SENATE CS FOR CS FOR HOUSE BILL NO. 17(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 5/5/95
Referred: Rules
Sponsor(s): REPRESENTATIVE GREEN

A BILL

FOR AN ACT ENTITLED

"An Act expanding the services that may be offered by an electric cooperative to include sewer and water and gas services when authorized by the Alaska Public Utilities Commission, and to include direct satellite television services; relating to officers of a telephone or electric cooperative; relating to amendment of the articles of incorporation of a telephone or electric cooperative; and providing for an effective date."

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

* Section 1. LEGISLATIVE INTENT. (a) It is the intent of the legislature that an electric cooperative is authorized to expand the types of utility services it offers that are subject to regulation by the Alaska Public Utilities Commission only when the commission finds that it is in the public interest that those services be provided and that the electric cooperative applying to provide the service is fit, willing, and able to do so.

(b) It is further the intent of the legislature that electric cooperatives not enter into
competition with an existing provider under AS 10.25.020(6).

* Sec. 2. AS 10.25.020 is amended to read:

Sec. 10.25.020. POWERS OF ELECTRIC COOPERATIVE. An electric cooperative may

(1) generate, manufacture, purchase, acquire, accumulate, and transmit electric energy, and distribute, sell, supply, and dispose of electric energy to its members, to governmental agencies and political subdivisions, and to other persons not exceeding 10 percent of the number of its members; however, a cooperative that acquires existing electric facilities may continue service to persons, not in excess of 40 percent of the number of its members, who are already receiving service from these facilities without requiring them to become members, and these persons may become members upon the terms as may be prescribed in the bylaws;

(2) assist persons to whom electric energy is or will be supplied by the cooperative in wiring their premises and in acquiring and installing electrical and plumbing appliances, equipment, fixtures, and apparatus by financing them, and in connection with these services wire or have wired the premises, and buy, acquire, lease, sell, distribute, install, and repair electric and plumbing appliances, equipment, fixtures, and apparatus;

(3) assist persons to whom electric energy is or will be supplied by the cooperative in constructing, equipping, maintaining, and operating electric cold storage or processing plants by financing them or otherwise;

(4) operate a waste heat distribution system;

(5) operate a heating distribution system that was in existence on June 9, 1988;

(6) provide sewer, water, or gas utility service if the cooperative has received a certificate of convenience and necessity under AS 42.05.221 - 42.05.281 from the Alaska Public Utilities Commission for each type of service provided;

(7) provide direct satellite television programming services; in this paragraph, "direct satellite television programming services" means a video broadcast signal that is received directly from a satellite by an end user.

* Sec. 3. AS 10.25.200 is amended to read:
Sec. 10.25.200. OFFICERS. The officers of a cooperative are those officers authorized by the bylaws [A PRESIDENT, A VICE PRESIDENT, A SECRETARY AND A TREASURER]. The officers shall be elected annually by the board of directors from among its members. If authorized by the bylaws, the election may be conducted by written ballot. When a person holding an office ceases to be a director, that person ceases to hold office. [THE OFFICES OF SECRETARY AND OF TREASURER MAY BE HELD BY THE SAME PERSON.] The board of directors may [ELECT OR] appoint those [SUCH] other [OFFICERS,] agents [,] or employees that [AS] it considers necessary or advisable and shall prescribe their powers and duties. An officer may be removed from office and a successor elected in the manner prescribed in the bylaws.

* Sec. 4. AS 10.25.210 is amended to read:

Sec. 10.25.210. AMENDMENT OF ARTICLES OF INCORPORATION. A cooperative may amend its articles of incorporation as follows, except that it may change the location of its principal office in the manner set out in AS 10.25.230:

1. the proposed amendment shall be presented to [A MEETING OF] the members [,] or district delegates at a meeting or by written notice; if the proposed amendment is presented at a meeting, [AND] the notice of the meeting must set out or have attached to it the proposed amendment;

2. if the proposed amendment, with any changes, is approved by the affirmative vote of not less than two-thirds of those members [,] or district delegates voting on it, the presiding officer of the board of directors [PRESIDENT OR VICE PRESIDENT] shall execute and acknowledge articles of amendment on behalf of the cooperative and the officer designated by the board [SECRETARY] shall affix and attest to the seal of the cooperative; if the cooperative accepts ballots both at a meeting and by mail, a member may vote by mail or at the meeting.

* Sec. 5. AS 10.25.220(b) is amended to read:

(b) The presiding officer [PRESIDENT OR VICE PRESIDENT] executing the articles of amendment shall make and annex to them an affidavit stating that the provisions of this section regarding the amendment were complied with.

* Sec. 6. AS 10.25.230 is amended to read:
Sec. 10.25.230. CHANGE OF LOCATION OF PRINCIPAL OFFICE. A cooperative may, upon authorization of its board of directors or its members, change the location of its principal office by filing a certificate reciting the change of principal office, executed and acknowledged by its presiding officer [PRESIDENT OR VICE PRESIDENT] under its seal, attested by the officer designated by the board [ITS SECRETARY], in the office of the commissioner.

* Sec. 7. AS 10.25.240(a) is amended to read:

(a) Except as provided in (b) of this section, one or more cooperatives, each designated in this section as "merging cooperative," may merge into another cooperative, designated in this section as "surviving cooperative," by complying with the following requirements:

(1) the proposition for the merger of the merging cooperatives into the surviving cooperative and proposed articles of merger shall be submitted to the members of each merging cooperative and of the surviving cooperative; the notice shall have attached to it a copy of the proposed articles of merger;

(2) if the proposed merger and the proposed articles of merger, with any amendments, are approved by the affirmative vote of not less than two-thirds of those members of each cooperative voting on them, articles of merger in the form approved shall be executed and acknowledged on behalf of each cooperative by its presiding officer [PRESIDENT OR VICE PRESIDENT] and its seal shall be affixed by the officer designated by the board [ITS SECRETARY].

