

H B

307

Introduced: 3/30/83  
Referred: State Affairs  
and Finance

1 IN THE HOUSE

BY FLOOD

2

HOUSE BILL NO. 307

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the powers, duties and organiza-  
7 tion of the Alaska Public Broadcasting Commission;  
8 restricting the use of state money for public broad-  
9 casting; and requiring competitive bidding as a  
10 condition for state grants to public broadcasters."

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

12 \* Section 1. AS 44.21.258 is amended by adding new subsections to read:

13 (c) An employee of a public broadcasting station may not be  
14 appointed to membership on the commission.

15 (d) A member of the commission may not serve more than one <sup>full</sup> term.

16 \* Sec. 2. AS 44.21.268(a)(3) is amended to read:

17 (3) except as provided in AS 44.21.269, make [PROVIDE]  
18 grants to locally controlled non-profit telecommunications entities  
19 which lease, purchase, construct, own, operate and manage and are the  
20 licensees of public broadcasting stations, production centers, and  
21 other related equipment and facilities for the production and trans-  
22 mission of open circuit, closed circuit, 2,500 megahertz, and other  
23 transmission means necessary to provide fully effective public broad-  
24 casting in the state;

25 \* Sec. 3. AS 44.21 is amended by adding a new section to read:

26 Sec. 44.21.269. LIMITATIONS ON THE USE OF STATE MONEY FOR  
27 GRANTS. (a) The commission may not use state money to make a grant

28 under AS 44.21.268(a)(3) if the grant applicant

29 (1) broadcasts commercial advertising;

83

84  
reg  
F

6,300

6,755,2

grants

1 (2) allows any persons to rent or use equipment for profit  
2 or personal benefits;

3 (3) employs, as paid employees, more than twice as many  
4 full-time or full-time equivalent employees as are employed by the  
5 largest commercial broadcasting station, if any, located in the ser-  
6 vice area of the grant applicant;

7 (4) pays more than twice as much for employee salaries and  
8 contract labor services than is paid by the largest commercial broad-  
9 casting station, if any, located in the service area of the grant  
10 applicant;

11 (5) duplicates programming or broadcasting services avail-  
12 able from other sources in the service area of the grant applicant;

13 (6) does not use sealed bid competitive bidding to obtain  
14 products or services that cost more than \$3,000 annually, accepting  
15 the lowest bid from a qualified bidder; or

16 (7) fails to maintain a register of qualified bidders for  
17 the purposes of (6) of this subsection or fails to provide written  
18 notice of a bid proposal at least 30 days before the bids are opened  
19 to the qualified bidders on the register.

20 (b) In this section

21 (1) "commercial advertising" means a broadcast endorsement  
22 or description of a product, service, or business enterprise other  
23 than the naming of a business enterprise as the sponsor or underwriter  
24 of a public broadcast;

25 (2) "service area" means an area in which the broadcast  
26 signals of a public broadcasting station can normally be received.

27 [\* Sec. 4. AS 44.21.268(b) is repealed.]

Not ok

STATE OF ALASKA  
FISCAL NOTE

Revision Date \_\_\_\_\_, 1983

I. REQUEST

Bill/Resolution No.: HB 307  
 Title: AK Pub. Broadcast. Comm./Restr. St. Mon  
 Sponsor: Flood  
 Requestor: House State Affairs

II. FISCAL DETAIL

Agency Affected: Administration  
 Program Category Affected: Telecommunications  
 BRU, Program of Subprogram(s) Affected: Alaska Public Broadcasting Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
<b>OPERATING</b>						
100 PERSONAL SERVICES		124.6	130.8	137.3	144.2	151.4
200 TRAVEL	0	12.3	12.9	13.6	14.2	15.0
300 CONTRACTUAL	0	28.1	29.5	31.0	32.5	34.0
400 COMMODITIES	0	3.4	3.6	3.8	4.0	4.2
500 EQUIPMENT	0	19.8	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC	0	36.0	37.8	39.7	41.7	43.8
<b>TOTAL OPERATING</b>	<b>0</b>	<b>224.2</b>	<b>214.6</b>	<b>225.4</b>	<b>236.6</b>	<b>248.4</b>
<b>CAPITAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>REVENUE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	224.2	214.6	225.4	236.6	248.4
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Source)	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	3	3	3	3	3
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

APBC has not been notified by the Sponsor or the Committee as to where reductions will occur that will allow the above expenditures.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Julianne Lacey, Deputy Comm, Telecommunications for,  
 Charles M. Northrip  
 Division: Alaska Public Broadcasting Commission  
 Phone: 465-2846  
 Date: April 15, 1983  
 Approved by Commissioner: Lisa Rudd  
 Department: Administration  
 Date: 4/15/83

Distribution:

Original to Legislative Finance  
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APBC ANALYSIS OF FISCAL DATA  
ON HB307  
April 15, 1983

ASSUMPTIONS

All assumptions relate to various subparagraphs of proposed new section: AS 44.2i.269, which would require the APBC to monitor certain public and commercial station activities.

