

CS FOR SENATE BILL NO. 480 (L&C)**IN THE LEGISLATURE OF THE STATE OF ALASKA****SEVENTEENTH LEGISLATURE - FIRST SPECIAL SESSION****BY THE SENATE LABOR AND COMMERCE COMMITTEE****Introduced: 5/14/92****Referred: Finance****Sponsor(s): SENATE FINANCE COMMITTEE A BILL****FOR AN ACT ENTITLED**

1 "An Act relating to public financial administration, including allocation and use of funds,
2 including the Alaska science and technology endowment and the employment assistance and
3 training account; relating to state contracting and procurements, including contracts and
4 agreements of the Department of Corrections; relating to the charging of fees for state
5 services, activities, and regulatory activities, including fees related to occupational licensing,
6 state parks, public utilities, pipeline carriers, and the office of public advocacy; and
7 providing for an effective date."

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

9 * Section 1. AS 08.01.065(c) is repealed and reenacted to read:

10 (c) The department shall establish fee levels under (a) of this section so that the total
11 amount of fees collected for an occupation approximately equals the actual regulatory costs for
12 the occupation. The department shall annually review each fee level to determine whether the
13 regulatory costs of each occupation are approximately equal to fee collections related to that

1 occupation. If the review indicates that an occupation's fee collections and regulatory costs are
2 not approximately equal; the department shall calculate fee adjustments and adopt regulations
3 under (a) of this section to implement the adjustments. In January of each year, the department
4 shall report on all fee levels and revisions for the previous year under this subsection to the office
5 of management and budget. If a board regulates an occupation covered by this chapter, the
6 department shall consider the board's recommendations concerning the occupation's fee levels
7 and regulatory costs before revising fee schedules to comply with this subsection. In this
8 subsection, "regulatory costs" means costs of the department that are attributable to regulation
9 of an occupation plus

10 (1) all expenses of the board that regulates the occupation if the board regulates
11 only one occupation;

12 (2) the expenses of a board that are attributable to the occupation if the board
13 regulates more than one occupation.

14 * Sec. 2. AS 18.31.200 is amended by adding a new subsection to read:

15 (g) The Department of Labor shall adopt by regulation a fee schedule for

16 (1) review, approval, and certification of asbestos training certification programs
17 and plans under this section; and

18 (2) certification of a person employed to abate an asbestos health hazard.

19 * Sec. 3. AS 33.30.031(a) is amended to read:

20 (a) The commissioner shall determine the availability of state correctional facilities
21 suitable for the detention and confinement of persons held under authority of state law on under
22 agreement entered into under (e) of this section. If the commissioner determines that suitable
23 state correctional facilities are not available, the commissioner may enter into an agreement with
24 a public or private entity [AGENCY] to provide necessary facilities. Correctional facilities
25 provided through agreement with a public or private entity [AGENCY] may be in this state or
26 in another state. [CORRECTIONAL FACILITIES PROVIDED THROUGH AGREEMENT
27 WITH A PRIVATE AGENCY MUST BE LOCATED IN THIS STATE.] The commissioner
28 may not enter into an agreement with an entity [AGENCY], unable to provide a degree of
29 custody, care, and discipline similar to that required by the laws of this state. AS 33.36.020 and
30 33.36.070 do not apply to contracts entered into under this section.

31 * Sec. 4. AS 33.30.231 is amended by adding a new subsection to read:

1 (d) Notwithstanding (a) of this section, the department may contract under AS 36.30 for
2 telephone services for use by a prisoner.

3 * Sec. 5. AS 36.30.320(a) is amended to read:

4 (a) A procurement for supplies, services, or construction that does not exceed an
5 aggregate dollar amount of \$25,000 [\$10,000] may be made in accordance with regulations
6 adopted by the commissioner for small procurements.

