

HB

206



ALASKA

NUSHAGAK ELECTRIC CO-OPERATIVE, INC.

P. O. BOX 197 . DILLINGHAM, ALASKA 99576 . AREA CODE (907) 842-5251

April 2, 1979

*Charlie - This is
a letter regarding
HB 206 for
your info.
Nels*

Honorable Nels A. Anderson, Jr.
Alaska State House of Representatives
Pouch V, State Capitol Building
Juneau, Alaska 99811

Dear Nels:

I am writing to you on behalf of both Nushagak Electric and Nushagak Telephone Co-operatives concerning HB No. 206 entitled "An Act relating to the disposition of unclaimed property; and providing for an effective date."

The title to the Act is somewhat misleading since it encompasses considerably more than it implies, and, if enacted, would destroy the financial viability of all cooperatives. Specifically, I am referring to the following Sections:

09.51.040
09.51.100
09.51.120
09.51.240

Briefly, the problem with this Act centers around the distribution of capitol credits which may be considered as the distributed profits of the cooperatives.

Since NEC became a cooperative in 1964, our revenues have exceeded our expenses by \$264,418.00. This amount is properly allocable to each consumer in the same ratio that his energy billings were to the total energy billings. This allocation is generally done after the books are closed at the end of each year. The allocation, however, does not mean that funds will actually be forthcoming. Usually a cooperative will have at least 40% equity in the system before any disbursements are made. We have approximately 10% equity in this system which indicates that 90% of the system is debt financed.

Honorable Nels A. Anderson, Jr.
Juneau, Alaska 99811

April 2, 1979

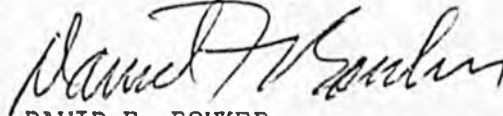
If we were obligated to pay capital credits, we would have to immediately raise rates to establish a cash reserve equal to five times our present cash balances. Under our present rate system this action would rapidly drive everyone back to the kerosene lantern era.

I haven't really had the time to look at HB 206 in light of any other effect it may have on our standard of living, but I respectfully suggest that you make every effort to see that it gets a thorough review by responsible parties.

In the event you may have any questions on this matter, please feel free to call our attorney who is quite knowledgeable in utility operations. His name is Roger Kempel and his number is 277-1604 (Anchorage).

I hope this finds you and your family in the best of health.

Yours very truly,



DAVID F. BOUKER
Manager

cc: Roger Kempel

DFB:ka

ff 206

February 13, 1979

The Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18 of the Alaska Constitution, I am transmitting a bill which largely displaces AS 09.50.070 - 09.50.160 -- the escheat provisions of Title 9 -- and adopts, in their stead, the Revised Uniform Disposition of Unclaimed Property Act (1966) drafted by the National Conference of Commissioners on Uniform State Laws. This bill adds ch. 51 to AS 9, and amends four sections of existing law to conform to the Uniform Act.

The Uniform Act applies to a wider range of abandoned intangible personal property than does the present AS 09.50.070, and it provides for simple transfer of the custody of the property from the holder to the state, rather than transfer of the title. Savings accounts, deposits, drafts, money orders, traveler's checks, and safety deposit box contents are among the various property interests held by banking or financial organizations or by business associations which are covered by the Act (AS 09.51.010). Also included is money held and owing by a life insurance corporation under a life insurance or annuity agreement (AS 09.51.020), deposits and refunds held by utilities (AS 09.51.030), undistributed dividends, stock, and payments relating to a debt held by a corporation (AS 09.51.040), and intangible personal property held by private fiduciaries (AS 09.51.050), public officers and state courts (AS 09.51.070).

In general, any of these property interests which have been abandoned and which are being held in this state by any person or by any business association organized under the laws of or created in this state, or by any foreign corporation or business association doing business in this state whose records indicate the amount held and owing belongs to a person whose last known address was in

this state, are subject to the reporting requirements of the Act, which are set out in AS 09.51.100. Abandonment is generally presumed to have occurred if the owner has not claimed the property or contacted the holder in any way concerning it for a period of seven years. This is the same period currently prescribed in AS 09.50.070.

Holders of property are required to file a report with the commissioner of revenue (AS 09.51.100) after first sending a notice to the last known address of each owner whose property is presumed abandoned (AS 09.51.105). The commissioner is then required to publish a list of the names of owners believed to have abandoned property interests under the Act and to otherwise exercise due diligence to ascertain the whereabouts of the owners (AS 09.51.110). Except in certain narrowly defined circumstances, the holders are then required to pay or deliver the reported property to the commissioner (AS 09.51.120). Thereafter, the holders are relieved of all liability related to the disposition of the abandoned property (AS 09.51.130).

In addition, the Act requires the commissioner to offer to sell all abandoned property other than money to the highest bidder at public sale within one year of its delivery to him unless he determines that the probable proceeds to be obtained at such a sale would not exceed the probable costs of the sale (AS 09.51.160). These proceeds along with all other funds received by the commissioner are to be deposited in the general fund of the state after deducting not more than \$25,000 to retain in a separate trust fund from which he shall make prompt payment of any claims which he has determined to be valid brought by owners of property which has been turned over to the commissioner under the Act (AS 09.51.170). The commissioner may hold a hearing to determine the merits of an individual's claim to the property (AS 09.51.190), and an owner who is aggrieved by a decision of the commissioner or whose claim is not acted upon may, within 90 days, bring an action in the superior court to establish his claim (AS 09.51.200). It will be necessary for the legislature to appropriate a portion of these program receipts to cover the mailing and publication costs and the costs relating to the sale of the property.