(3) and (4) lead to the assumption that APBC would gather work-force, salary, and other data from all public and commercial stations in markets where both public and commercial stations exist.

(5) leads to the assumption that the APBC would monitor the programming activities of all public and commercial stations in the above markets.

(6) and (7) lead to the assumption that the APBC would monitor all purchases in excess of \$3,000 by all public stations and that public stations would incur some increased costs in maintaining a bid register.

PROGRAM SUMMARY

1. Positions: One Accounting Clerk II - for activities listed under assumptions resulting from (3), (4), (6), and (7) above; One Broadcast Programming Specialist - for activities listed under assumption resulting from (5) above; and one Clerk Typist II - to provide clerical support to the first two positions.

2. Other expenditures: Travel - Broadcast Programming Specialist would have to visit all public/commercial markets and monitor actual on-air programming in order to verify that duplicative programming is or is not being presented by public stations; Contractual - rent for additional office space; new personnel; Commodities - additional office supplies for new positions; Grants - estimate of total cost of maintaining registers of qualified bidders at all public stations (2,000 per year per grantee).

3. Funding: All funding would be from the State's General Fund. No federal or other funds are available for these purposes.

COMPUTATIONS

The costs for the fiscal years beyond FY'84 are estimated to rise at 5% per year. Salaries may vary due to negotiated contracts.

ECONOMIC IMPACT

None expected on the general economy.

LOCAL GOVERNMENT IMPACT

None expected.

ATTACHMENTS

APBC comments on this bill are attached.

1.	POSITION TITLE (Broadcast Programming Specialist)			RANGE/STEP 21	BARG. UNIT G	FORM 12 PAGE/LINE	GOV.	APPRO.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT 4	LEG.	
3.	CONTINUATION LEVEL	ADDITION	X	JUSTIFICATION					
4.	TYPE OF EXPENDITURE		AMOUNT						
	1	2	3						
	PERSONAL SERVICES								
5.	Salary	41,700							
6.	Benefits	12,910							
7.	Supplemental Benefits	2,240							
8.	Fixed Benefits	2,880							
9.	TOTAL PERSONAL SERVICES	01	59,730						
10.	Travel	02	12,300						
11.	Contractual	03	9,360						
12.	Commodities	04	1,133						
13.	Equipment	05	3,230						
14.	Other								
15.	TOTAL COST		85,753						
	RECEIPT CODE	FUNDING SOURCE							
16.		Federal Receipts	1002						
17.		G.F. Match	1003						
18.		General Funds	1004	85,753					
19.		I-A Receipts	1005						
20.		Program Receipts	1028						
21.		Other							
FOR B&M USE ONLY 4A KEY NUMBER _____									

In order for the APBC to ascertain that public stations are not duplicating programming or broadcasting services "available from other sources" (proposed new section AS 44.21.269 (5)), actual monitoring of commercial and public signals will be necessary in all communities where public and commercial stations are located.

This position would perform the monitoring, compare program listings, investigate allegations of duplicative programming, etc. Extensive travel would be required in order to actually verify that stations are programming as their schedules indicate.

**13** REQUEST FOR  
NEW POSITION

AGENCY Administration

PROGRAM Telecommunications

BRU Alaska Public Broadcasting Commis.

COMPONENT APBC

**FY 84**

Page 1 of 3

Revised Date \_\_\_\_\_

1.	POSITION TITLE Accounting Technician II				RANGE/STEP 14	BARG. UNIT G	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT 4	LEG.		
3.	CONTINUATION LEVEL	ADDITION	X		JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT	<p>In order for the APBC to enforce the proposed new section, AS 41.21.269.(2), (3), (4), (5), and (7), extensive fiscal monitoring of all commercial and public stations in communities where both public and commercial stations are located would be necessary (a total of over 40 stations, <u>without</u> considering local Cable TV outlets).</p> <p>This position would collect rental income data from public stations; staff, salary, and contractual data from all stations; and bid procedure information from public stations and analyze the data to assure compliance with the provisions of the proposed new section.</p>					
	1	2	3							
	PERSONAL SERVICES									
5.	Salary	25,740								
6.	Benefits	7,969								
7.	Supplemental Benefits	1,578								
8.	Fixed Benefits	2,880								
9.	TOTAL PERSONAL SERVICES	01		38,167						
10.	Travel	02		0						
11.	Contractual	03		9,360						
12.	Commodities	04		1,134						
13.	Equipment	05		3,430						
14.	Other									
15.	TOTAL COST			52,091						
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts	1002							
17.		G.F. Match	1003							
18.		General Funds	1004	52,091						
19.		I-A Receipts	1005							
20.		Program Receipts	1028							
21.		Other								
FOR B&M USE ONLY										
4A KEY NUMBER - - - - -										

**13** REQUEST FOR  
NEW POSITION

AGENCY Administration  
PROGRAM Telecommunications  
BRU AK Public Broadcasting Commission  
COMPONENT APBC

