

**HOUSE BILL NO. 295**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**EIGHTEENTH LEGISLATURE - FIRST SESSION**

**BY REPRESENTATIVES BROWN, B.Davis, Sitton, Nordlund, Davies, Finkelstein**

**Introduced: 4/26/93**

**Referred: Labor & Commerce, State Affairs, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to a citizens' utility board; and amending Alaska Rule of Civil  
2 Procedure 24."

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

4 \* Section 1. AS 42.50 is amended by adding a new chapter to read:

5 **CHAPTER 50. CITIZENS' UTILITY BOARD.**

6 **Sec. 42.50.010. CITIZENS' UTILITY BOARD, INC. (a)** Notwithstanding  
7 the procedures for incorporation under AS 10.20, the Citizens' Utility Board, Inc., is  
8 established as a private nonprofit corporation of the state.

9 **(b)** Membership of the corporation consists of the residential utility consumers  
10 16 years of age or older who have contributed to the corporation an annual  
11 membership fee as required by the bylaws of the corporation.

12 **Sec. 42.50.020. POWERS AND DUTIES OF THE CORPORATION. (a)** The  
13 corporation shall

14 **(1)** represent and promote the interests of the residential utility

1 consumers of the state; the actions of the corporation shall be directed to this duty;

2 (2) inform, to the extent possible, all residential utility consumers about  
3 the corporation, including the procedure for obtaining membership in the corporation;

4 (3) establish an annual membership fee that is set at a level that  
5 provides sufficient funding for the corporation to perform its powers and duties  
6 effectively and is affordable for as many utility consumers as is possible; the annual  
7 membership fee may not be less than \$5;

8 (4) have all rights and powers accorded generally to, and be subject to  
9 all duties imposed generally upon, nonprofit membership corporations in this state.

10 (b) The corporation may

11 (1) solicit and accept gifts, loans, grants, or other aid, including  
12 intervenor compensation, in order to support activities concerning the interests of  
13 residential utility consumers; however, the corporation may not accept gifts, loans, or  
14 other aid from a public utility or from a director, employee, or agent, or from a  
15 member of the immediate family of a director, employee, or agent, of a public utility;

16 (2) seek tax-exempt status under state and federal law;

17 (3) conduct, support, and assist research, surveys, investigations,  
18 planning activities, conferences, demonstration projects, and public information  
19 activities concerning the interests of residential utility consumers; the corporation shall  
20 make the reports, studies, and other information compiled under this paragraph  
21 available for public inspection during regular business hours;

22 (4) contract for services that cannot reasonably be performed by its  
23 employees;

24 (5) represent the interests of residential utility consumers before  
25 regulatory agencies, legislative bodies, and other public bodies;

26 (6) initiate, intervene as a party, maintain, or otherwise participate on  
27 behalf of residential utility consumers in any proceeding that affects the interests of  
28 residential utility consumers;

29 (7) support or oppose ballot propositions concerning matters that it  
30 determines may affect the interests of residential utility consumers.

31 (c) The corporation shall have other rights and powers that are reasonably

1 necessary for the effective representation and protection of the interests of residential  
2 utility consumers.

3 (d) The corporation may not sponsor, endorse, or otherwise support and may  
4 not oppose a political party or the candidacy of a person for public office.

5 (e) Notwithstanding AS 37.05.321, in order to carry out its powers and duties  
6 under this chapter, the corporation may use a grant or earnings from a grant received  
7 under AS 37.05.316 to influence legislative action and to travel in connection with  
8 influencing legislative action.

9 Sec. 42.50.030. JUDICIAL REVIEW OF REGULATORY AGENCY  
10 DECISIONS. If the corporation participated at the regulatory agency decision level,  
11 the corporation shall be considered to have an interest sufficient to maintain, intervene  
12 as of right in, or otherwise participate in a civil action, proceeding, or appeal for the  
13 review or enforcement of a regulatory agency decision or action, or refusal to act, that  
14 the corporation determines may substantially affect the interests of residential utility  
15 consumers. If the corporation did not participate in the regulatory agency decision or  
16 action at the agency level, the court may grant the corporation the right to participate  
17 in a civil action, proceeding, or appeal if the interest of the residential utility  
18 consumers is significantly affected.