The commissioner is authorized to adopt necessary regulations to carry out the provisions of the Act (AS 09.51.250), to examine the books and records of a person who he has reason to believe has failed to report property subject to the Act (AS 09.51.220), and to bring an action to compel delivery of property wrongfully withheld by a holder (AS 09.51.230). Finally, civil

penalties and criminal sanctions will be incurred by those who wilfully fail to comply with the Act (AS 09.51.240).

The procedures set out in the Uniform Act are designed to safeguard the interests of both the state and the rightful owner of the property, if any. In the first place, the reporting requirements imposed upon the holders, combined with the broader investigation and enforcement powers of the commissioner of revenue and with the addition of criminal penalties for wilful failure to report or deliver, will make it easier for the state to ascertain the whereabouts of abandoned property held in this state. The expansion of the categories of personal property affected by the Act will help obtain greater revenue for the state. On the other hand, the Act requires the commissioner to comply with mailing and notification procedures which are reasonably aimed at locating the real owner of reported property. Furthermore, the Act is custodial in nature in that the owner's rights to the property are never lost although his right to income from the property, accruing after payment or delivery to the commissioner, will be cut off (AS 09.51.140). The owner retains the right to establish and claim his interest in the property or the proceeds from the sale of his property from the commissioner at any time in the future.

Correspondence with Minnesota, a leader in implementation of the Uniform Act, shows that in their experience approximately 25 per cent of the abandoned funds are ultimately claimed by rightful owners. In Minnesota the annual volume of unclaimed property exceeds six million dollars. The Department of Law, acting under the reporting requirements currently contained in AS 09.50.140 has received abandoned account reports from several Alaska banks totaling approximately \$500,000, although this figure appears to be understated due to suspension of interest payments and levying of service charges, and deals with only one category of unclaimed property.

Sections 2 through 5 of the bill prescribe amendments to AS 34.45 and to the escheat provisions of AS 09.50 which are the two other statutory procedures for disposing of unclaimed property. The former deals primarily with tangible personal property left in the care of certain bailees or consignees whereas the latter will now primarily apply to real property and any tangible personal property interests not expressly covered by either of the other acts.

Specifically, sec. 5 amends AS 34.45.070 by incorporating the claims procedure and right of action provided for by the Uniform Act. Like the Uniform Act, it also will make the state the mere custodian of the property or the proceeds and the rightful owner's property interest will never be lost.

Section 2 of the bill redefines the scope of AS 09.50 to exclude those interests covered by the Uniform Act.

Finally, secs. 3 and 4 of the bill amend certain provisions of AS 09.50 to incorporate some of the procedures set out in the Uniform Act. However, under this chapter, a potential claimant's interest in property which has been made the subject of a formal escheat proceeding can be cut off by the failure to assert such a claim within seven years after the judgment (AS 09.50.110).

The official comments of the National Conference of Commissioners on Uniform State Laws offer additional explanation of the purposes of and the need for the Uniform Act.

Sincerely,

A handwritten signature in dark ink, appearing to read "JSH", is written over the typed name.

Jay S. Hammond
Governor

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST HOUSE BILL NO. 206
 Bill/Resolution No. _____
 Title Uniform Disposition of Unclaimed Property Act
 Requested by _____ Date _____

II. FISCAL DETAIL
 Agency Affected Department of Revenue
 Program Category Affected Revenue Collection and Management
 Budget Request Unit(s) Affected Audit Division

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES		16.8	16.8	16.8	16.8	16.8
200 TRAVEL						
300 CONTRACTUAL		8.5	8.5	8.5	8.5	8.5
400 COMMODITIES		.5	.5	.5	.5	.5
500 EQUIPMENT		.8				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		26.6	25.8	25.8	25.8	25.8


FUNDING (Thousands of Dollars)

GENERAL FUND		26.6	25.8	25.8	25.8	25.8
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE 2/12/79 PREPARED BY 
 AGENCY Department of Revenue
 PHONE 465-2300
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

ALASKA STATE LEGISLATURE

ELEVENTH Legislature FIRST... Session

HOUSEBILL..... NO. 206...

By ..THE RULES COMMITTEE BY...
REQUEST OF THE GOVERNOR

"An Act relating to the disposition of unclaimed property; and providing for an effective date."

Disposition of unclaimed property

Introduced in the House . . . 2-14 . . . , 19..79

HISTORY IN THE HOUSE

19 79	Read first time and referred to Committee on												
Feb. 14	Judiciary												
	Reported back with recommendation that												
	Read second time and												
	Read third time and												
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PASS	Effective Date												
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Absent	Absent												
Excused	Excused												
	Reported correctly engrossed												
	Signed by Speaker												
	Sent to Senate												
CHIEF CLERK OF THE HOUSE													

HISTORY IN THE SENATE

19	Read first time and referred to Committee on												
	Reported back with recommendation that												
	Read second time and												
	Read third time and												
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Yeas	Yeas												
Nays	Nays												
Absent	Absent												
Excused	Excused												
	Reported correctly engrossed												
	Signed by President												
	Returned to House												
SECRETARY OF THE SENATE													

HISTORY IN THE HOUSE

19	Received from Senate
	Concurred in Senate amendment thus adopting: VOTE
	Failed to concur in Senate amendment; asked Senate to recede VOTE
	Senate receded from amendment VOTE
	Senate failed to recede from amendment VOTE
	CC appointed by House
	CC appointed by Senate
	CC adopted by House VOTE
	CC adopted by Senate VOTE
	To enrolling Reported correctly enrolled Sent to Governor by Governor
	Filed with Lt. Governor
	Chapter No.