

BY THE STATE AFFAIRS COMMITTEE

1 IN THE SENATE

2

SENATE BILL NO. 552

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to intrastate long distance tele-
7 phone competition; permitting deregulation of a class
8 of utilities or a utility service by the Alaska
9 Public Utilities Commission; and providing for an
10 effective date."

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

12 * Section 1. INTENT. (a) This Act is substantially similar to both
13 initiatives that have been filed with the lieutenant governor concerning
14 competition in long distance telephone service in the state, thereby re-
15 quiring removal of the initiatives from the general election ballot under
16 art. XI, sec. 4, of the Constitution of the State of Alaska. The legisla-
17 ture intends this Act to be a comprehensive treatment of the issue of
18 competition in intrastate long distance telephone service and to provide
19 for competition in a responsible and timely manner.

20 (b) The legislature does not intend the enactment of AS 42.05.850,
21 enacted by sec. 2 of this Act, to affect pending litigation regarding the
22 applicability of AS 44.62.310 - 44.62.312 to an association of exchange
23 carriers required by the commission.

24 * Sec. 2. AS 42.05 is amended by adding new sections to read:

25 ARTICLE 11. COMPETITIVE INTRASTATE LONG DISTANCE

26 TELEPHONE SERVICE.

27 Sec. 42.05.800. FINDINGS. The legislature finds that

28 (1) modern, affordable, efficient, and universally avail-
29 able local and long distance telephone service is essential to the

1 people of the state;

2 (2) facilities based, long distance telephone service
3 should be provided competitively wherever possible;

4 (3) technological advances, reduced costs, and increased
5 consumer choices for long distance telephone service, resulting from
6 the adoption of an appropriate competitive market structure, will
7 enhance the state's economic development;

8 (4) the benefits of competition in long distance telephone
9 service should be shared by consumers throughout the state;

10 (5) the commission should oversee competition in long
11 distance telephone service to ensure that the competition is fair to
12 consumers and competitors;

13 (6) the commission should provide for competition in a
14 timely manner and should adopt regulations that eliminate inappropri-
15 ate impediments to entry for long distance carriers fit, willing, and
16 able to provide service.

17 Sec. 42.05.810. COMPETITION. (a) By February 14, 1991, the
18 commission shall adopt regulations that authorize and establish con-
19 ditions governing competition in long distance telephone service.
20 Beginning no later than February 15, 1991, the commission shall accept
21 applications to provide competitive long distance telephone service
22 and shall approve or reject applications within 90 days after the
23 filing of a complete application. The commission shall approve an
24 application upon a finding that the applicant is fit, willing, and
25 able.

26 (b) The commission may prohibit installation of facilities for
27 origination or termination of long distance telephone service in a
28 given location only if it determines that installation of facilities
29 in that location is not in the public interest.

1 Sec. 42.05.820. NO MUNICIPAL REGULATION. A long distance tele-
2 phone company that is exempted in whole or in part from complying with
3 all or a portion of this chapter may not be regulated by a municipal-
4 ity under AS 29.35.060 and 29.35.070.

5 Sec. 42.05.830. EXCHANGE ACCESS CHARGES. In providing for
6 competition under AS 42.05.800 - 42.05.995, the commission shall
7 establish a system of access charges to be paid by long distance
8 carriers to compensate local exchange carriers for the cost of orig-
9 inating and terminating long distance services.

10 Sec. 42.05.840. UNIVERSAL SERVICE FUND. The commission may
11 establish a universal service fund or other mechanism to be used to
12 ensure the provision of long distance telephone service at reasonable
13 rates throughout the state and to otherwise preserve universal ser-
14 vice.

15 Sec. 42.05.850. EXCHANGE CARRIER ASSOCIATION. The commission
16 may require the local exchange carriers to form an association to
17 assist in administering the system of access charges and may require
18 the association to file tariffs and to engage in pooling of exchange
19 access costs and revenue if necessary to achieve the purposes of
20 AS 42.05.800 - 42.05.995.

21 Sec. 42.05.860. RESTRICTIONS ON RESALE OF TELECOMMUNICATIONS
22 SERVICES PROHIBITED. A telephone company may not prohibit or restrict
23 the resale of telecommunications service. If an interexchange tele-
24 communications service is resold, the reseller shall receive credit in
25 an appropriate amount for an applicable exchange access charge if the
26 credit is necessary to prevent double payment of the access charges.