19 Sec. 42.50.040. ASSISTED MAILING. (a) The corporation may prepare and  
20 furnish to the Department of Revenue an enclosure that the department shall include  
21 with each application for a permanent fund dividend. The corporation shall provide  
22 the department with the enclosure at a time reasonably in advance of the mailing.

23 (b) An enclosure furnished by the corporation under this section shall be  
24 limited to soliciting information and money from consumers and explaining

25 (1) the purpose, history, nature, activities, and achievements of the  
26 corporation;

27 (2) that the corporation is open to membership by residential utility  
28 consumers;

29 (3) that the corporation is not connected to a public utility or  
30 governmental agency;

31 (4) that the corporation is a nonprofit corporation directed by its

1 consumer members;  
2 (5) the procedure for contributing to or becoming a member of the  
3 corporation; and

4 (6) the yearly membership fee.

5 (c) The corporation shall reimburse the department for reasonable incremental  
6 costs, above the normal mailing and handling costs, incurred by the department in  
7 complying with this section. The department shall furnish the corporation with an  
8 itemized accounting of the additional costs. The corporation is not required to  
9 reimburse the department for postage costs if the weight of the corporation's enclosure  
10 does not increase the postage cost of the mailing.

11 (d) In this section, "enclosure" means a card, leaflet, envelope, or a  
12 combination of them furnished by the corporation under this section.

13 Sec. 42.50.050. PROHIBITED ACTS. (a) A public utility or an officer,  
14 employee, or agent of a public utility may not, in retribution for the contribution or  
15 participation, interfere or threaten to interfere with or cause an interference with the  
16 utility service of, or penalize or threaten to penalize or cause to be penalized, a person  
17 who contributes to the corporation or participates in an activity of the corporation.

18 (b) A person may not act with intent to prevent, interfere with, or hinder the  
19 activities permitted under this chapter.

20 (c) A person may not use a list, or part of a list, of contributors to the  
21 corporation for purposes other than the conduct of the business of the corporation. A  
22 person may not disclose the list unless the person has substantial reason to believe that  
23 the list is intended to be used for the lawful purposes described in this chapter.

24 Sec. 42.50.060. BOARD OF DIRECTORS. (a) The affairs of the corporation  
25 shall be managed by an elected board of directors consisting of 11 members. Seats  
26 for the board of directors shall be approximately apportioned among judicial districts,  
27 based on the number of members in the corporation from each judicial district.

28 (b) The directors serve without compensation but each member is entitled to  
29 reimbursement for actual and necessary expenses. The board shall establish standard  
30 allowances for mileage, room, and meals, and the purposes for which the allowances  
31 may be made, and shall determine the reasonableness and necessity for

1 reimbursements.

2 (c) Directors serve for staggered terms of three years. A director may not  
3 serve more than two consecutive full terms.

4 (d) A director or a member of the immediate family of a director may not  
5 directly or indirectly be employed for compensation as a staff member or consultant  
6 of the corporation.

7 (e) A director who handles, disburses, or receives money on behalf of the  
8 corporation must be bonded. The corporation shall pay for the bond.

9 Sec. 42.50.070. DUTIES OF THE BOARD OF DIRECTORS. The board of  
10 directors shall

11 (1) establish the policies of the corporation regarding appearances  
12 before regulatory agencies, the courts, and other public bodies and regarding other  
13 activities that the corporation has the authority to perform;

14 (2) maintain membership rolls and keep them in confidence to the  
15 extent required by AS 42.50.050;

16 (3) keep minutes, books, and records, including financial records, that  
17 reflect the acts and transactions of the board; these are open to examination by a  
18 member of the corporation during regular business hours;

19 (4) make all information concerning the finances of the corporation  
20 available for public inspection during regular business hours;

21 (5) cause the corporation's books to be audited by a certified public  
22 accountant at least once each fiscal year and make the audit available to the public;

23 (6) prepare an annual report of the corporation's financial and  
24 substantive operations to be made available for public inspection;

25 (7) report to the membership at an annual meeting on the past and  
26 projected activities and policies of the corporation;

27 (8) employ and supervise an executive director.

