

**SENATE BILL NO. 392**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Introduced: 4/20/04

Referred: Labor and Commerce, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the expenses of investigation, hearing, or public advocacy before the**  
2 **Regulatory Commission of Alaska, to calculation of the regulatory cost charge for public**  
3 **utilities and pipeline carriers to include the Department of Law's costs of its public**  
4 **advocacy function, to inspection of certain books and records by the attorney general**  
5 **when participating as a party in a matter before the Regulatory Commission of Alaska;**  
6 **and providing for an effective date."**

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

8 \* **Section 1.** AS 42.05.254(a) is amended to read:

9 (a) A regulated public utility operating in the state shall pay to the commission  
10 an annual regulatory cost charge in an amount not to exceed the maximum percentage  
11 of adjusted gross revenue that applies to the utility sector of which the utility is a part.  
12 The regulatory cost charges that the commission expects to collect from all regulated  
13 utilities may not exceed **the sum of the following percentages** [.8 PERCENT] of the

1 total adjusted gross revenue of all regulated public utilities derived from operations in  
 2 the state: **(1) not more than .7 percent to fund the operations of the commission,**  
 3 **and (2) not more than .17 percent to fund operations of the public advocacy**  
 4 **function under AS 42.04.070(c) and AS 44.23.020(e) within the Department of**  
 5 **Law.** An exempt utility shall pay the actual cost of services provided to it by the  
 6 commission.

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

8 (b) The commission shall by regulation establish a method to determine  
 9 annually the amount of the regulatory cost charge for a public utility. If the amount  
 10 the commission expects to collect under (a) of this section and under AS 42.06.286(a)  
 11 exceeds the authorized **budgets** [BUDGET] of the commission **and the Department**  
 12 **of Law public advocacy function under AS 42.04.070(c) and AS 44.23.020(e),** the  
 13 commission shall, by order, reduce the percentages determined under (h) of this  
 14 section so that the total amount of the fees collected approximately equals the  
 15 authorized **budgets** [BUDGET] of the commission **and the Department of Law**  
 16 **public advocacy function under AS 42.04.070(c) and AS 44.23.020(e)** for the fiscal  
 17 year.

18 \* **Sec. 3.** AS 42.05.254(e) is amended to read:

19 (e) The commission shall administer the charge imposed under this section.  
 20 The Department of Revenue shall collect and enforce the charge imposed under this  
 21 section. The Department of Administration shall identify the amount of the operating  
 22 **budgets** [BUDGET] of the commission **and the Department of Law public**  
 23 **advocacy function under AS 42.04.070(c) and AS 44.23.020(e)** that **lapse**  
 24 [LAPSES] into the general fund each year. The legislature may appropriate an  
 25 amount equal to the lapsed amount to the commission **and to the Department of Law**  
 26 **public advocacy function under AS 42.04.070(c) and AS 44.23.020(e)** for [ITS]  
 27 operating costs for the next fiscal year. If the legislature does so, the commission shall  
 28 reduce the total regulatory cost charge collected for that fiscal year by a comparable  
 29 amount.

30 \* **Sec. 4.** AS 42.05.254(h) is amended to read:

31 (h) The commission shall by regulation establish a method to determine

1 annually the maximum percentage of adjusted gross revenue that will apply to each  
 2 regulated public utility sector and the maximum percentage of gross revenue that will  
 3 apply to the regulated pipeline carrier sector. **Other** [THE METHOD  
 4 ESTABLISHED SHALL ALLOCATE THE COMMISSION'S COSTS, OTHER] than  
 5 the cost of services provided to exempt utilities, **the method established shall**  
 6 **allocate the commission's costs, and the Department of Law's certified costs of its**  
 7 **public advocacy function under AS 42.04.070(c) and AS 44.23.020(e)**, among the  
 8 regulated public utility sectors and the regulated pipeline carrier sector based on the  
 9 relative amount of the commission's annual costs **and the Department of Law's**  
 10 **certified costs** that is attributable to regulating each sector. **For purposes of this**  
 11 **subsection, the Department of Law shall annually certify to the commission the**  
 12 **costs of its public advocacy function under AS 42.04.070(c) and AS 44.23.020(e).**

13 \* **Sec. 5.** AS 42.05.501 is amended by adding a new subsection to read:

14 (b) When participating as a party under AS 42.04.070(c) or AS 44.23.020(e),  
 15 the attorney general shall at all reasonable times have the right to reasonable access to,  
 16 and may designate any of the attorney general's employees, agents, or consultants to  
 17 inspect and examine, the accounts, records, books, maps, inventories, appraisals,  
 18 valuations, or other reports and documents kept by public utilities that are relevant to  
 19 the issues presented in any adjudicatory matter before the commission in which the  
 20 attorney general has appeared as a party under AS 42.04.070(c) or AS 44.23.020(e).  
 21 This access is subject to reasonable notice to all parties with an opportunity to object  
 22 before the commission. Included under this subsection is access to records or other  
 23 documents under the custody or control of an affiliated interest of a public utility that  
 24 relate to any contract or transaction between the public utility and the affiliated  
 25 interest.

26 \* **Sec. 6.** AS 42.05.651 is amended by adding a new subsection to read:

27 (c) Notwithstanding the commission's discretion under (a) of this section to  
 28 allocate costs to parties, the commission may not require a state agency to pay any  
 29 costs allocated to the state agency.

30 \* **Sec. 7.** AS 42.05.671(c) is amended to read:

31 (c) A person may make written objection to the public disclosure of

1 information contained in a record under the provisions of this chapter or of  
 2 information obtained by the commission **or by the attorney general** under the  
 3 provisions of this chapter, stating the grounds for the objection. When an objection is  
 4 made, the commission may not order the information withheld from public disclosure  
 5 unless the information adversely affects the interest of the person making written  
 6 objection and disclosure is not required in the interest of the public.