27 Sec. 42.05.995. DEFINITIONS. In AS 42.05.800 - 42.05.995,

28 (1) "local exchange carrier" means any carrier certificated
29 to provide local telephone services;

1 (2) "long distance carrier" or "long distance telephone
2 company" means any carrier certificated to provide long distance tele-
3 phone services;

4 (3) "long distance telephone service" or "long distance
5 service" means intrastate, interexchange telephone service.

6 * Sec. 3. AS 29.35.070(a) is amended to read:

7 (a) The assembly acting for the area outside all cities in the
8 borough and the council acting for the area in a city may regulate,
9 fix, establish, and change the rates and charges imposed for a utility
10 service provided to the municipality or its inhabitants by a utility
11 that is not subject to regulation under AS 42.05 unless that utility
12 is exempted from regulation under AS 42.05.711(a) or (d) - (k) or is
13 exempted under regulations adopted under AS 42.05.810 from complying
14 with all or part of AS 42.05.010 - 42.05.721.

15 * Sec. 4. AS 29.35.070(a) is repealed and reenacted to read:

16 (a) The assembly acting for the area outside all cities in the
17 borough and the council acting for the area in a city may regulate,
18 fix, establish, and change the rates and charges imposed for a utility
19 service provided to the municipality or its inhabitants by a utility
20 that is not subject to regulation under AS 42.05 unless that utility
21 is exempted from regulation under AS 42.05.711(a) or (d) - (k).

22 * Sec. 5. AS 42.05.711(d) is repealed and reenacted to read:

23 (d) The commission may exempt a utility, a class of utilities,
24 or a utility service from all or a portion of this chapter if the
25 commission finds that the exemption is in the public interest.

26 * Sec. 6. AS 45.50.572(d) is amended to read:

27 (d) AS 45.50.562 - 45.50.596 apply to long distance telecommu-
28 nications services provided by public utilities. AS 45.50.562 -
29 45.50.596 do not apply to other services provided by public utilities

1 that [WHICH] have been issued a certificate of public convenience and
2 necessity under AS 42.05.

3 * Sec. 7. AS 45.50.572(d) is repealed and reenacted to read:

4 (d) AS 45.50.562 - 45.50.596 do not apply to public utilities
5 that have been issued a certificate of public convenience and neces-
6 sity under AS 42.05.

7 * Sec. 8. AS 42.05.800, 42.05.810, 42.05.820, 42.05.830, 42.05.840,
8 42.05.850, 42.05.860, and 42.05.995 are repealed.

9 * Sec. 9. LEGISLATIVE INTENT FOR SECTIONS 10 - 12. The legislature
10 intends that if, by administrative or judicial order, this Act is deter-
11 mined on or before September 4, 1990, to be substantially similar to only
12 one of the initiatives, 89-ALAS or 89-TELE, or to neither of those initia-
13 tives, the provisions in this Act providing for competition in the pro-
14 vision of long distance telephone service shall be repealed, so that both
15 initiatives shall appear on the ballot for the voters to consider.

16 * Sec. 10. NOTIFICATION. The lieutenant governor shall notify the
17 revisor of statutes immediately after September 4, 1990, of the determina-
18 tions taken concerning the initiatives, and of the existence and status of
19 litigation concerning the placement of the initiatives on the ballot.

20 * Sec. 11. Sections 1 - 3, 5, 6, 9, and 10 of this Act take effect
21 immediately under AS 01.10.070(c).

22 * Sec. 12. Sections 4, 7, and 8 of this Act take effect November 4,
23 1990, only if on September 4, 1990, there is a judicial or administrative
24 determination in force under art. XI, sec. 4 of the Constitution of the
25 State of Alaska that this Act is substantially similar to (1) one, but not
26 to both, of the initiatives on file with the lieutenant governor relating
27 to competition in long distance telephone service, Initiative 89-ALAS and
28 Initiative 89-TELE, or (2) neither of those initiatives. For purposes of
29 this section, a "determination in force" includes either an administrative

1 decision that is not subject to judicial appeal, a final judicial resolu-
2 tion, or an interim judicial order under which the lieutenant governor is
3 directed to print the general election ballots in accordance with a ruling
4 that this Act is substantially similar to only one of the initiatives or to
5 neither of the initiatives.