28 Sec. 42.50.080. BOARD MEETINGS AND OFFICERS. (a) The board shall  
29 hold regular meetings, including meetings by teleconference, at least once every three  
30 months. A special meeting may be called by the president of the board or by at least  
31 one-quarter of the directors upon at least five days' notice.

1 (b) A meeting of the board of directors or of a committee or subcommittee of  
2 the board is open to the public. However, if the board intends to discuss a subject that  
3 would be considered an excepted subject under AS 44.62.310, the board may meet in  
4 executive session for that portion of the meeting.

5 (c) The board shall elect, by majority vote of the members present and voting,  
6 from among the directors a president, vice-president, secretary, and treasurer to serve  
7 terms of one year.

8 Sec. 42.50.090. QUALIFICATION OF CANDIDATES FOR THE BOARD OF  
9 DIRECTORS. (a) The following persons are ineligible to serve as directors of the  
10 corporation:

11 (1) an employee, director, consultant, attorney, accountant, real estate  
12 agent, shareholder, or bondholder of a public utility doing business in this state;

13 (2) an employee of the Alaska Public Utilities Commission;

14 (3) a person who holds elective public office or is a candidate for  
15 elective public office;

16 (4) a public official whose position is subject to confirmation by the  
17 legislature;

18 (5) a member of the immediate family of a person identified in (1) -  
19 (4) of this subsection.

20 (b) To be eligible for election to the board of directors, a candidate must

21 (1) be a member of the corporation and a resident of the district that  
22 the candidate seeks to represent; and

23 (2) submit a petition for nomination, a statement of financial interest,  
24 and a statement of personal background and positions as required by the bylaws of the  
25 corporation.

26 Sec. 42.50.100. CORPORATION BYLAWS CONCERNING ELECTIONS.

27 The board of directors shall adopt bylaws for the corporation that set out requirements  
28 for nomination and election to the board of directors, limit the campaign contributions  
29 and expenditures for elections, and establish election procedures.

30 Sec. 42.50.110. RECALL OF DIRECTORS. When the president of the board  
31 of directors receives a petition to recall a director, containing the valid signatures of

1 at least 40 percent of the members of the judicial district that the director represents,  
2 the board shall call a special election to elect a director to serve out the term of the  
3 recalled director. However, a director may not be recalled within six months after the  
4 director's election to office. A director may become a candidate in an election  
5 following the director's own recall. A recall election shall be held not fewer than four  
6 months and not more than six months after receipt of the recall petition. A recalled  
7 director continues to serve on the board of directors until the installation in office of  
8 the recalled director's successor.

9 Sec. 42.50.120. VACANCIES. (a) When a director dies, resigns, is  
10 disqualified, or otherwise vacates the office, the board of directors shall select a  
11 successor from the same judicial district as the director leaving office. The selection  
12 shall be made within three months after the office becomes vacant.

13 (b) A director may nominate a qualified person as a successor director. The  
14 board of directors shall select the successor director by a two-thirds majority of the  
15 remaining directors present and voting.

16 (c) This section does not apply to an office made vacant by recall under  
17 AS 42.50.110.

18 Sec. 42.50.130. EXECUTIVE DIRECTOR. (a) The board of directors shall  
19 employ an executive director who must meet the qualifications, financial disclosure  
20 requirements, and conflict of interest limitations of members of the board of directors.

21 (b) The executive director shall

22 (1) implement the policies established by the board of directors;

23 (2) employ, supervise, and discharge employees of the corporation;

24 (3) have custody of and maintain the books, records, and membership  
25 rolls of the corporation;

26 (4) prepare and submit to the board of directors annual and quarterly  
27 statements of the financial and substantive operations of the corporation and financial  
28 estimates for the operations of the corporation; the membership may inspect the  
29 quarterly statements during regular business hours;

30 (5) attend and participate in meetings of the board of directors as a  
31 nonvoting director;

1 (6) exercise other powers and perform other duties as the board of  
2 directors delegates.