7 * Sec. 6. AS 37.10.050(a) is amended to read:

8 (a) A state agency may not charge for [THE PROVISION OF] state services, materials,
9 licenses, registrations, permits, application processing, the use of state facilities, or other
10 state activities unless the charge (1) is set or otherwise authorized by statute; and (2) where a
11 regulation is necessary, is set by or provided for in a regulation that meets the standards of
12 AS 44.62.020 and 44.62.030. A fee or other charge that is set by regulation may not exceed the
13 estimated actual costs of the state agency in administering the activity or providing the service
14 unless otherwise provided by the statute under which the regulation is adopted; this limitation
15 does not apply to sales of property by a state agency. Unless specifically exempted by statute,
16 a state agency authorized to collect or receive fees, licenses, taxes, or other money belonging to
17 the state shall account for and remit the receipts, less fees to which the collector is entitled by
18 statute or regulation, to the Department of Revenue at least once each month. The commissioner
19 of administration shall separately account under AS 37.05.142 for receipts deposited under this
20 subsection.

21 * Sec. 7. AS 37.10.050 is amended by adding new subsections to read:

22 (d) Each state agency shall annually review fees and charges collected by the agency.
23 If a fee that is set by an agency by regulation does not pay for the estimated actual costs of
24 administering the activity or providing the service or material, the agency shall adjust the fee to
25 that level. If an agency regulates an activity or provides a service or material and another agency
26 is authorized to set fees by regulation for the costs of regulating the activity or providing the
27 service or material, the other agency shall consider the recommendations of the agency regarding
28 the setting of fee levels and adjustment of fee levels so that they comply with this subsection.
29 If the adjustment of a fee results in a substantial increase, the agency may set a schedule to phase
30 in the increase over a period of time. By October 1, each state agency shall submit a report to
31 the office of management and budget regarding existing fee levels set by the agency by

1 regulation and adjustments made to fee levels by the agency during the previous fiscal year, and
2 recommended increases in fees set by statute that the agency collects. Each year by January 1,
3 the office of management and budget shall submit a report to the Legislative Budget and Audit
4 Committee summarizing the reports and recommendations. Within 30 days after the convening
5 of each regular session of the legislature, the committee shall report to the legislature the status
6 of fee regulations and make recommendations for statutory changes.

7 (e) In this section, "agency" means a board, commission, or agency in the legislative,
8 judicial, or executive branch, but does not include the University of Alaska or a public
9 corporation.

10 * Sec. 8. AS 37.17.030(c) is amended to read:

11 (c) The administrative expenses of the foundation are subject to AS 37.07 and shall be
12 paid from the income of the endowment. The legislature may appropriate income of the
13 endowment for payment of the administrative expenses of the Alaska Aerospace
14 Development Corporation established under AS 14.40.821 and the agricultural and forestry
15 experiment station research centers of the University of Alaska.

16 * Sec. 9. AS 41.21.026(a) is amended to read:

17 (a) Notwithstanding (b) of this section, the [THE] department may charge or collect
18 a fee in a park unit for

19 (1) rental of public use cabins or other overnight lodgings;

20 (2) overnight use of a developed campsite;

21 (3) special park use permits;

22 (4) competitive and exclusive commercial use permits;

23 (5) noncompetitive and nonexclusive commercial use permits;

24 (6) use of a sewage holding tank dump station;

25 (7) admission to or guided tours of visitor centers or historic sites; [AND]

26 (8) use of an improved boat ramp in a park facility developed principally for boat
27 launching;

28 (9) sale of firewood;

29 (10) use of a developed trailhead, access site, or picnic site, that has parking,
30 rest rooms, and refuse collection; and

31 (11) the presentation or attendance at programs related to natural or cultural

1 history, outdoor skills or education, or other topics concerned with public use, enjoyment,
2 or understanding of parks.

3 * Sec. 10. AS 42.05 is amended by adding a new section to read:

4 Sec. 42.05.253. PUBLIC UTILITY REGULATORY COST CHARGE. (a) A regulated
5 public utility operating in the state shall pay to the commission an annual regulatory cost charge
6 in an amount not to exceed .61 percent of gross revenue derived from operations in the state, as
7 modified under (c) of this section if appropriate. An exempt utility shall pay the actual cost of
8 services provided to it by the commission.

9 (b) The commission shall by regulation establish a method to determine annually the
10 amount of the regulatory cost charge for a public utility. If the amount the commission expects
11 to collect under (a) of this section and under AS 42.06.285(a) exceeds the authorized budget of
12 the commission, the commission shall, by order, reduce the percentages set out in (a) of this
13 section so that the total amount of the fees collected approximately equals the authorized budget
14 of the commission for the fiscal year.