* Sec. 8. AS 10.25.250(c) is amended to read:

(c) The presiding officer [PRESIDENT OR VICE PRESIDENT] of each cooperative shall make and annex to the articles an affidavit stating that the provisions of this section regarding the articles were complied with by the cooperative.

* Sec. 9. AS 10.25.260 is amended to read:

Sec. 10.25.260. CONSOLIDATION. Two or more cooperatives, designated in this section as "consolidating cooperative," may consolidate into a new cooperative, designated in this section as the "new cooperative," by complying with the following requirements:

(1) the proposition for the consolidation into the new cooperative and
proposed articles of consolidation shall be submitted to the members of each
consolidating cooperative; the notice shall have attached to it a copy of the proposed
articles of consolidation;

(2) if the proposed consolidation and the proposed articles of
consolidation, with any amendments, are approved by the affirmative vote of not less
than two-thirds of those members of each consolidating cooperative voting on them,
articles of consolidation in the form approved shall be executed and acknowledged on
behalf of each consolidating cooperative by its **presiding officer** [PRESIDENT OR
VICE PRESIDENT] and its seal shall be affixed and attested by **the officer**
designated by the board [ITS SECRETARY].

* Sec. 10. AS 10.25.270(c) is amended to read:

  (c) The **presiding officer** [PRESIDENT OR VICE PRESIDENT] of each
consolidating cooperative executing the articles of consolidation shall make and annex
to the articles an affidavit stating that the provisions of this section regarding the
articles were complied with by the cooperative.

* Sec. 11. AS 10.25.290(c) is amended to read:

  (c) If the proposition for the conversion of the corporation into a cooperative
and the proposed articles of conversion, with any amendments, are approved by the
affirmative vote of not less than two-thirds of those members of the corporation voting
on them or, if the corporation is a stock corporation, by the affirmative vote of the
holders of not less than two-thirds of those shares of the capital stock of the
corporation represented at the meeting and voting on them, or, in the case of a
corporation having no members and no shares of its capital stock outstanding, by the
affirmative vote of not less than two-thirds of its incorporators, articles of conversion
in the form approved shall be executed and acknowledged on behalf of the corporation
by its **presiding officer** [PRESIDENT OR VICE PRESIDENT] and its seal shall be
affixed and attested by **the officer designated by the board** [ITS SECRETARY].

* Sec. 12. AS 10.25.300(c) is amended to read:

  (c) The **presiding officer** [PRESIDENT OR VICE PRESIDENT] executing
the articles of conversion shall make and annex to it an affidavit stating that the
provisions of this section were complied with regarding the articles. The articles of
conversion are the articles of incorporation of the cooperative.

* Sec. 13. AS 10.25.320(d) is amended to read:

(d) Upon approval, a certificate of election to dissolve, hereafter designated the "certificate," executed and acknowledged on behalf of the cooperative by its presiding officer [PRESIDENT OR VICE PRESIDENT] under its seal, attested by the officer designated by the board [ITS SECRETARY], shall be submitted to the commissioner for filing together with an affidavit by the officer executing the certificate stating that the statements in the certificate are true. The certificate must state the name of the cooperative, the address of its principal office, and that the members of the cooperative have voted to dissolve the cooperative.

* Sec. 14. AS 10.25.350 is amended to read:

Sec. 10.25.350. TERMINATION OF COOPERATIVE AFFAIRS. The board of directors shall wind up and settle the affairs of the cooperative, collect sums owing to it, liquidate its property and assets, pay and discharge its debts, obligations, and liabilities, other than those to patrons arising by reason of their patronage, and do all other things required to wind up its business. After paying or discharging or adequately providing for the payment or discharge of all its debts, obligations, and liabilities, other than those to patrons arising by reason of their patronage, the directors shall distribute remaining sums, first, to patrons for the pro rata return of all amounts standing to their credit by reason of their patronage [,] and, second, to members for the pro rata repayment of membership fees. Sums then remaining shall be distributed among its members and former members in proportion to their patronage, except to the extent participation in the distribution has been legally waived. The board of directors shall thereupon authorize the execution of articles of dissolution. The presiding officer [PRESIDENT OR VICE PRESIDENT] shall execute and acknowledge articles of dissolution on behalf of the cooperative and the officer designated by the board [SECRETARY] shall affix and attest to the seal.

* Sec. 15. AS 10.25.360(b) is amended to read:

(b) The presiding officer [PRESIDENT OR VICE PRESIDENT] executing the articles of dissolution shall make and annex to the articles an affidavit stating that the statements contained in the articles are true.
* Sec. 16. AS 10.25.480 is amended to read:

   Sec. 10.25.480. EXECUTION AND FILING OF STATEMENT. The statement of change of office or agent shall be executed by the cooperative by its **presiding officer** [PRESIDENT OR VICE PRESIDENT], verified by the person executing the statement, and directed to the commissioner. If the commissioner finds that the statement conforms to this chapter, the commissioner shall file it in the commissioner's office. Upon the filing, the change of address of the registered office, and the appointment of the registered agent, or both, as the case may be, is effective.

* Sec. 17. AS 10.25.640 is amended by adding a new paragraph to read:

   (6) "presiding officer" means the presiding officer of the board of directors of the cooperative.

* Sec. 18. This Act takes effect immediately under AS 01.10.070(c).