

HOUSE FINANCE COMMITTEE
May 7, 2007
9:00 A.M.

CALL TO ORDER

Co-Chair Meyer called the House Finance Committee meeting to order at [9:00:58 AM](#).

MEMBERS PRESENT

Representative Mike Chenault, Co-Chair
Representative Kevin Meyer, Co-Chair
Representative Bill Stoltze, Vice-Chair
Representative Harry Crawford
Representative Richard Foster
Representative Les Gara
Representative Mike Hawker
Representative Mike Kelly
Representative Bill Thomas Jr.

MEMBERS ABSENT

Representative Reggie Joule
Representative Mary Nelson

ALSO PRESENT

Representative Kurt Olson; Eleanor Wolfe, Staff,
Representative Kurt Olson; John Bitney, Director,
Legislative Office, Office of the Governor; Kelly Huber,
Staff, Representative Nancy Dahlstrom;

PRESENT VIA TELECONFERENCE

Kate Giard, Commissioner, Chair, Regulatory Commission of Alaska, Anchorage; Mark Johnson, Commissioner, Regulatory Commission of Alaska, Anchorage; Virginia Rusch, Alaska Association of Retired Persons (AARP), Anchorage; Ted Moninski, Director, Regulatory Affairs, Alaska Communication Systems (ACS), Anchorage; Robert Royce, Assistant Attorney General, Department of Law, Anchorage

SUMMARY

HB 209 An Act relating to the chair of and the membership of and qualifications of members of the Regulatory Commission of Alaska; adding positions to the partially exempt service; creating an administrative law division and natural gas and oil pipeline division within the commission; amending the timeline requirements for a final order of the commission; relating to the

commission's regulatory cost charges; and adding to the duties of the Alaska Judicial Council as they relate to the presentation of nominees for consideration for appointment to the commission.

CS HB 209 (FIN) was reported out of Committee with a "no recommendation" and with zero note #1 by the Department of Commerce, Community & Economic Development.

HB 244 An Act creating an Alaska Medal of Honor and establishing criteria for awarding the medal.

CS HB 244 (FIN) was reported out of Committee with a "do pass" recommendation and with a new zero note by the Department of Military & Veterans Affairs and a fiscal note by the Legislative Affairs Agency.

[9:01:51 AM](#)

#HB209

HOUSE BILL NO. 209

An Act relating to the chair of and the membership of and qualifications of members of the Regulatory Commission of Alaska; adding positions to the partially exempt service; creating an administrative law division and natural gas and oil pipeline division within the commission; amending the timeline requirements for a final order of the commission; relating to the commission's regulatory cost charges; and adding to the duties of the Alaska Judicial Council as they relate to the presentation of nominees for consideration for appointment to the commission.

REPRESENTATIVE KURT OLSON, SPONSOR, commented that HB 209 implements recommendations received from the Regulatory Commission of Alaska (R.C.A.) to improve quality and timeliness in their decision making process. The bill requires the appointment of the Regulatory Commission's Chair be made by the Governor; it clarifies the process used in discovery and intervention.

Representative Olson provided a sectional analysis:

- Section 1 provides that the Governor shall designate one member of the Regulatory Commission of Alaska to serve as chair or to serve out the unexpired term of a former chair.
- Section 2 is a technical amendment.
- Section 3 adds a new subsection to AS 42.05.175 to express timelines for various Commission activities in terms of days rather than months.

- Section 9 amends AS 42.05.175(f) to provide that the Commission find good cause to extend a timeline only when (i) a proceeding involves unusually complex and question of law or public policy; (ii) a proceeding involves an unusually complex and large factual record; or (iii) the Commission identifies a compelling public policy reason for an extension that is entirely unrelated to workload, scheduling or administrative convenience.
- Section 10 adds a new subsection to AS 42.05.175, providing timelines for adjudicated docket matters that are not otherwise subject to a timeline under the State or federal law.

[9:03:21 AM](#)

Representative Crawford asked why the appointment function was being returned to the Office of the Governor appointment. Representative Olson said the intent is to remove foreign politics and put it in conformance with other commissions.

[9:04:39 AM](#)

VIRGINIA RUSCH, (TESTIFIED VIA TELECONFERENCE), ALASKA ASSOCIATION OF RETIRED PERSONS (AARP), ANCHORAGE, spoke against adoption of the House Judiciary Committee (HJC) version of the legislation, unless Section 4 is amended to preserve the 15-month period allowed for the Commission. The reduction to 9-months does not allow the Regulatory Commission of Alaska adequate time to carry out its essential function of protecting utility ratepayers from unjust and unreasonable rates.

Ms. Rusch noted that AARP has participated in the Regulatory Commission of Alaska proceedings for several years because of concerns over high utility rates, affecting the membership as well as utility service consumers.