**FY 84**

Page 2 of 3  
Revised Date \_\_\_\_\_

1.	POSITION TITLE Clerk Typist II				RANGE/STEP 7	BARG. UNIT G	FORM 12 PAGE/LINE	GOV.	APPRDV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	FCN NUMBER	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT 4	LEC.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE				AMOUNT					
	1		2		3					
	PERSONAL SERVICES									
5.	Salary		17,340							
6.	Benefits		5,368							
7.	Supplemental Benefits		1,068							
8.	Fixed Benefits		2,880							
9.	TOTAL PERSONAL SERVICES		01		26,656					
10.	Travel		02		0					
11.	Contractual		03		9,360					
12.	Commodities		04		1,133					
13.	Equipment		05		13,150					
14.	Other									
15.	TOTAL COST				50,299					
RECEIPT CODE FUNDING SOURCE										
16.			Federal Receipts 1002							
17.			G.F. Match 1003							
18.			General Funds 1004		50,299					
19.			I-A Receipts 1005							
20.			Program Receipts 1028							
21.			Other							
FOR B&M USE ONLY 4A KEY NUMBER _____										

This position would provide necessary clerical support for the Broadcast Programming Specialist and the Accounting Technician II.

**13** REQUEST FOR  
NEW POSITION

AGENCY Administration

PROGRAM Telecommunications

BRU AK Public Broadcasting Commission

COMPONENT APBC

**FY 84**

Page 3 of 3

Revised Date \_\_\_\_\_

HB 307  
POSITION PAPER

HB 307 would place two additional restrictions on Alaska Public Broadcasting Commission appointees, delete the section of the statutes that prohibits the APBC from exercising control over program content and place seven limitations on grantees (stations) receiving State funds.

The Department of Administration opposes this bill because significant portions of it are unnecessary, and contrary to existing Federal and State policy relating to public broadcasting.

However, the Department can support new subsections (c) and (d) which amend AS 44.21.258.

Subsection (c), which prohibits a public station employee from attaining a Commission appointment, is supportable because it merely formalizes a practice presently in place. To date, there has never been a public station employee appointed to the APBC. Certain safeguards already exist in that the APBC does not make the appointments; appointments are made by the Governor and confirmed by the legislature. Further, AS 42.21.258(a) states "In making appointments the Governor shall give due consideration to representation from such fields as higher education, elementary and secondary education, communications, commercial broadcasting, public health, public works, labor, commerce and the professions."

The Department supports subsection (d) with minor modification, by inserting the word "full" before "term". This prevents a member from serving more than one full (5-year) term, but does not prevent a member from serving a partial term and then one full term.

The Department opposes the repeal of AS 42.21.268(b) because this section provides the necessary insulation from State interference or control over program content. This insulation from even the appearance of State control was felt to be so important that language was inserted four times in AS 42.21.300 (telecommunications divisions) as well as in the APBC statute in 1981. 44.21.305 requires the Deputy Commissioner for Telecommunications to "assure that division activities in no way constitute an influence on the content or airing of programming" and to report any activity of this nature to the Governor, Commissioner of Administration and the APBC. Similar language appears in 44.21.310(5) (c), 44.21.315(7)(g) and 44.21.320(2)(d). The first two subsections prohibit either telecommunications division from making programming decisions and the last subsection references the Television Project and the role of the RATNET Council.

The proposed new section 44.21.269 would require the APBC grantees (stations or other entities) to comply with seven new stipulations in order to qualify for State funding. A grantee will not qualify for State funds if it:

(1) "broadcasts commercial advertising"

Public stations do not presently broadcast commercials and although underwriting guidelines have been relaxed, do not plan to air commercials in the future. Existing APBC statutes and Federal restrictions prohibit commercial advertising; therefore, this provision is unnecessary.

(2) "...rent or use equipment for profit or personal benefits"

Federal NTIA-funded equipment use restrictions have been relaxed to encourage less dependency of Federal support. Although Alaskan public stations have taken advantage of this opportunity, most have policies stating that equipment can only be rented if no other vendor source is available. Finally, the APBC can place restrictions on funds it distributes, but cannot impose these restrictions on funds received by the stations from other sources.

(3) "employs...more than twice as many...employees as are employed by the largest commercial broadcasting station..."

This section would not effect single market stations or those located in major urban areas. However, there are five stations that share small town audiences with commercial radio stations. In Petersburg the commercial station provides religious programming with an all-volunteer staff. In all cases, a comparison of staff at stations in these locations would be difficult because the types of programming and duties of personnel are quite dissimilar. Public stations have a commitment to local programming which requires a different and larger staff than is dictated by commercial stations' formats. This local commitment (10% must be locally produced programs other than "record shows") requires staff to produce the programs or coordinate and train local volunteer programmers.

(4) "pays more than twice as much...than is paid by the largest commercial broadcasting station..."

If enacted, this section would require the APBC to inquire into commercial stations' financial information. Commercial stations are not required to make this information public; therefore, it would be unlikely that the APBC could comply with this section.

(5) "duplicates programming or broadcast services..."

