

CS FOR HOUSE BILL NO. 183(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

**Offered: 5/11/99
Referred: Finance**

Sponsor(s): HOUSE SPECIAL COMMITTEE ON UTILITY RESTRUCTURING

A BILL

FOR AN ACT ENTITLED

**1 "An Act relating to the chair of the Alaska Public Utilities Commission; relating
2 to membership on the Alaska Public Utilities Commission; relating to political
3 conduct by and removal of members of the Alaska Public Utilities Commission;
4 relating to hearings held by the Alaska Public Utilities Commission; relating to
5 timely action by the Alaska Public Utilities Commission; relating to procedural
6 motions of the Alaska Public Utilities Commission; relating to provisions for the
7 resolution of consumer complaints; permitting arbitrators to conduct formal
8 hearings before the Alaska Public Utilities Commission; relating to a management
9 information system; relating to the annual report of the Alaska Public Utilities
10 Commission; and providing for an effective date."**

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

12 * Section 1. AS 42.05.020(b) is amended to read:

1 (b) The commission [GOVERNOR] shall select [DESIGNATE] one member
 2 of the commission to serve as chair [CHAIRMAN OF THE COMMISSION. THIS
 3 MEMBER SHALL SERVE AS CHAIRMAN] for a term of two [FOUR] years. A
 4 commissioner may be elected to successive terms as chair of the commission. The
 5 governor may reject the commission's selection of a chair [, BUT MAY BE
 6 APPOINTED FOR SUCCESSIVE TERMS].

7 * **Sec. 2.** AS 42.05.035 is repealed and reenacted to read:

8 **Sec. 42.05.035. Removal of commissioners.** The governor may remove a
 9 commissioner from office only for cause, including incompetence, neglect of duty, or
 10 misconduct in office, or because the member, while serving on the commission, is
 11 convicted of a misdemeanor for violating a statute or regulation related to public
 12 utilities or is convicted of a felony. The governor shall deliver to the commissioner
 13 a copy of the charges against the commissioner. The commissioner shall have an
 14 opportunity to present a defense in person or through counsel at a public hearing
 15 before the governor or the governor's designee. The commissioner shall be informed
 16 of the hearing by registered mail at least 10 days before the hearing date. At the
 17 hearing, the commissioner may confront and cross-examine adverse witnesses. Upon
 18 removal of the commissioner, the findings and a complete statement of all charges
 19 made against the commissioner shall be filed in the Office of the Lieutenant Governor.

20 * **Sec. 3.** AS 42.05.040 is repealed and reenacted to read:

21 **Sec. 42.05.040. Qualifications of members; prohibited conduct.** (a) No
 22 more than two members of the commission may be members of the same political
 23 party. A person may not be appointed or reappointed to the commission for one year
 24 after changing political party membership.

25 (b) A member of the commission may not participate in

26 (1) political management or in a political campaign for a candidate for
 27 election to federal, state, or local office regardless of whether the campaign is partisan
 28 or nonpartisan or for passage or defeat of a ballot measure of any type;

29 (2) the campaign of, or attend campaign fund-raising events for, a
 30 candidate for governor or the legislature;

31 (3) a fund-raising event held on behalf of a political party or attend a

1 political party fund-raising event; or

2 (4) lobbying activities that would require a person to register as a
3 lobbyist.

4 * **Sec. 4.** AS 42.05.101(a) is amended to read:

5 (a) The **chair of the** commission shall establish **for the commission** a
6 principal office and branch offices necessary to discharge its business efficiently. For
7 the convenience of the public or of parties to a proceeding, the commission may hold
8 meetings, hearings, or other proceedings at other locations.

9 * **Sec. 5.** AS 42.05.111(b) is amended to read:

10 (b) The **chair of the** commission may employ temporary legal counsel **for the**
11 **commission** from time to time in proceedings before the commission in which the
12 attorney general is representing the public interest or a party before the commission.

13 * **Sec. 6.** AS 42.05.121 is amended to read:

14 **Sec. 42.05.121. Employment of commission personnel.** (a) The commission
15 may employ an executive director who shall have had at least five years of experience
16 in public utility management or regulation, law, accounting, engineering, or an allied
17 field. The executive director is responsible for directing the administrative functions
18 of the commission and carrying out the policies as set by the commission. The **chair**
19 **of the** commission may employ engineers, hearing officers, administrative law judges
20 to the extent provided by AS 42.06.140(b), experts, clerks, accountants, and other
21 agents and assistants **considered** [IT CONSIDERS] necessary **by the commission**.
22 Employees and agents of the commission who are not partially exempt under
23 AS 39.25.120, other than legal counsel, are in the classified service under
24 AS 39.25.100.