She stressed that the Commission has an important role in protecting consumers from unreasonable utility rates and practices. Consumers will be losers if the Regulatory Commission is not allowed enough time to thoroughly review utility proposed rate increases. The rate case process would be shortened to 9-months. Section 4 begins with a utility's filing, proposing a rate increase or change in other terms of service. A utility is entitled to charge rates sufficient to cover reasonable costs & provide an adequate but no excessive returns on the investment. However, the task of determining what the rates should be requires that the Commission review the utility's complex rate filing. The process begins with a 45 day preliminary review, which the Commission determines if the filing is

approved or suspended for further investigation. The provision is not in the interest of utility consumers who expect and deserve adequate review of the rates they are obligated to pay.

9:09:30 AM

Representative Gara asked what would happen to the Commission by moving the rate making deadline. Ms. Rusch thought it would automatically be granted.

Representative Gara asked about Section 7. Ms. Rusch explained that an amendment was made to make applicable matters under State, federal law or private settlement; that language is not clear. She pointed out that the Commission's responsibilities would expand.

Representative Gara requested more information on Section K, registering his concerns with the bill.

9:12:18 AM

JOHN BITNEY, DIRECTOR, LEGISLATIVE OFFICE, OFFICE OF THE GOVERNOR, advised there had been issues brought before the Governor early in the Session. One addressing proposed changes to the RCA statutes HB 209 attempts to pare down those changes, including Section 7, different from the original proposal. Additionally, Section 4, lowers the time frame and that language was taken from the original docket. The Governor's office supports the bill & Section 1, but realizes it would be a legislative policy call.

Mr. Bitney noted there were other pieces of legislation address the Regulatory Commission of Alaska, such as the sunset language. He indicated support for the task force.

Co-Chair Meyer understood that the Governor was okay with Sections 1, 4 & 7. Mr. Bitney requested clarification on language inserted on Page 3, Lines 2-3.

9:16:34 AM

Representative Gara pointed out that the language in Section 4 was opposed by AARP. Representative Olson mentioned that changes in Sections 4 & 7, originated in the House Judiciary Committee (HJC) and that he did not have back-up information from those committees.

Representative Gara asked if rate changes would include phone rates.

TED MONINSKI, (TESTIFIED VIA TELECONFERENCE), DIRECTOR, REGULATORY AFFAIRS, ALASKA COMMUNICATION SYSTEMS (ACS), ANCHORAGE, addressed the changes to Subsection K. In 2002,

the Legislature put that section on the books, to provide timelines imposed on the Commission. He suggested the provision was in the public's best interest. ACS advocated an amendment in the HJC, the purpose of which was to close the loop, to create a statutory timeline for cases coming before the Commission.

Mr. Moninski continued, the timeline in the original version is moved from 15 months to 9 months. ACS agrees it is important that every case coming before the Regulatory Commission, has a statutory deadline. ACS endorses the bill as drafted.

Representative Gara asked what types of cases are addressed in Section 7. Mr. Moninski responded, the purpose of that change was to create language providing a statutory timeline to any case coming before the Regulatory Commission. Representative Gara asked if they were specific. Mr. Moninski said that was what ACS understood.

Representative Gara pointed out that the timeline indicated was the shortest possible. Mr. Moninski replied that ACS had not proposed the timeline; it occurred in the original House Labor and Commerce (HLC) Committee version. He pointed out that "State" had been removed & that ACS had encouraged retaining that language.

[9:26:12 AM](#)

KATE GIARD, (TESTIFIED VIA TELECONFERENCE), COMMISSIONER, CHAIR, REGULATORY COMMISSION OF ALASKA, ANCHORAGE, offered clarification on the timeline issues when public testimony was closed.

PUBLIC TESTIMONY CLOSED

[9:27:20 AM](#)

Ms. Giard addressed the change from 15-months to 9-months for timelines and rate cases. The original discussion on modifying timelines took place in November 2006, regarding changes needed to improve the regulatory climate in Alaska.

There was a proposal for modification of timelines particularly the ones addressing rate cases & the timelines addressing all matters not yet subject to a timeline. The end result was a proposal to implement a one year timeline on anything the Regulatory Commission did not currently have timelines on, which is now Section 7. That section appeared originally in the House Labor and Commerce (HL&C) version as Section 15, then revised as Section 10 and now Section 7. It provides a 6-month as compared to a 12-month timeline. The 6-month timelines are reserved for matters that have no likelihood of a hearing. In matters where there might be

contention & hearings are likely, the Regulatory Commission advocates a 12-month timeline. The Regulatory Commission of Alaska supports Section 7.