The Department feels that the language in this section is ambiguous and that the intent is unclear. It may be intended as a replacement for AS 42.21.268(b) which relates to programming control and would be repealed if this bill becomes law. If so, this section would be illegal as AS 42.21.305 requires the Deputy Commissioner for Telecommunications to report all occurrences of program control to the Governor,

Commissioner of Administration and the APBC. Also, a concern for freedom of the press is raised as well as very practical monitoring considerations.

- (6) "does not use...competitive bidding to obtain products or services that cost more than \$3,000 annually, accepting the lowest bid..."

Competitive bidding for equipment purchases is presently a common practice at public stations. Federal PTFP equipment grants require competitive bidding and the APBC Engineer provides advice and information to stations about technological advances and equipment vendors. The requirement to accept the lowest bid would not provide the quality and durability necessary for broadcast equipment. Ultimately, it would be more expensive for stations to replace equipment frequently and would limit the flexibility stations have now to tailor their purchases to fit some rather unusual, Alaskan situations.

Some items, such as dues, subscriptions and programming, are not biddable. A large part of stations' program schedules come from PBS or NPR, both of which must be sole source procurements and both of which cost considerably more than \$3,000 per year.

- (7) "fails to maintain a register of qualified bidders...or fails to provide written notice of a bid proposal at least 30 days before the bids opened..."

In order to comply with this section public stations would require additional personnel. If, however, the previous section is not required due to present practices of the APBC and public stations, this section is also unnecessary.

Julianna Guy Julianna Guy  
Deputy Commissioner for Telecommunications  
Department of Administration

4-18-83  
Date

Lisa Rudd Lisa Rudd  
Commissioner  
Department of Administration

4/19/83  
Date

HB 307  
POSITION PAPER  
Developed by the Alaska Broadcasting Commission

HB 307 proposes additional restrictions on the use of State money for public broadcasting and would require competitive bidding as a condition for state grants to public broadcasters. It would accomplish both these purposes by amending the enabling statute of the Alaska Public Broadcasting Commission, AS 44.21.

The first section of the bill amends AS 44.21.258 by adding two new subsections, one of which would prohibit an employee of a public broadcasting station from being appointed to membership on the APBC and the other would limit members of the Commission to serving only one term. The APBC has no objection to the first addition. It should be noted, however, that in the 13 year history of the APBC, an employee of a public broadcasting station has never served as a member of the Commission. The Commission's current enabling statute, AS 44.21.258, empowers the Governor to appoint the members of the Commission after giving due consideration to representation from such fields as higher education, elementary and secondary education, communications, commercial broadcasting, public health, public works, labor and commerce and the professions. There is, therefore, no requirement in the current statute for public broadcasting employees to be appointed to the Commission, and none have been so appointed. In two instances over the last 13 years, Commission members have resigned their seats on the Commission in order to apply for positions at public broadcasting stations. A prohibition against employees of public broadcasting stations serving as members of the Commission may be unnecessary since such membership would clearly violate common law provisions with regard to conflict of interest.

The proposed provision to limit a member of the Commission to serving no more than one term leaves unanswered the possibility of serving a portion of an unexpired term and then serving a full term. This problem could be addressed by adding the word "full" between the words "one" and "term" on line 15 of page 1 of the bill. In point of fact, 38 different Alaskans have served as members of the APBC over the Commission's thirteen year history. Of that group, only three have served for more than five years (the length of one term on the Commission.) It would appear that normal attrition and the regular exercise of the Governor's appointing power has assured adequate turnover of the Commission's membership. Nevertheless, the Commission would not oppose either of the first two provisions of the bill.

HB 307, in Section 4, purposes to repeal AS 44.21.268(b). That provision prohibits any APBC control over the specific content or airing of any program material. The Commission opposes any repeal of that provision. The basic premise on which State support for public broadcasting has been based in Alaska, is the local control of broadcast programming by the independent non-profit corporations which serve as the licensees of the various public stations. This funding approach has a firm basis under the freedom of press and speech provisions of the First Amendment to the U.S. Constitution and avoids any possibility of government control of broadcast programming. Previous legislatures have felt so strongly about confirming this principle

that it is enunciated in three other locations in Alaska Statutes (AS 44.21.305(b)(2); AS 44.21.310(c); AS 44.21.315(g)). Even if Section 4 of HB 307 were to become law, the other provisions of the statute cited above would still prohibit the APBC from engaging in program control activity.

Section 3 of HB 307 proposes to add a new section to the APBC enabling statute which would cause the APBC to deny State grant funds to any station or other grant applicant, if the applicant:

(1) "Broadcasts commercial advertising." The Commission feels that this provision is unnecessary since its current statute and own regulations allow it to make grants only to non-profit telecommunications entities which lease, purchase, construct, own, operate, and manage and are the licensees of public broadcasting stations, etc. By definition, these entities are licensed by the Federal Communications Commission as non-commercial, educational stations. They are already prohibited by law from broadcasting commercial advertising. In addition, the Articles of Incorporation or basic institutional framework of each APBC grantee must state that the station will broadcast only non-commercial material.