15 (c) In determining the amount of the regulatory cost charge imposed under (a) of this
16 section,

17 (1) a utility selling utility services at wholesale shall modify its gross revenue by
18 deducting payments it receives for wholesale sales;

19 (2) a local exchange telephone utility shall modify its gross revenue by deducting
20 payments received from other carriers for settlements or access charges.

21 (d) The commission shall calculate the total regulatory cost charges to be levied against
22 all regulated electric utilities under this section. The commission shall allocate the total amount
23 among the regulated electric utilities by using an equal charge per kilowatt hour sold at retail.

24 (e) The commission shall administer the charge imposed under this section. The
25 Department of Revenue shall collect and enforce the charge imposed under this section.

26 (f) The commission shall allow a public utility to recover all payments made to the
27 commission under this section. The commission may not require a public utility to file a rate
28 case in order to be eligible to recover the regulatory cost charge.

29 (g) The commission may adopt regulations under AS 44.62 (Administrative Procedure
30 Act) necessary to administer this section, including requirements and procedures for reporting
31 information and making quarterly payments. The Department of Revenue may adopt regulations

1 under AS 44.62 (Administrative Procedure Act) for investigating the accuracy of filed
2 information, and for collecting required payments.

3 (h) In this section,

4 (1) "exempt utility" means a public utility that is certificated by the commission
5 under AS 42.05.221 - 42.05.281 but, in accordance with AS 42.05.711, is exempt from other
6 regulatory requirements of this chapter;

7 (2) "gross revenue" means the total operating revenue from intrastate services, as
8 shown in a utility's annual report required by the commission by regulation;

9 (3) "regulated utility" means a public utility that is certificated by the commission
10 under AS 42.05.221 - 42.05.281 and that is subject to the other regulatory requirements of this
11 chapter;

12 (4) "wholesale sales" means sales to another utility for resale under circumstances
13 that make revenue from the resale subject to the regulatory cost charge imposed under this
14 section.

15 * Sec. 11. AS 42.05.651(a) is amended to read:

16 (a) During [AFTER COMPLETION OF] a hearing or investigation held under this
17 chapter, the commission may [SHALL] allocate the costs of the hearing or investigation among
18 the parties, including the commission, as is just under the circumstances. In allocating costs, the
19 commission shall consider the regulatory cost charge paid by a utility under AS 42.05.253
20 and may consider the results, ability to pay, evidence of good faith, other relevant factors, and
21 mitigating circumstances. Notwithstanding an intervening party's ability to pay, if the
22 commission determines that an intervening party has conducted its intervention in a
23 frivolous manner, the commission shall allocate all costs associated with the intervention to
24 that party. The costs allocated may include the costs of any time devoted to the investigation
25 or hearing by hired consultants, whether or not the consultants appear as witnesses or
26 participants. The costs allocated may also include any out-of-pocket expenses incurred by the
27 commission in the particular proceeding. The commission shall provide an opportunity for any
28 person objecting to an allocation to be heard before the allocation becomes final.

29 * Sec. 12. AS 42.05.651(a) is amended to read:

30 (a) After completion of [DURING] a hearing or investigation held under this chapter,
31 the commission may [SHALL] allocate the costs of the hearing or investigation among the

1 parties, including the commission, as is just under the circumstances. In allocating costs, the
2 commission [SHALL CONSIDER THE REGULATORY COST CHARGE PAID BY A UTILITY
3 UNDER AS 42.05.253 AND] may consider the results, ability to pay, evidence of good faith,
4 other relevant factors and mitigating circumstances. Notwithstanding an intervening party's
5 ability to pay, if the commission determines that an intervening party has conducted its
6 intervention in a frivolous manner, the commission shall allocate all costs associated with
7 the intervention to that party. The costs allocated may include the costs of any time devoted
8 to the investigation or hearing by hired consultants, whether or not the consultants appear as
9 witnesses or participants. The costs allocated may also include any out-of-pocket expenses
10 incurred by the commission in the particular proceeding. The commission shall provide an
11 opportunity for any person objecting to an allocation to be heard before the allocation becomes
12 final.