Ms. Giard referenced Section 4, noting that the RCA worked closely with the water and utility groups in Fairbanks to structure changes to rate cases over a period of time, eliminating the regulatory lag. The concern in rate cases is that rate payers pay regulatory cost charges, and end up funding the Department of Law for the sole purpose of having the public advocate representing them in proceedings. Over the past three years, the public advocate has appeared in over 35 of the Regulatory Commission of Alaska's public dockets. She believed the public advocate should be involved in many more dockets than are currently happening. She recommended greater involvement; however, due to resource constraints, there is not enough participation. She voiced concern that Alaska rate payers continue to be well represented by the public advocate.

Ms. Giard proposed moving the statutory timeline from 15-months to 12-months and then after two years, changing it to 9-months, insuring Due Process.

[9:33:45 AM](#)

Representative Gara asked about the public advocate function. Ms. Giard responded that there are cases where the public advocate is not necessary to represent the ratepayers. They are needed in highly adversarial situations. She mentioned a fiscal note submitted by the Department of Law.

Representative Gara inquired if there had been concern that the public advocate position was no longer under the jurisdiction of the Regulatory Commission. He asked about a provision that would allow the Commission to order an advocate's involvement. Ms. Giard noted that she was pleased with the work done by the public advocate on behalf of the Alaska ratepayers. She added concern if the function had not been adequately funded.

[9:36:43 AM](#)

Representative Gara advised that Committee members did not receive a fiscal note from the Department of Law for additional help in the Public Advocates section. Co-Chair Meyer noted one for four employees. Ms. Giard understood that note was for the Regulatory Commission; there should be a separate note for the Department of Law. Representative Gara reiterated that note was zero.

Co-Chair Meyer stated the only application note was #1, which is zero. Representative Olson pointed out that

Section 4 would not move into effect until July 1st, 2008. The task force will determine staffing issues.

[9:38:45 AM](#)

Representative Kelly hoped the legislation would address the Commission's concerns for making a smooth transition.

Representative Gara pointed out that Section 4 would not be reduced until 2008; given that information, assuming there were no additional staff in the Department of Law, he asked the recommended timeline involving hearings. Ms. Giard stated that Section 4 cases would always have a hearing. Generally, individual companies will protest a rate. Section 7 offers to address that by 6-months. Under that section, it is the preference of the Commission to go back to ACS's original proposal - 12-months, only if all parties have a hearing and there is Due Process. RCA is prepared for shortening the timelines; however, there is concern that Section 7, the Due Process, will be given the needed time to work on the cases, needing a hearing.

Representative Gara asked if there are ever 6-month cases receiving no public hearing. Ms. Giard responded that are certain cases not needing a hearing but there is an order filing in order to receive the Federal funding.

Representative Gara asked about the recommended timeline in Section 4. Ms. Giard advised that RCA received a year lag time from the House Judiciary Chair to implement the 9-month timeline. She worried about the impact on the Department of Law's ability to participate in those rates cases. The Department is the only place within the State of Alaska, which protects public interest. The work of Regulatory Commission is to balance the need of the utilities & the rate payers. If there is no one there to present cases for the rate payers, it becomes a difficult balance.

[9:43:36 AM](#)

Representative Gara asked the Commission's opinion on the Section 4 timeline. Ms. Giard was not prepared to answer that question; she thought it should be addressed by the public advocate. She reiterated concerns of the resource constraints & how that affects representation.

Representative Gara worried about the Regulatory Commission's response. Ms. Giard noted, it is a policy call to be made by the Alaska State Legislature regarding how rate payer issues will be handled.

Representative Kelly asked if there was anything to prevent a consumer from participating in the Commission's meetings. Ms. Giard replied it would take "a sizeable bank roll" to

participate, representing an adversarial rate case hearing before the Regulatory Commission. Representative Gara understood that to mean, in order to be effective, an entity would need "serious money" behind them.

[9:47:26 AM](#)

MARK JOHNSON, (TESTIFIED VIA TELECONFERENCE), COMMISSIONER, REGULATORY COMMISSION OF ALASKA, ANCHORAGE, commented that a company seeking a rate increase provides expert witnesses, which is a very significant cost. Barriers to participation are the costs associated with hiring an expert witness. It is an adversarial process and the expenses are significant.

ROBERT ROYCE, (TESTIFIED VIA TELECONFERENCE), ASSISTANT ATTORNEY GENERAL, DEPARTMENT OF LAW, REPRESENTING THE REGULATORY COMMISSION OF ALASKA, ANCHORAGE, clarified he does not represent the Public Advocate. He noted concern with Section 7, Subsection (k). That language is contrary to the Commission's statutory mandate to allow all documents to be public. He explained that a private settlement is not subject to the jurisdiction of the Commission. The Commission only regulates utilities. The language would provide an inconsistency in statute and recommended removing it.