3 Sec. 42.50.140. ANNUAL MEMBERSHIP MEETING. An annual meeting  
4 of the membership shall be held on a date and at a place within the state to be  
5 determined by the board of directors. All members are eligible to attend, participate  
6 in, and vote at the annual membership meeting. The meeting is open to the public.

7 Sec. 42.50.150. CONFLICT OF INTEREST. (a) A person may not offer or  
8 give anything of monetary value to a director, employee, or agent of the corporation  
9 if the offer or gift influences, or is intended to influence, the action or judgment of the  
10 recipient in the recipient's capacity as a director, employee, or agent of the  
11 corporation.

12 (b) A director, employee, or agent of the corporation may not solicit or accept  
13 anything of monetary value from a person if the solicitation or acceptance influences,  
14 or is intended to influence, the official action or judgment of the recipient in the  
15 recipient's capacity as a director, employee, or agent of the corporation.

16 (c) A person who knowingly violates this section is subject to a civil penalty  
17 of not more than \$10,000.

18 (d) The board of directors shall remove from office a director, employee, or  
19 agent who violates the provisions of this section.

20 Sec. 42.50.160. PENALTIES. A person who violates a provision of this  
21 chapter is subject to a civil penalty of not more than \$10,000 for each violation.

22 Sec. 42.50.990. DEFINITIONS. In this chapter,

23 (1) "corporation" means the Citizens' Utility Board, Inc.;

24 (2) "director" means a member of the corporation elected or appointed  
25 to the board of directors of the corporation;

26 (3) "immediate family" includes the spouse and dependents of the  
27 person and of the person's spouse;

28 (4) "member" means a person who meets the requirements for  
29 membership in the corporation;

30 (5) "public utility" means a corporation or other entity engaged in the  
31 business of supplying utility services to persons in the state if rates or charges for the

1 utility services have been established or are subject to approval by a local, state, or  
2 federal governmental entity;

3 (6) "regulatory agency" or "agency" means a local, state, or federal  
4 department, commission, office authority, or other public body with authority to

5 (A) establish or alter rates or charges for the provision  
6 or sale of utility services within this state;

7 (B) plan or approve, reject, or modify plans for  
8 the construction of facilities for the production or  
9 provision of utility services within the state;

10 (C) formulate or review energy policies affecting the  
11 state;

12 (D) otherwise regulate the activities of utility companies  
13 doing business in the state; however, local, state, and federal courts and  
14 legislative bodies are not considered to be "regulatory agencies" for the  
15 purposes of this paragraph;

16 (7) "residential utility consumer" means a person in this state whose  
17 residence is furnished with a utility service by a public utility;

18 (8) "utility services" means electricity, water, natural gas, steam, and  
19 telephone services supplied by a public utility.

20 \* Sec. 2. COURT RULE CHANGE. AS 42.50.030, enacted by sec. 1 of this Act, has the  
21 effect of amending Alaska Rule of Civil Procedure 24 by granting the Citizens' Utility Board,  
22 Inc., the right to intervene in an appeal from an administrative hearing in which it participated.

23 \* Sec. 3. INITIAL BOARD OF DIRECTORS. (a) Notwithstanding AS 42.50.060(a),  
24 enacted by sec. 1 of this Act, an initial board of directors of the Citizen's Utility Board, each  
25 to serve for a term of one year, shall be appointed by the governor as follows:

26 (1) three members shall be appointed by the governor;

27 (2) three members shall be appointed from a list of five submitted by the  
28 president of the senate;

29 (3) three members shall be appointed from a list of five submitted by the  
30 speaker of the house of representatives;

31 (4) one member shall be appointed from a list of five submitted by the

1 minority leader of the senate; and

2 (5) one member shall be appointed from a list of five submitted by the  
3 minority leader of the house of representatives.

4 (b) Notwithstanding AS 42.50.060(a), enacted by sec. 1 of this Act, the board of  
5 directors of the Citizen's Utility Board chosen in the first election shall be composed of two  
6 members elected from the corporation's membership in the first judicial district; two members  
7 elected from the membership in the second judicial district; four members elected from the  
8 membership in the third judicial district; and three members elected from the membership in  
9 the fourth judicial district.