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March 16, 2018

House Finance Committee

The Honorable Neal Foster, Co-Chair, House Finance Committee

The Honorable Paul Seaton, Co-Chair, House Finance Committee

Alaska State Capitol

120 4th Street

Juneau, Alaska 99801-1182

RE: Alaska Power Association's Comments on CSHB 255 - Changes in the Law Governing
Certificates of Fitness

Members of the House Finance Committee:

The Committee Substitute for House Bill 255 changes the law regarding certificates of fitness for plumbers, electricians and power lineworkers. Alaska Power Association ("APA") opposes the bill.

Alaska Power Association is the statewide trade association for electric utilities in Alaska. Our members provide power from Utqiagvik to Unalaska, throughout the Interior and Southcentral, and down the Inside Passage.

APA has four major concerns with CSHB 255:

1. **It subjects employers to both criminal fines and civil penalties.** Under current law, the penalty for an employer violating the certificate of fitness requirements is conviction of a misdemeanor with a maximum criminal fine of \$500. Under CSHB 255, the criminal offense is reduced to a violation with the same fine of up to \$500. Under CSHB 255, in addition to a criminal fine, the Department of Labor could also assess civil penalties of \$250 per day for the first offense and \$500 per day thereafter, with each day the violation continues accruing additional liability. The Department of Labor can assess civil penalties without ever having to set foot in court. Employers could easily be subjected to both criminal fines and civil penalties.
2. **It limits the right to due process.** Reducing certificate of fitness violations from a misdemeanor to a violation seriously limits the due process available to an accused employer or employee. The right to jury trial for certificate of fitness violations goes

away, and a trial in front of a judge could be ordered as quickly as five days after the citation. There will no longer be a need to convince a prosecutor to pursue the case. The Department of Labor's civil penalties would be heard in front of a Department of Labor employee, with limited opportunity for judicial review.

3. **It restricts the exemption for utilities only serving cities with less than 2,500 people.** Contained in CSHB 255 is language that will make it harder for utilities serving cities with less than 2,500 people to continue their exemption from certificate of fitness requirements. The exemption in current law refers to "cities." CSHB 255 refers to "municipalities," which would include not just cities but also boroughs. So a utility serving a borough that has 2,500 people in its service area would have to use employees with certificates of fitness, even if there is not a city with 2,500 people in the service area.
4. **It does nothing to address the real problems associated with certificate of fitness requirements.** APA opposes CSHB 255 because it does nothing to address the real problem with Alaska's certificates of fitness, which is that they make very difficult for Alaska's electric utilities to recruit qualified power lineworkers. Utilities have had to try to find employees in the Lower 48. The certificate of fitness requirement for power lineworkers, particularly the written test requirement, does not make a substantial contribution to safety. It is a paper test. Any applicant who has successfully completed 8,000 hours of on-the-job training and 576 hours of classroom training should be qualified to work as a power lineworker for an Alaska utility or electrical contractor.

The certificate of fitness requirement does not contribute to safety or help screen out unskilled workers. It makes it much more expensive and difficult to bring in employees from out of state. Those out-of-state employees often do not pass the Alaska exam because they are not familiar with Alaska-specific terminology or have not otherwise been "prepared" to pass this specific test. That adds weeks of delay to bringing qualified lineworkers into the workforce. A number of APA members report that they have hired out-of-state lineworkers who needed multiple attempts to pass the Department's test, with the regulations requiring 30 days between test attempts. There is no reason to think that the testing requirement serves any purpose other than delaying the employee's ability to do useful work for the utility.

Alaska utilities prefer to hire local power lineworkers. It is more expensive and difficult to hire from out-of-state, but many times there simply are not any qualified candidates available to work. Leaving these jobs unfilled for long periods of time lengthens power outages, delays safety-related maintenance, and raises costs by requiring short-staffed crews to work excessive amounts of overtime. An Alaska power lineworker can go to work in most other states, but it is very burdensome to get an out-of-state employee qualified to work for an Alaska utility.

In addition, in the event of a disaster, Alaska's electric utilities would be unable to accept help from Lower 48 electrical workers because those workers, no matter how qualified or experienced, would not qualify for a certificate of fitness without studying for and taking the certificate of fitness exam. As the hurricane in Puerto Rico and the record rainfall in Houston illustrated last year, disasters can severely damage electric industry infrastructure. The certificate of fitness law and associated regulations requiring a test to obtain a certificate of fitness would make the impact of such a disaster much more severe by making it harder to seek assistance in the recovery effort.

On behalf of Alaska Power Association and its members, I urge the Legislature not to adopt CSHB 255.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Crystal Enkvist', with a stylized, flowing script.

Crystal Enkvist
Executive Director