25 (b) In addition to **the** [ITS] staff of regular employees, the **chair of the**
26 commission may contract for and engage the services of consultants and experts the
27 commission considers necessary.

28 * **Sec. 7.** AS 42.05.141 is amended by adding a new subsection to read:

29 (d) On the filing of a petition, application, or complaint concerning a matter
30 within the jurisdiction of the commission under this chapter for which a hearing is
31 clearly warranted, the chair of the commission shall assign a priority rating to the issue

1 and promptly fix a date for hearing. The hearing shall be expedited in accordance
 2 with the priority rating. Regardless of the priority rating, a hearing may not be
 3 scheduled to begin later than five months after the petition, application, or complaint
 4 was filed unless the commission approves an extension of time for good cause. After
 5 the conclusion of the hearing, the commission shall enter its order within 60 days.

6 * **Sec. 8.** AS 42.05.151(b) is amended to read:

7 (b) The commission shall adopt regulations governing practice and procedure,
 8 consistent with due process of law, including the conduct of formal and informal
 9 investigations, **prehearing** [PRE-HEARING] conferences, hearings, **mediation,**
 10 **arbitration,** and proceedings, and the handling of procedural motions by a single
 11 commissioner. **The commission, or an assigned commissioner, shall enter an order**
 12 **on procedural motions within 10 days after the close of the applicable briefing**
 13 **period.** Technical rules of evidence need not apply to investigations, **prehearing**
 14 [PRE-HEARING] conferences, hearings, **mediation, arbitration,** and proceedings
 15 before the commission. The commission shall provide for representation by out-of-
 16 state attorneys substantially in accordance with Rule 81, Alaska Rules of Civil
 17 Procedure.

18 * **Sec. 9.** AS 42.05 is amended by adding a new section to read:

19 **Sec. 42.05.165. Consumer complaints.** The commission shall by regulation
 20 provide for

- 21 (1) the expedited hearing and resolution of consumer complaints; and
 22 (2) penalties against a party to a complaint who causes unjustified
 23 delays in a consumer complaint proceeding.

24 * **Sec. 10.** AS 42.05.171 is amended to read:

25 **Sec. 42.05.171. Formal hearings.** A formal hearing that the commission has
 26 power to hold may be held by or before three or more commissioners, a hearing
 27 officer, or an administrative law judge designated for the purpose by the commission.
 28 **In appropriate cases, a formal hearing may be held before an arbitrator**
 29 **designated for the purpose by the commission.** The testimony and evidence in a
 30 formal hearing may be taken by the commissioners, by the hearing officer, [OR] by
 31 the administrative law judge, **or by the arbitrator** to whom the hearing has been

1 assigned. **A decision of an arbitrator is not final until approved by the**
 2 **commission.** A commissioner who has not heard or read the testimony, including the
 3 argument, may not participate in making a decision of the commission. In determining
 4 the place of a hearing, the commission shall give preference to holding the hearing at
 5 a place most convenient for those interested in the subject of the hearing.

6 * **Sec. 11.** AS 42.05.211 is amended to read:

7 **Sec. 42.05.211. Annual report.** The commission shall, by February 1 [15] of
 8 each year, publish an annual report reviewing its work and notify the legislature that
 9 the report is available. The report must contain

10 (1) information and data that bear a significant relationship to the
 11 development and regulation of public utility services in the state;

12 (2) [AND INCLUDE] an outline of the commission's program for the
 13 development and regulation of public utility services in the forthcoming year;

14 (3) **a summary of the activities of the commission during the**
 15 **previous year; and**

16 (4) **a report on and evaluation of the timeliness of the commission's**
 17 **action on dockets during the previous year.**

18 * **Sec. 12.** AS 42.05.050 is repealed.

19 * **Sec. 13.** MANAGEMENT INFORMATION SYSTEM. The legislature encourages the
 20 Alaska Public Utilities Commission to continue to develop its management information system
 21 and to make the system accessible by the general public through the Internet for the purpose
 22 of tracking, scheduling, and managing all dockets within the commission.

23 * **Sec. 14.** The provisions of AS 42.05.035, repealed and reenacted by sec. 2 of this Act,
 24 apply to a member of the Alaska Public Utilities Commission serving on the effective date
 25 of this Act. This Act is intended to extinguish any existing right of a sitting commissioner
 26 to the removal procedure specified in former AS 42.05.035.

27 * **Sec. 15.** The provisions of AS 42.05.141(d), enacted by sec. 7 of this Act, apply to
 28 petitions, applications, and complaints first filed with the commission on or after the effective
 29 date of this Act.

30 * **Sec. 16.** This Act takes effect immediately under AS 01.10.070(c).