Phone: 907-269-8503  
 Division: Land Date: 18-Apr-99  
 Approved by Commissioner:  Date: 4/19/99  
 Agency: Natural Resources

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