

HOUSE CS FOR SENATE BILL NO. 83(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 5/13/19

Referred: Judiciary

Sponsor(s): SENATOR BIRCH

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Regulatory Commission of Alaska; relating to the public utility**
2 **regulatory cost charge; relating to the regulation of telecommunications; relating to**
3 **exemptions, charges, and rates applicable to telecommunications utilities; relating to**
4 **regulation of telephone services; relating to exempt employees; and relating to alternate**
5 **operator services."**

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

7 * **Section 1.** AS 29.35.070(a) is amended to read:

8 (a) The assembly acting for the area outside all cities in the borough and the
9 council acting for the area in a city may regulate, fix, establish, and change the rates
10 and charges imposed for a utility service provided to the municipality or its inhabitants
11 by a utility that is not subject to regulation under AS 42.05 unless that utility is
12 exempted from regulation under AS 42.05.711(a), (d) - (k), (o), (p), [OR] (r), or (u)
13 [IS EXEMPTED UNDER REGULATIONS ADOPTED UNDER AS 42.05.810

1 FROM COMPLYING WITH ALL OR PART OF AS 42.05.141 - 42.05.712,
 2 42.05.990, OR 42.05.995].

3 * **Sec. 2.** AS 39.25.110 is amended to read:

4 **Sec. 39.25.110. Exempt service.** Unless otherwise provided by law, the
 5 following positions in the state service constitute the exempt service and are exempt
 6 from the provisions of this chapter and the rules adopted under it:

7 (1) persons elected to public office by popular vote or appointed to fill
 8 vacancies in elected offices;

9 (2) justices, judges, magistrates, and employees of the judicial branch
 10 including employees of the judicial council;

11 (3) employees of the state legislature and its agencies;

12 (4) the head of each principal department in the executive branch;

13 (5) officers and employees of the University of Alaska;

14 (6) certificated teachers and noncertificated employees employed by a
 15 regional educational attendance area established and organized under AS 14.08.031 -
 16 14.08.041 to teach in, administer, or operate schools under the control of a regional
 17 educational attendance area school board;

18 (7) certificated teachers employed by the Department of Education and
 19 Early Development as correspondence teachers, teachers in skill centers operated by
 20 the Department of Education and Early Development or by the Department of Labor
 21 and Workforce Development, or in Mt. Edgecumbe School;

22 (8) patients and inmates employed in state institutions;

23 (9) persons employed in a professional capacity to make a temporary
 24 or special inquiry, study or examination as authorized by the governor;

25 (10) members of boards, commissions, or authorities;

26 (11) the officers and employees of the following boards, commissions,
 27 and authorities:

28 (A) [REPEALED]

29 (B) Alaska Permanent Fund Corporation;

30 (C) Alaska Industrial Development and Export Authority;

31 (D) Alaska Commercial Fisheries Entry Commission;

1 (E) Alaska Commission on Postsecondary Education;

2 (F) Alaska Aerospace Corporation;

3 (G) [REPEALED]

4 (H) Alaska Gasline Development Corporation and subsidiaries
5 of the Alaska Gasline Development Corporation;

6 (12) the executive secretary and legal counsel of the Alaska Municipal
7 Bond Bank Authority;

8 (13) the state medical examiner, deputy medical examiner, and
9 assistant medical examiners appointed under AS 12.65.015 and pharmacists and
10 physicians licensed to practice in this state and employed by the Department of Health
11 and Social Services or by the Department of Corrections;

12 (14) petroleum engineers and petroleum geologists employed in a
13 professional capacity by the Department of Natural Resources and by the Alaska Oil
14 and Gas Conservation Commission;

15 (15) [REPEALED]

16 (16) persons employed by the division of marine transportation as
17 masters and members of the crews of vessels who operate the state ferry system and
18 who are covered by a collective bargaining agreement provided in AS 23.40.040;

19 (17) officers and employees of the state who reside in foreign
20 countries;

21 (18) employees of the Alaska Seafood Marketing Institute;

22 (19) emergency firefighting personnel employed by the Department of
23 Natural Resources for a fire emergency or for fire prevention and related activities
24 conducted under AS 41.15.030;

25 (20) employees of the Office of the Governor and the office of the
26 lieutenant governor, including the staff of the governor's mansion;

27 (21) [REPEALED]

28 (22) youth employed by the Department of Natural Resources under
29 the Youth Employment and Student Intern programs;

30 (23) [REPEALED]

31 (24) students employed by the state institutions in which the students

1 are enrolled;

2 (25) [REPEALED]