13 * Sec. 13. AS 42.05.661 is amended to read:

14 Sec. 42.05.661. APPLICATION FEES. With each application relating to a certificate
15 the applicant shall pay the commission a fee set by the commission by regulation that [OF \$50
16 WHICH] shall be deposited in the general fund of the state.

17 * Sec. 14. AS 42.06 is amended by adding a new section to read:

18 Sec. 42.06.285. PIPELINE CARRIER REGULATORY COST CHARGE. (a) A pipeline
19 carrier operating in the state shall pay to the commission an annual regulatory cost charge in an
20 amount not to exceed .61 percent of gross revenue derived from operations in the state. A
21 regulatory cost charge may not be assessed on pipeline carrier operations unless the operations
22 are within the jurisdiction of the commission.

23 (b) The commission shall by regulation establish a method to determine annually the
24 amount of the regulatory cost charge. If the amount the commission expects to collect under (a)
25 of this section and under AS 42.05.253(a) exceeds the authorized budget of the commission, the
26 commission shall, by order, reduce the percentage set out in (a) of this section so that the total
27 amount of the fees collected approximately equals the authorized budget of the commission for
28 the fiscal year.

29 (c) The commission shall administer the charge imposed under this section. The
30 Department of Revenue shall collect and enforce the charge imposed under this section.

31 (d) The commission may adopt regulations under AS 44.62 (Administrative Procedure

1 Act) necessary to administer this section, including requirements and procedures for reporting
2 information and making quarterly payments. The Department of Revenue may adopt regulations
3 under AS 44.62 (Administrative Procedure Act) for investigating the accuracy of filed
4 information, and for collecting required payments.

5 (e) In this section, "gross revenue" means the total intrastate operating revenue as shown
6 in a pipeline carrier's annual report required by the commission by regulation.

7 * Sec. 15. AS 42.06.610(a) is amended to read:

8 (a) During a proceeding held under this chapter, the commission ~~may~~ [SHALL] allocate
9 the cost of the proceeding among the parties, including the commission, as is just under the
10 circumstances. In allocating costs, the commission shall consider the regulatory cost charge
11 paid directly or indirectly under AS 42.06.285. The costs allocated may include the costs of
12 any time devoted to investigations or hearings by hired consultants, whether or not the
13 consultants appear as witnesses or participants. The commission shall provide an opportunity for
14 any person objecting to an allocation to be heard before the allocation becomes final.

15 * Sec. 16. AS 42.06.610(a) is amended to read:

16 (a) During a proceeding held under this chapter, the commission shall [MAY] allocate
17 the cost of the proceeding among the parties, including the commission, as is just under the
18 circumstances. [IN ALLOCATING COSTS, THE COMMISSION SHALL CONSIDER THE
19 REGULATORY COST CHARGE PAID DIRECTLY OR INDIRECTLY UNDER AS 42.06.285.]
20 The costs allocated may include the costs of any time devoted to investigations or hearings by
21 hired consultants, whether or not the consultants appear as witnesses or participants. The
22 commission shall provide an opportunity for any person objecting to an allocation to be heard
23 before the allocation becomes final.

24 * Sec. 17. AS 44.21.310(b) is amended to read:

25 (b) The department may

26 (1) coordinate its functions with local, regional, state, and federal officials, private
27 groups and individuals, and with officials of other countries, provinces, and states;

28 (2) enter into contracts and subcontracts on behalf of the state to carry out the
29 provisions of AS 44.21.305 - AS 44.21.330;

30 (3) act for the state in the initiation, investigation, and evaluation of, or
31 participation in, programs related to the purposes of the department ~~that~~ [WHICH] involve more

1 than one government or governmental unit;

2 (4) on behalf of the state, apply for, accept, and expend gifts or grants made to
3 the state if the gifts or grants are for the purposes of furthering the objectives of the department;
4 [AND]

5 (5) hold public hearings to obtain information for the purpose of carrying out the
6 provisions of AS 44.21.305 - 44.21.330; and

7 (6) provide telecommunication services to commercial entities for television
8 broadcast and charge for those services.

