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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

April 19, 1985

The Honorable Don Bennett
President of the Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Bennett:

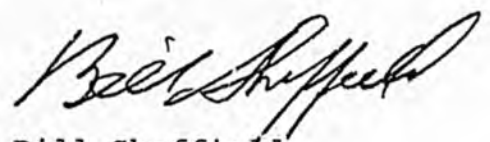
Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the exemption of the Alaska Power Authority's officers and employees from the State Personnel Act (AS 39.25).

The amendment in sec. 1 of the bill clarifies the status of the authority's executive director and staff by codifying a longstanding practice, *i.e.*, treatment of the executive director and his or her staff as being in the exempt service. The members of the authority are already in the exempt service by virtue of AS 39.25.110(10), which places "members of boards, commissions, or authorities" in that category. Adding the Alaska Power Authority to the list in AS 39.25.110(11), as sec. 1 of the bill does, may create an element of redundancy regarding "members" and "officers," but that list already contains precedent for doing so, and it leaves no doubt as to this authority -- both members and staff -- being in the exempt service.

The amendment in sec. 2 of the bill corrects what appears to be an error made when AS 44.83.045 became law in 1978 (ch. 156, SLA 1978). AS 44.83.045(c) contains language making the executive director of the authority "subject to the provisions of AS 39.25" (which citation the revisor of statutes, evidently, changed to refer specifically to the sections of AS 39.25). The State Personnel Act covers all state employees, placing them in one of three categories of service: exempt, partially exempt, or classified. Making the executive director "subject to" the State Personnel Act merely means that he or she is either exempt, partially exempt, or in the classified service. In effect, the language in question has no meaning.

Section 2 of the bill, therefore, deletes that language from AS 44.83.045(c), and makes clear what category of service the executive director and the rest of the staff are in -- consistent with the amendment in sec. 1.

Sincerely,



Bill Sheffield
Governor

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LAW

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

OFFICE OF THE ATTORNEY GENERAL

April 5, 1985

MEMORANDUM

TO: Honorable Bill Sheffield
Governor

APR 11 1985

FROM: Norman C. Carsuch
Attorney General

RE: Attached bill placing employees of
the Alaska Power Authority in the
exempt service
Our file: 377-181-65

Attached is a bill exempting the employees of the Alaska Power Authority from the State Personnel Act (AS 39.25). The bill was recommended by the board of directors of the Alaska Power Authority to clarify the status of the authority's executive director and staff.

It has long been our view that the Alaska Power Authority is exempt from the State Personnel Act, but a last-minute error in SCS CSR 442, when it was passed by the legislature in 1978 (sec. 4, ch. 156, SLA 1978), confused the issue. 1978 Inf. Cpp. Att'y Gen. (July 11; J-66-808-78). The attached amendment will finally correct that error. As mentioned in that July 11, 1978 opinion, it is likely that the original intent was to cite AS 39.50, the conflict-of-interests chapter, rather than AS 39.25. However we understand that the authority does not want to amend AS 44.23.045(c) in a way that would subject the executive director to AS 39.50.

A draft transmittal letter to the legislature is also attached.

CCG:CEJ:mem

cc w/enc.: Hon. Loren Lounsbury, Commissioner
Dept. of Commerce & Economic Development

Lee Nunn, Chairman
✓ Alaska Power Authority
Anchorage

Robert Heath, Executive Director
Alaska Power Authority

STATE.
of ALASKA

MEMORANDUM

TO: [Hon. Phillip Hubbard, Commissioner
Department of Commerce & Economic
Development
ATTN: Lois Cook

DATE: July 11, 1978
FILE NO: J-66-808-78

TELEPHONE NO:

FROM: AVRUM M. GROSS
ATTORNEY GENERAL

SUBJECT: Status of personnel
of the Alaska Power
Authority

By:
Rodger W. Pegues
Assistant Attorney General

This responds to your request for our opinion as to the effect of the recent amendment to the APA's organic act which provides, "The executive director of the authority is subject to the provisions of AS 39.25."