7 \* **Sec. 8.** AS 42.06.286(a) is amended to read:

8 (a) A pipeline carrier operating in the state shall pay to the commission an  
 9 annual regulatory cost charge in an amount not to exceed **the sum of the following**  
 10 **percentages** [.8 PERCENT] of gross revenue derived from operations in the state: **(1)**  
 11 **not more than .7 percent to fund the operations of the commission, and (2) not**  
 12 **more than .17 percent to fund operations of the public advocacy function under**  
 13 **AS 42.04.070(c) and AS 44.23.020(e) within the Department of Law.** A regulatory  
 14 cost charge may not be assessed on pipeline carrier operations unless the operations  
 15 are within the jurisdiction of the commission.

16 \* **Sec. 9.** AS 42.06.286(b) is amended to read:

17 (b) The commission shall by regulation establish a method to determine  
 18 annually the amount of the regulatory cost charge. If the amount the commission  
 19 expects to collect under (a) of this section and under AS 42.05.254(a) exceeds the  
 20 authorized **budgets** [BUDGET] of the commission **and the Department of Law**  
 21 **public advocacy function under AS 42.04.070(c) and AS 44.23.020(e),** the  
 22 commission shall, by order, reduce the percentage determined under (e) of this section  
 23 so that the total amount of the fees collected approximately equals the authorized  
 24 **budgets** [BUDGET] of the commission **and the Department of Law public**  
 25 **advocacy function under AS 42.04.070(c) and AS 44.23.020(e)** for the fiscal year.

26 \* **Sec. 10.** AS 42.06.286(c) is amended to read:

27 (c) The commission shall administer the charge imposed under this section.  
 28 The Department of Revenue shall collect and enforce the charge imposed under this  
 29 section. The Department of Administration shall identify the amount of the operating  
 30 **budgets** [BUDGET] of the commission **and the Department of Law public**  
 31 **advocacy function under AS 42.04.070(c) and AS 44.23.020(e)** that **lapse**

1 [LAPSES] into the general fund each year. The legislature may appropriate an  
 2 amount equal to the lapsed amount to the commission **and to the Department of Law**  
 3 **public advocacy function under AS 42.04.070(c) and AS 44.23.020(e)** for [ITS]  
 4 operating costs for the next fiscal year. If the legislature does so, the commission shall  
 5 reduce the total regulatory cost **charge** [CHARGED] collected for that fiscal year by a  
 6 comparable amount.

7 \* **Sec. 11.** AS 42.06.440 is amended by adding a new subsection to read:

8 (b) Subject to AS 31.05.035(c), when participating as a party under  
 9 AS 42.04.070(c) or AS 44.23.020(e), the attorney general shall at all reasonable times  
 10 have the right to reasonable access to, and may designate any of the attorney general's  
 11 employees, agents, or consultants to inspect and examine, the accounts, records,  
 12 books, maps, inventories, appraisals, valuations, or other reports and documents kept  
 13 by an oil or gas pipeline carrier that are relevant to the issues presented in any  
 14 adjudicatory matter before the commission in which the attorney general has appeared  
 15 as a party under AS 42.04.070(c) or AS 44.23.020(e). This access is subject to  
 16 reasonable notice to all parties with an opportunity to object before the commission.  
 17 Included under this subsection is access to records or other documents under the  
 18 custody or control of an affiliated interest of the pipeline carrier that relate to any  
 19 contract or transaction between the public utility and the affiliated interest. Costs  
 20 incurred in complying with a request to review the records referred to in this  
 21 subsection or to maintain those records in such a manner as to make them  
 22 conveniently available for review shall be borne by the party controlling the records.

23 \* **Sec. 12.** AS 42.06.445(d) is amended to read:

24 (d) A person may make written objection to the public disclosure of  
 25 information contained in a record filed under the provisions of this chapter or of  
 26 information obtained by the commission **or by the attorney general** under the  
 27 provisions of this chapter, stating the grounds for the objection. When an objection is  
 28 made, the commission shall order the information withheld from public disclosure if  
 29 the information adversely affects the interest of the person making written objection  
 30 and disclosure is not required in the interest of the public.

31 \* **Sec. 13.** AS 42.06.610 is amended by adding a new subsection to read:

1 (d) Notwithstanding the commission's discretion under (a) and (b) of this  
2 section to allocate costs to parties, the commission may not require a state agency to  
3 pay any costs allocated to the state agency.

4 \* **Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section to  
5 read:

6 **APPLICABILITY.** AS 42.05.651(c), enacted by sec. 6 of this Act, and  
7 AS 42.06.610(d), enacted by sec. 13 of this Act, apply to orders issued by the Regulatory  
8 Commission of Alaska regardless of whether the related proceeding under AS 42.05 or  
9 AS 42.06 was begun before the effective date of this Act.

10 \* **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section to  
11 read:

12 **RETROACTIVITY.** The enactment of AS 42.05.651(c), made by sec. 6 of this Act,  
13 and of AS 42.06.610(d), made by sec. 13 of this Act, is retroactive to May 30, 2003.

14 \* **Sec. 16.** The uncodified law of the State of Alaska is amended by adding a new section to  
15 read:

16 **REVISOR'S INSTRUCTION.** The revisor of statutes is instructed to change the  
17 heading of AS 42.05.501 from "Inspection of books and records by commission" to  
18 "Inspection of books and records."

19 \* **Sec. 17.** This Act takes effect July 1, 2004.