9 * Sec. 18. AS 44.21.410(a) is amended to read:

10 (a) The office of public advocacy shall

11 (1) perform the duties of the public guardian under AS 13.26.360 - 13.26.410;

12 (2) provide visitors and experts in guardianship proceedings under AS 13.26.131;

13 (3) provide guardian ad litem services to children in child protection actions under
14 AS 47.17.030(e) and to wards and respondents in guardianship proceedings who will suffer
15 financial hardship or become dependent upon a government agency or a private person or agency
16 if the services are not provided at state expense under AS 13.26.112;

17 (4) provide legal representation in guardianship proceedings to respondents who
18 are financially unable to employ attorneys under AS 13.26.106(b), to indigent parties in cases
19 involving child custody in which the opposing party is represented by counsel provided by a
20 public agency, to indigent parents or guardians of a minor respondent in a commitment
21 proceeding concerning the minor under AS 47.30.775;

22 (5) provide legal representation and guardian ad litem services under
23 AS 25.24.310; in cases arising under AS 47.15 (Uniform Interstate Compact on Juveniles); in
24 cases involving petitions to adopt a minor under AS 25.23.125(b) or petitions for the termination
25 of parental rights on grounds set out in AS 25.23.180(c)(3); in cases involving petitions to
26 remove the disabilities of a minor under AS 09.55.590; in children's proceedings under
27 AS 47.10.050(a); and in cases involving indigent persons who are entitled to representation under
28 AS 18.85.100 and who cannot be represented by the public defender agency because of a conflict
29 of interests;

30 (6) develop and coordinate a program to recruit, select, train, assign, and supervise
31 volunteer guardians ad litem from local communities to aid in delivering services in cases in

1 which the office of public advocacy is appointed as guardian ad litem;

2 (7) provide guardian ad litem services in proceedings under AS 12.45.046;

3 (8) establish a fee schedule and collect fees for services provided by the office.
4 except as provided in AS 18.85.120 or when imposition or collection of a fee is not in the
5 public interest as defined under regulations adopted by the commissioner of administration.

6 * Sec. 19. Section 3, ch. 95, SLA 1989, is amended to read:

7 Sec. 3. EMPLOYMENT ASSISTANCE AND TRAINING PROGRAM FUND
8 [ACCOUNT]. The employment assistance and training program fund [ACCOUNT] is
9 established in the department. Deposits into the fund are not general fund program receipts
10 [GENERAL FUND. THE COMMISSIONER OF ADMINISTRATION SHALL SEPARATELY
11 ACCOUNT FOR MONEY COLLECTED UNDER SEC. 4 OF THIS ACT THAT THE
12 DEPARTMENT DEPOSITED IN THE GENERAL FUND]. The annual estimated balance in
13 the fund [ACCOUNT] may be appropriated by the legislature to the department to implement
14 this Act. If the entire estimated balance is not used to implement this Act during a fiscal
15 year, the [THE] legislature may make appropriations from the employment assistance and
16 training fund [APPROPRIATE THE LAPSING BALANCE OF THE ACCOUNT] to the
17 unemployment compensation fund established in AS 23.20.130.

18 * Sec. 20. TEMPORARY FEES IN STATE PARKS. (a) The following fees apply for the following
19 activities in units of the state park system until the Department of Natural Resources adopts a regulation
20 under AS 41.21.026(c) that establishes a fee for that activity:

- 21 (1) sale of firewood \$4 per bundle;
22 (2) use of a developed trailhead, access site, or picnic site, that has parking, rest rooms,
23 and refuse collection \$2 per vehicle, or \$25 for an annual pass;
24 (3) admission to visitor centers or historic sites \$1 per person.

25 (b) The commissioner of natural resources shall notify the revisor of statutes when a regulation
26 is adopted that establishes a fee for an activity described under (a) of this section.

27 * Sec. 21. Section 20 of this Act is repealed July 1, 1994.

28 * Sec. 22. AS 42.05.253, enacted by sec. 10 of this Act, and AS 42.06.285, enacted by sec. 14 of this
29 Act, are repealed December 31, 1994.

30 * Sec. 23. AS 33.30.031(b), 33.30.031(c), and 33.30.031(d) are repealed.

31 * Sec. 24. Sections 12 and 16 of this Act take effect December 31, 1994.

1 * Sec. 25. Except as provided in sec. 24 of this Act, this Act takes effect July 1, 1992.