(2) "Allows any person to rent or use equipment for profit or personal benefits." Current federal law allows any public station to rent its facilities in order to supplement its income, and therefore, become less dependent on federal and other governmental funding. Such an approach assures a broader base of support for each public station and has the potential for lessening the dependence of each station on government funds. In Alaska, each station which makes its facilities available for rent or contract use has established policies limiting those uses only to instances where potential users cannot procure those services elsewhere in the local area. The APBC opposes the blanket restriction proposed in HB 307. The APBC already prohibits grantees from using their facilities for the production of commercial messages or political announcements.

(3) "Employs, as paid employees, more than twice as many full-time or full-time equivalent employees as are employed by the largest commercial broadcasting station, if any, located in the service area of the grant applicant." While the APBC could probably support the spirit of this proposed provision, its practical enforcement would be confusing and vague at best. In one community where a public station and a commercial station are co-located, the commercial station is staffed entirely by volunteers of a particular religious persuasion. In other locations, the commercial radio "station" is simply a repeater of a larger commercial station in a distant urban market, or is an automated operation playing music tapes purchased from a syndicated music service. In communities of this sort, the public station may be the only source of local news, public affairs, emergency announcements and the like. Even a minimum full time staff at the public station would, however, violate the requirements of this proposed provision.

(4) "Pays more than twice as much for employees salaries and contract labor services than is paid by the largest commercial broadcasting station, if any, located in the service area of the grant applicant." The APBC opposes this provision because it would be impossible to enforce. In order to enforce the provision, the Commission would have to have detailed salary and contractual employment data from all commercial stations in markets

where public stations exist. The FCC does not require that financial information from commercial stations and it is highly unlikely that the commercial stations would provide it to the APBC on a voluntary basis. The same objections raised to (3) above would also apply to this provision.

(5) "Duplicates programming or broadcasting services available from other sources in the service area of the grant applicant." This provision would violate the other three provisions in Alaska Statutes which require government agencies to refrain from exercising control over program services of broadcast stations, even if AS 44.21.268(b) is repealed. The APBC opposes this provision on the philosophical grounds discussed above relating to freedom of speech and press and in view of the difficulties envisioned in enforcing the provision. What, for example, is duplicate programming? If a local commercial station provides weather information, must the APBC require its grantee station not to broadcast weather information? If a local commercial television station broadcasts network-provided feature films, must the APBC require the local public television station to refrain from the broadcast of a classic film series? The list of such judgmental difficulties is endless.

(6) "Does not use sealed bid competitive bidding to obtain products or services that cost more than \$3,000 annually, accepting the lowest bid from a qualified bidder." This provision appears, at first glance, to be a practical and prudent way of conserving State funds. In fact, all APBC grantees do use competitive bidding for procurement of major items of equipment and facilities. There are some items, however, many of which cost more than \$3,000, that stations simply could not procure through competitive bidding. Each public television station, for example, must pay its share of the cost of the nationally produced programs that make up its Public Broadcasting Service (PBS) schedule. Such programs as Masterpiece Theatre, Nova, Sesame Street, Over Easy, and The McNeal/Lehrer Report are part of a joint purchase made by all public television stations in the country each year. That purchase costs each station in excess of \$100,000. There is no way to make the PBS schedule a competitively-procured item. The fact that the total cost to all stations for all PBS programs is less than one-tenth the cost of the schedule of one of the three national commercial networks would indicate that the public stations are already exercising commendable budget restraint in such procurements. A similar situation exists with regard to public radio stations and the services received from National Public Radio which include All Things Considered and Morning Edition. In addition, in the procuring of less expensive items, public stations often provide a local or Alaska dealer preference in their purchasing procedures which would be prohibited by this proposed provision. For all of the above reasons, the APBC opposes this provision.

(7) "Fails to maintain a register of qualified bidders for purposes of (6) of this subsection or fails to provide written notice of a bid proposal at least 30 days before the bids are opened to qualified bidders on the register." The APBC would oppose this provision since it is totally dependent on (6) above. In addition, stations having to comply with this provision would require at least some additional funding assistance in order to provide the clerical support necessary to comply with this provision.

In conclusion, while the APBC has only minor or no objections to one or two provisions of HB 307, the Commission finds the vast majority of the provisions in the bill either unnecessary, contrary to First Amendment guarantees of free speech and press, or unenforceable. For those reasons, the APBC would recommend that the bill not be enacted.