3 (26) investment officers in the Department of Revenue;

4 (27) [REPEALED]

5 (28) persons engaged in employment or pre-employment training
6 programs operated by the Department of Military and Veterans' Affairs;

7 (29) [REPEALED]

8 (30) a person employed as an actuary or assistant actuary by the
9 division of insurance in the Department of Commerce, Community, and Economic
10 Development;

11 (31) [REPEALED]

12 (32) a participant in the Alaska temporary assistance program under
13 AS 47.27 who holds a temporary position with the state in order to obtain job training
14 or experience;

15 (33) a person employed as a convener under AS 44.62.730 or as a
16 facilitator under AS 44.62.760 related to a negotiated regulation making process under
17 AS 44.62.710 - 44.62.800;

18 (34) the chief executive officer and employees of the Alaska Mental
19 Health Trust Authority employed under AS 47.30.026(b);

20 (35) the assistant adjutant general for space and missile defense
21 appointed under AS 26.05.185;

22 (36) the victims' advocate established under AS 24.65.010 and the
23 advocate's staff;

24 (37) employees of the Alaska mental health trust land unit established
25 under AS 44.37.050;

26 (38) the executive director of the Council on Domestic Violence and
27 Sexual Assault established under AS 18.66.010;

28 (39) the executive director and employees of the Knik Arm Bridge and
29 Toll Authority under AS 19.75.051 and 19.75.061;

30 (40) the chair of the Workers' Compensation Appeals Commission
31 (AS 23.30.007);

(41) the Alaska Gasline Inducement Act coordinator appointed under AS 43.90.250;

(42) oil and gas audit masters employed in a professional capacity by the Department of Revenue and the Department of Natural Resources to collect oil and gas revenue by developing policy, conducting studies, drafting proposed regulations, enforcing regulations, and directing audits by oil and gas revenue auditors;

(43) the in-state gasline project coordinator appointed under AS 38.34.010;

(44) the executive director and employees of the Alaska State Council on the Arts employed under AS 44.27.054 and 44.27.055;

(45) utilities analyst masters employed in a professional capacity by the Regulatory Commission of Alaska under AS 42.04.050(a).

* **Sec. 3.** AS 42.04.050(a) is amended to read:

(a) The chair of the commission is responsible for directing the administrative functions of the commission and carrying out the policies as set by the commission. The commission chair may employ engineers, hearing examiners, administrative law judges, arbitrators, mediators, experts, clerks, accountants, **a number of utilities analyst masters, not to exceed five,** and other agents and assistants considered necessary. Employees of the commission who are not in the exempt service under AS 39.25.110 or the partially exempt service under AS 39.25.120 are in the classified service under AS 39.25.100.

* **Sec. 4.** AS 42.05.141 is amended by adding new subsections to read:

(e) The commission may not designate a local exchange carrier or long distance telephone company as the carrier of last resort. In this subsection, "local exchange carrier" and "long distance telephone company" have the meanings given in AS 42.05.890.

(f) The commission may designate an eligible telecommunications carrier consistent with 47 U.S.C. 214(e).

* **Sec. 5.** AS 42.05.254(a) is amended to read:

(a) A regulated public utility **or a certificated utility that provides telecommunications services** operating in the state shall pay to the commission an

annual regulatory cost charge in an amount not to exceed the maximum percentage of adjusted gross revenue that applies to the utility sector of which the utility is a part. The regulatory cost charges that the commission expects to collect from all regulated utilities and certificated utilities providing telecommunications services may not exceed the sum of the following percentages of the total adjusted gross revenue of all regulated public utilities and certificated utilities providing telecommunications services derived from operations in the state: (1) not more than .7 percent to fund the operations of the commission, and (2) not more than .17 percent to fund operations of the public advocacy function under AS 42.04.070(c) and AS 44.23.020(e) within the Department of Law. An exempt utility that does not provide telecommunications services shall pay the actual cost of services provided to it by the commission.

* **Sec. 6.** AS 42.05.254(h) is amended to read:

(h) The commission shall by regulation establish a method to determine annually the maximum percentage of adjusted gross revenue that will apply to each regulated public utility sector, the certificated telecommunications utility sector, and [THE MAXIMUM PERCENTAGE OF GROSS REVENUE THAT WILL APPLY TO] the regulated pipeline carrier sector. Other than the cost of services provided to exempt utilities that do not provide telecommunications services, the method established shall allocate the commission's costs, and the Department of Law's certified costs of its public advocacy function under AS 42.04.070(c) and AS 44.23.020(e), among the regulated public utility sectors, the certificated telecommunications utility sector, and the regulated pipeline carrier sector based on the relative amount of the commission's annual costs and the Department of Law's certified costs that is attributable to regulating each sector. For purposes of this subsection, the Department of Law shall annually certify to the commission the costs of its public advocacy function under AS 42.04.070(c) and AS 44.23.020(e).