Representative Gara asked what would be considered public record. Mr. Royce explained the concern is that the entity would be arguing a private settlement, not subject to the jurisdiction of the Commission and that the Commission would have no ability to rule.

[9:52:18 AM](#)

In response to a question by Representative Gara, Mr. Royce observed that the RCA does not review private settlements. The RCA only reviews publicly filed records or documents. Ms. Giard noted the RCA has requested that language be removed; nothing provided by a public utility is private. She added, a contract between producers could be considered private. She strongly recommended that the language be removed, advising the policy goal could be achieved without that language.

[9:55:39 AM](#)

Representative Olson was not aware of that request.

Representative Gara voiced concern with the consumer functions, maintaining that phone rates have increased. The RCA's function has been transferred to the Attorney General's office, lacking sufficient staffing. He stated his concerns could be addressed with a fiscal note, adding funds for legal representation.

9:57:43 AM

Representative Kelly pointed out that the Governor has the authority to propose changes within the budget and that he did not support generating a fiscal note for the Department of Law.

Co-Chair Meyer agreed. He noted recommendations from the Department of Law to modify Line 3, Section 7, an addition which had been made in the HJC. The Department suggested removing the language: "or involve the review of private settlements and contracts". Representative Olson noted he had not reviewed that language.

Representative Gara maintained that the legislation has fiscal impact on rate payers and consumers. He pointed out that there has been no testimony received from the Department of Law's consumer representative.

Co-Chair Meyer interjected that the bill needs to "keep moving" if it is to make it through the Legislative process this session. He thought that fiscal considerations had been addressed. He encouraged that additional concerns be addressed before the bill moves to the House Floor.

Representative Gara maintained that there are amendments forthcoming because there will be fiscal impact to the ratepayers.

Co-Chair Meyer noted that the bill would move from Committee to the Senate. He asked that all concerns be addressed before that time.

Representative Gara noted that he had amendments. Co-Chair Meyer stated that the amendments were not presently before the Committee and said he intended to move the bill at this time.

Representative Gara disagreed, stressing that he has the right to make an amendment. Co-Chair Meyer noted that any amendments need to be before the Committee at this time. Representative Gara argued that is not precedence. Co-Chair Meyer reiterated that the amendments could be offered on the House Floor.

Representative Foster MOVED to REPORT CS HB 209 (JUD) out of Committee with individual recommendations and with the accompanying fiscal notes. Representative Gara OBJECTED.

A roll call vote was taken on the motion.

IN FAVOR: Stoltze, Thomas, Foster, Hawker, Kelly,
Chenault, Meyer

OPPOSED: Crawford, Gara

Representative Nelson & Representative Joule were not present for the vote.

The MOTION PASSED (7-2).

CS HB 209 (FIN) was reported out of Committee with a "no recommendation" and with zero note #1 by the Department of Commerce, Community & Economic Development.

[10:05:34 AM](#)

#HB244

HOUSE BILL NO. 244

An Act creating an Alaska Medal of Honor and establishing criteria for awarding the medal.

Vice Chair Stoltze MOVED to ADOPT work draft #25-LS0904\M, Kane, 5/6/07, as the version of the bill before the Committee. There being NO OBJECTION, it was adopted.

KELLY HUBER, STAFF, REPRESENTATIVE NANCY DAHLSTROM, explained the changes made to the work draft. The name was changed from the Alaska Medal of Honor to the Alaska Decoration of Honor, to address the concern that the name was too close to the U.S. Congressional Medal. Additionally, there were concerns that those indicated on the list had served their Country and State honorably. Language on Page 2, Line 24 added Section (E), placing the adjutant general in charge of determining & editing the list. The other change provides the effective date of January 1st, 2000. These changes address Committee concerns brought forward in the previous hearing on the bill.

[10:08:16 AM](#)

Representative Thomas asked about the 2000 date. Ms. Huber understood the original intent was from 2000 forward and was a legislative policy call. Representative Thomas commented that all veterans from all wars have made sacrifices.

Representative Hawker noted that he represents a constituent whose husband was awarded a Medal of Honor from Korea. She encouraged that the name be changed so not to diminish all the Congressional Medals of Honor. He applauded the sponsor's intent.

[10:12:02 AM](#)

Representative Foster MOVED to REPORT CS HB 244 (FIN) out of Committee with individual recommendations and with the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CS HB 244 (FIN) was reported out of Committee with a "do pass" recommendation and with a new zero note by the Department of Military & Veterans Affairs and a fiscal note by the Legislative Affairs Agency.

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ADJOURNMENT

The meeting was adjourned at 10:12 A.M.