4/15/83

DATE

Charles M. Northrip  
Charles M. Northrip  
Executive Director  
Alaska Public Broadcasting Commission  
465-2846

4/18/83

DATE

Lisa Rudd  
Lisa Rudd, Commissioner  
Department of Administration

REPRESENTATIVE  
JOE FLOOD  
3423 WEST 79TH  
ANCHORAGE, ALASKA 99502  
(907) 243-7511

MEMBER  
FINANCE COMMITTEE

DISTRICT 9  
SOUTHWEST ANCHORAGE

# Alaska State Legislature



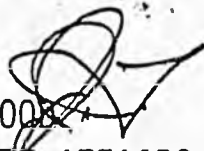
WHILE IN JUNEAU  
POUCH V  
JUNEAU, ALASKA  
99811  
(907) 465-4937

STAFF COUNSEL  
MARK K. JOHNSON

## House of Representatives

APRIL 13, 1983

### MEMORANDUM

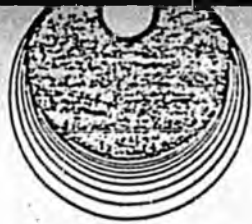
FROM: REPRESENTATIVE JOE FLOOD   
TO: ALL MEMBERS OF THE STATE AFFAIRS COMMITTEE

SUBJECT: SPONSOR AMENDMENT TO HB 307, AN ACT RELATING TO THE POWERS, DUTIES AND ORGANIZATION OF THE ALASKA PUBLIC BROADCASTING COMMISSION, RESTRICTING THE USE OF STATE MONEY FOR PUBLIC BROADCASTING; AND REQUIRING COMPETITIVE BIDDING AS A CONDITION FOR STATE GRANTS TO PUBLIC BROADCASTERS."

SPONSOR AMENDMENT # 1

PAGE 2, LINE 12

END OF LINE 12, DELETE ";" AND INSERT "FOR PROFIT;"



Raven Radio  
KCAW • 104.7 FM

Post Office Box 520 • Sitka, Alaska 99835 • (907) 747-5877

April 1, 1983

Representative Ben Grussendorf  
Alaska State Legislature  
Pouch V (MS 3100)  
Juneau, Alaska 99811

Joe: what act  
Take  
This -  
HB 307

Dear Ben,

I hope the session is going well for you. I have not been able to follow it as closely as in years past, because I have been either hospitalized or convalescing since mid-January. I am doing much better, and have been back at work full-time for about a week.

Yesterday a copy of House Bill 307 darkened my desk. The bill was introduced by Representative Joe Flood. If it becomes law, it will pose some real problems for KCAW and Public Radio in general. There is very little about the bill which I like, but I will focus on just a few points which I believe are particularly disastrous.

On page 2 line 1 is language which would prohibit anyone from using equipment for profit or personal purposes. There are times when it is in the best interest of Raven Radio and Sitka to allow such personal uses. Recently, for example, a producer received a contract from Alaska Arts Southeast to produce some radio spots for commercial stations promoting the Sitka Summer Fine Arts Camp around the State. Raven had the only facilities in Sitka suitable for producing and duplicating the tapes. The producer did benefit personally, but so did Raven Radio, Alaska Arts Southeast, and the community at large.

Of greater long-term concern, however, is the prohibition against the use of equipment for profit making purposes. The Federal Government has recently lifted that restriction, and has encouraged us to use our facilities to earn money which will make up for the Federal shortfall. National Public Radio has taken this admonition to heart and has plans to be completely off federal funds by 1986, (off the fix by '86 is the

slogan at NPR). In order to do this, NPR needs to be able to use the satellite downlinks at stations and the station's sub-carriers to distribute information for it's profit making ventures. This law would preclude Alaska's participation in these ventures, and would not only harm local stations, but weaken National Public Radio. I have asked N.P.R. to send you information about their plans. I hope you will be getting that soon.

Language on page 2, lines 3 - 10, would limit employment and overall salaries at public radio stations to twice the level at the largest commercial station in the service area. On the surface this seems generous, but there are some problems. This section first assumes that the commercial stations will release that data. Further, according to people at KIFW, salaries and contracts are only a small portion of employee compensation. There are commissions on advertising sales, bonuses, incentives and tradeouts which would not be listed under salaries and not available to non-commercial employees. This makes the provision less generous. The real question, however, is "what is the station trying to do?" Raven Radio has elected to put a heavy emphasis on local news, which I believe has raised the overall level of coverage of events, elections, and government in Sitka. KIFW does not choose to do that, because it is not profitable. KCAW has elected to become a regional station, serving outlying villages. This will raise our engineering personnel and contract costs, and will, hopefully, necessitate our paying some part-time news stringers in the villages served to phone in local news which would be of interest to both their communities and to people in Sitka. Must we limit the service we provide by what a local commercial station chooses to do? The real issue should be: What services should public radio deliver, and how can that be done most efficiently? not, What is commercial radio doing?

The most dangerous section of this bill, however, is on page two, lines 11 and 12. It would prohibit Public Radio from duplicating services already available in the service area. Marine Weather is available on KIFW and the NOAA weather radio; does that mean that KCAW cannot also read the marine forecast? That is admittedly a picky point, but what about news? KIFW and Cable News Network provide national news; does that mean that we cannot broadcast All Things Considered or Morning Edition? The Sentinel covers legislative elections; does that prohibit Raven from doing the same? If this bill is passed, the arbiter becomes a State Agency, the Alaska Public Broadcasting Commission. This is a dangerous power, one which is ripe with the possibility of abuse, and could leave us with a public radio system limited to classical music and Korean temple bells.