* **Sec. 7.** AS 42.05.254(i)(2) is amended to read:

(2) "exempt utility" means a public utility that does not provide telecommunications services and is certificated by the commission under AS 42.05.221 - 42.05.281 but, in accordance with AS 42.05.711, is exempt from other regulatory requirements of this chapter;

1 * **Sec. 8.** AS 42.05.361 is amended by adding a new subsection to read:

2 (d) The commission may require a telecommunications carrier to make tariff
3 filings related to telecommunications services provided to inmates in the custody of
4 the Department of Corrections. Notwithstanding (a) - (c) of this section, the
5 commission may not require a telecommunications carrier to make other tariff filings.

6 * **Sec. 9.** AS 42.05.381 is amended by adding new subsections to read:

7 (l) The rates and terms and conditions of service of an incumbent local
8 exchange carrier for basic residential local telephone service must be uniform within
9 its study area, as determined by the Federal Communications Commission.

10 (m) The rates and terms and conditions of service of a competitive local
11 exchange carrier for basic residential local telephone service must be uniform
12 throughout its service area.

13 (n) The retail rates of a long distance telephone company for message
14 telephone service for residential customers must be geographically averaged. If rates
15 vary by distance over which calls are placed, the rate for each mileage band must be
16 equal to or greater than the rate for the next shorter mileage band.

17 (o) In this section, "local exchange carrier" and "long distance telephone
18 company" have the meanings given in AS 42.05.890.

19 * **Sec. 10.** AS 42.05.711 is amended by adding new subsections to read:

20 (u) A utility that provides telecommunications services is exempt from the
21 provisions of this chapter, other than AS 42.05.141(e) and (f), 42.05.221 - 42.05.281,
22 42.05.296, 42.05.306, 42.05.381(l) - (n), 42.05.631, 42.05.641, 42.05.661, and
23 42.05.820 - 42.05.860.

24 (v) Notwithstanding (u) of this section, the commission has the authority to
25 regulate the rates and terms and conditions of telecommunications services provided to
26 inmates in the custody of the Department of Corrections.

27 * **Sec. 11.** AS 42.05.820 is amended to read:

28 **Sec. 42.05.820. No municipal regulation.** A long distance telephone company
29 or a local exchange carrier that is exempted in whole or in part from complying with
30 all or a portion of this chapter may not be regulated by a municipality under
31 AS 29.35.060 and 29.35.070.

1 * **Sec. 12.** AS 42.06.286(e) is amended to read:

2 (e) The commission shall by regulation establish a method to determine
3 annually the maximum percentage of gross revenue that will apply to each regulated
4 public utility sector, the telecommunications utility sector, and [THE MAXIMUM
5 PERCENTAGE OF GROSS REVENUE THAT WILL APPLY TO] the regulated
6 pipeline carrier sector in accordance with AS 42.05.254(h).

7 * **Sec. 13.** AS 45.50.473(a) is amended to read:

8 (a) A person may not provide an alternate operator service without disclosing
9 to the consumer before a charge is incurred the cost of the service provided by the
10 person and the identity of the person providing those services. [THIS SECTION
11 DOES NOT AFFECT THE POWER OF THE REGULATORY COMMISSION OF
12 ALASKA TO REGULATE PROVIDERS OF ALTERNATE OPERATOR
13 SERVICES UNDER AS 42.05 IN A MANNER CONSISTENT WITH THIS
14 SECTION.]

15 * **Sec. 14.** AS 45.50.473(d) is amended to read:

16 (d) In this section, "alternate operator service"

17 (1) means a connection to intrastate or interstate long-distance
18 telecommunications facilities from a nonresidential location in the state including
19 a hotel, motel, hospital, or customer-owned pay telephone, or from a place where
20 business from consumers is aggregated, by a person that does not own any of the
21 telecommunications facilities being connected through the service;

22 (2) does not include an intrastate or interstate long-distance
23 carrier that contracts for operator services and charges rates for those services
24 that are no greater than the rates charged by long-distance carriers regulated by
25 the Regulatory Commission of Alaska or by the Federal Communications
26 Commission [HAS THE MEANING GIVEN IN AS 42.05.325(c)].

27 * **Sec. 15.** AS 42.05.325 and 42.05.810 are repealed.