Finally, the section on page 2 lines 13 through 20 requiring sealed bids for purchases over \$3,000.00 will increase the costs for many of our purchases. Frankly, we do better in getting bids on the telephone and playing vendors off against each other. Raven Radio has one of the finest public radio facilities in the state for no more money than was spent on other stations because we used that system rather than the sealed bids. Also, there are times when we do not give the business to the lowest bidder. If a Sitka vendor, or an Alaska supplier gives us a bid within a few percentage points of a Seattle company, we will try to give the business to the local bidder. As much as possible, I believe we should spend money appropriated to a district in that district, and the extra few dollars we spend to, say, have the program guide printed in Sitka, pays off on other ways throughout the year.

Well, Ben, I have used up probably more paper than you really want to read, but this bill is just plain bad news. I hope you agree, and help us bury it very deep.

Sincerely,



Rich McClear

REPRESENTATIVE  
JOE FLOOD  
3423 WEST 79TH  
ANCHORAGE, ALASKA 99502  
(907) 243-7511

MEMBER  
FINANCE COMMITTEE

DISTRICT 9  
SOUTHWEST ANCHORAGE

Alaska State Legislature



WHILE IN JUNEAU  
POUCH V  
JUNEAU, ALASKA  
99811  
(907) 465-4937

STAFF COUNSEL  
MARK K. JOHNSON

House of Representatives

April 7, 1983

Mr. Rich McClear  
RAVEN RADIO - KCAW  
P.O. Box 520  
Sitka, Alaska 99835

Dear Mr. McClear,

I would like to take this opportunity to respond to your letter addressed to your Representative Ben Grussendorf concerning HB 307, legislation concerning the Public Broadcast Commission; legislation which I introduced.

If I may, I would like to address the issues singled out in your letter. You made reference to "page 2, line 1", the prohibition of a public broadcast facility receiving state grants if they allow persons to rent or use their equipment for profit or personal benefit. The instance you cite as your argument against this provision is fortified by your statement, "Raven had the only facility in Sitka suitable for producing and duplicating the tapes." Does that mean that KCAW is the only station in Sitka that is capable of producing radio spots? It would occur to me that KIFW, being a commercial broadcast facility would be able to produce radio spots suitable for broadcast. Correct me if I'm wrong, but, most commercial broadcast stations will produce and/or duplicate public service announcements, and air them free of charge. I find no conflict in the area of P.S.A.s or the exchange of P.S.A. tape production or distribution of those tapes. Sub-section A (2) directs the members of the Public Broadcasting Commission to disallow the profitable use of Alaska P.B.S equipment and consider that when reviewing applications for state grants.

Addressing your second concern about the prohibition of using your equipment for profit making. That statute has been and is currently in effect. Title 44, Chapter 21, Section 264 of the Alaska Statutes clearly

prohibits such commercial use of Alaska P.B.S. equipment.

"Sec. 44.21.264. PURPOSE OF THE COMMISSION. The commission is created to encourage and supervise the development of an integrated public broadcasting system for the state and for the coordination of all public broadcasting stations. The primary purpose of the commission is the encouragement and support of noncommercial public broadcasting in the state through the provision of operating and capital grants in support of the delivery of noncommercial programs intended for a general audience by locally controlled nonprofit broadcast stations or telecommunications entities. The commission may support stations and entities which also engage in the delivery of instructional, for-credit programs, and the commission may provide funds for those purposes, but the primary purpose of commission funds is the support of activities that result in the delivery of general audience, noncommercial material."

Thirdly, the employee and employee salary limitations are not based on a need for "generosity". The F.C.C. has strong requirements for commercial broadcast stations to provide for their service areas. Such as news, weather, sports, public awareness programming, as well as public service announcements. To provide these requirements they must employ and pay a staff sufficient to provide these services, along with an administrative, technical, engineering and sales staff to generate the amount of income needed in the commercial marketplace to guarantee the on-going financial survival of that station. How then can any P.B.S. station justify more than twice the number of employees and/or twice the salaries of those employees of any commercial broadcast station, when the operating costs are underwritten by state and federal grants? You quote, This makes this provision less than generous." When are state and federal grants issued on the basis of "generosity"? These grants are not provided or intended to produce a P.B.S. facility capable of competition in the free enterprise marketplace with non-subsidized commercial broadcast entities. In effect, you have private business competing against their own federal tax dollars and funds from their state government! I think that you can see this is not equitable.

As to your argument concerning the duplication of available broadcast services, I will concede that this is vague and not clearly worded, and should be looked at closely. This section (Sub-section A (5)) is not intended to prevent such broadcast services as you pointed out and I appreciate you bringing this misunderstanding to light. Thank you.

In closing, Mr. McClear, this legislation is designed to assist the Public Broadcasting Commission in their scrutiny of state grant applications and is

not intended to "do in" any public broadcast entity. I'm sure that we agree that KCAW fits the existing and proposed guidelines and shall continue to be eligible for state and federal grants and will also continue to provide quality P.B.S. programming to Sitka and the state of Alaska.

Respectfully yours,

Joe Flood  
State Representative

HB 306, (cont'd)

amendment). Does not provide for an effective date (becomes law 90 days after Governor's approval).

Introduced March 30 and referred to State Affairs, Finance.

AK Public  
Broadcasting  
Commission

(membership/  
use of funds/  
edit. control)

HOUSE BILL NO. 307, by Rep. Flood. Relates to the Alaska Public Broadcasting Commission. Amends AS 44.21.258 (Membership and Term of Office) by adding language stating that an employee of a public broadcasting station may not be appointed to a membership on the commission, and that a member of the commission may not serve for more than one term.

Adds a new section setting limits on the use of state money for grants made by the Commission. The Commission may not make a grant if the grant applicant broadcasts commercial advertising; allows rental or use of equipment for profit or personal benefits; employs, as paid employees, more than twice as many full-time or full-time equivalent employees as are employed by the largest commercial broadcasting station located in the service area of the applicant; pays more than twice as much for employee salaries and contract labor services than is paid by the largest commercial broadcasting station in the service area of the applicant, duplicates programming or broadcasting services available from other sources in the service area of the applicant; does not use sealed competitive bidding to obtain products or services that cost more than \$3,000 annually, accepting the lowest bid from a qualified bidder; or fails to maintain a register of qualified bidders or fails to provide written notice of a bid proposal at least 30 days before the bids are opened to the qualified bidders on the register.

Repeals AS 44.21.268(b) (Powers of the Commission. "(b) In performing its duties and exercising its authority under AS 44.21.010 - 44.21.330, the commission may not exercise control over the specific content or airing of any program material."

Does not provide for an effective date (becomes law 90 days after Governor's approval).

Introduced March 30 and referred to State Affairs, Finance.

Workers'  
Compensation  
(municipal  
self-insur.)

HOUSE BILL NO. 308, by the Labor & Commerce Committee. See the Labor & Commerce substitute for Senate Bill No. 66, page 407, identical.

Introduced March 30 and referred to Labor & Commerce.

Appropriations  
(reappropriations,  
transfers)

HOUSE BILL NO. 309, by the Finance Committee. Makes re-appropriations and transfers among appropriations (resulting in a zero fiscal impact):

--repeals a \$50,000 1981 appropriation to Mary's Igloo for design of an energy efficient community in conjunction with relocation, and appropriates \$37,000 for payment as a grant to the City of

CHAPTER = 44.21  
SECTION = 44.21.258  
TITLE = 44

HEADINGS TITLE 44.

State Government.  
CHAPTER 21.  
Department of Administration.  
ARTICLE 6.  
Alaska Public Broadcasting Commission.

CITATION Sec. 44.21.258.

CATCH LINE

MEMBERSHIP AND TERM OF OFFICE.

TEXT (a) The commission consists of nine members appointed by the governor, without regard to political affiliation, subject to confirmation by a majority of the members of the legislature in joint session. In making appointments to the commission, the governor shall give due consideration to representation from such fields as higher education, elementary and secondary education, communications, commercial broadcasting, public health, public works, labor, commerce and the professions. Members may be removed only for cause.

(b) The members of the commission shall serve staggered terms of five years, with the initial terms determined by lot.

HISTORY (Sec. 1 ch 153 SLA 1970; am sec. 2 ch 87 SLA 1976; AS 14.58.020)

CHAPTER = 44.21  
SECTION = 44.21.268  
TITLE = 44

HEADINGS TITLE 44.

State Government.  
CHAPTER 21.  
Department of Administration.  
ARTICLE 6.  
Alaska Public Broadcasting Commission.

CITATION Sec. 44.21.268.

CATCH LINE

POWERS OF THE COMMISSION.

TEXT (a) The commission may  
(1) employ all consultative, technical and clerical personnel necessary for the implementation of AS 44.21.010 - 44.21.330, within the limits of available funds;  
(2) employ a director, who shall be directly responsible to the commission in financial and administrative matters;  
(3) provide grants to locally controlled non-profit telecommunications entities which lease, purchase, construct, own, operate and manage and are the licensees of public broadcasting stations, production centers, and other related

equipment and facilities for the production and transmission of open circuit, closed circuit, 2,500 megahertz, and other transmission means necessary to provide fully effective public broadcasting in the state;

(4) appoint unpaid advisory committees to assist in development of programs for public television broadcasts;

(5) provide assistance to licensed commercial broadcasting stations for the broadcast of public affairs programming.

(b) In performing its duties and exercising its authority under AS 44.21.010 - 44.21.330, the commission may not exercise control over the specific content or airing of any program material.

HISTORY (Sec. 1 ch 153 SLA 1970; am sec. 5 ch 87 SLA 1976; AS 14.58.070; am Executive Order No. 50, sec. 5 (1981))

AS44.21.268 DOCUMENT

CHAPTER = 44.21  
SECTION = 44.21.268  
TITLE = 44

HEADINGS TITLE 44.

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Department of Administration.

ARTICLE 6.

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HISTORY (Sec. 1 ch 153 SLA 1970; am sec. 5 ch 87 SLA 1976; AS 14.58.070; am Executive Order No. 5J, sec. 5 (1981))