We are advised on good authority that the amendment was proposed to make the executive director subject to the Conflict of Interest Act and that, by error, the reference was made to AS 39.25 rather than to AS 39.50. The bill was rushed through at the last minute, and passed without correction to the reference. The Statute Reviser will be asked to make a corrective amendment in his omnibus bill next year.

In our view, the plain error rule controls. The amendment makes sense only if it is read to be 39.50 rather than 39.25. Making a person "subject to" the State Personnel Act -- without anything more -- accomplishes nothing. Under that Act, one may be exempt, partially exempt, or classified. If the amendment is read to mean AS 39.25, i.e., the Personnel Act, then all it says is that the executive director is exempt, partially exempt, or classified. He is that now, i.e., he is exempt. Moreover, there is neither rhyme nor reason to place the executive director under the Personnel Act and not include his staff. That will be the result, however, if the amendment's plain language is followed. On the other hand, if the reference were to AS 39.50, i.e., to the Conflict of Interest Act, it would subject the executive director to that Act's requirements and thereby accomplish the amendment's purpose. Moreover, it would make sense to subject the executive director to that Act but not to include his staff. Accordingly, the reference to AS 39.25 must be considered plain error, and the status quo ante obtains.

That the amendment was intended to subject the executive director to the Conflict of Interest Act does not, however, mean that he is now subject to that Act. Until a

AG's Opinion

Lois Cook
July 11, 1978
Page #2

law has been passed subjecting him to that Act, he is not subject to it; it takes more than intent to make a law. Train v. City of New York, 420 U.S. 35, 45 (1975). Nothing prevents his filing a Conflict of Interest Statement voluntarily, however, or the authority's requiring him to file one as a condition of employment.

The answers to your questions then are as follows:

- (1) The executive director of the APA is in the exempt service.
- (2) The other employees of the APA are in the exempt service.

RWP/pjg

... of the ...
... to meet the requirements and thereby accomplish the amendment's purpose. Moreover, it would make sense to subject the executive director to that Act but not to include the staff ...



Alaska Power Authority

State of Alaska

March 4, 1986

Senator Fred Zharoff, Chairman
Senate Labor and Commerce Committee
P.O. Box V
Capital Building
Juneau, Alaska 99811

Dear Senator Zharoff:

As requested, the attached position paper relating to CSSB 292 is provided. If I may be of further assistance please do not hesitate to contact me.

Sincerely,

Robert D. Heath
Executive Director

POSITION PAPER CSSB 292 (SENATE LABOR AND COMMERCE)

SECTION 1:

CSSB 292 (SENATE LABOR AND COMMERCE) amends AS 39.25.110 (11) by establishing the Alaska Power Authority as a state agency in exempt service. Currently the legal status of the Executive Director and staff of the Alaska Power Authority is not expressly stated through statute. The Alaska Power Authority has been advised by the Attorney General's office to seek legislation clarifying the status of staff employed by the Alaska Power Authority. The Alaska Power Authority supports this amendment as shown by the resolution adopted by the Board of Directors at the 2/26/85 board meeting.

SECTION 2:

CSSB 292 (SENATE LABOR AND COMMERCE) addresses the membership of the Alaska Power Authority Board of Directors and proposes to repeal and reenact AS 44.83.030. Currently, the Executive Director and staff of the Alaska Power Authority reports directly to the Board of Directors. Because of this organizational structure, it is not appropriate for staff to render an opinion or state a position on the proposed language to restructure the make-up of the Alaska Power Authority Board. However, staff will present and solicit the Board's formal opinion on the bill at the next board meeting, tentatively scheduled for 3/24/86 or 3/25/86. The board's position on this matter will be expeditiously communicated in writing to the appropriate legislative committees.

SECTION 3,4,5,6 AND 7:

CSSB 292 (SENATE LABOR AND COMMERCE) propose amendments also requiring consideration by the Alaska Power Authority Board of Directors.

ALASKA POWER AUTHORITY
Resolution 1985-03

RESOLUTION BY THE ALASKA POWER AUTHORITY BOARD OF DIRECTORS RECOMMENDING THAT AS 39.25.110 BE AMENDED TO SPECIFICALLY NAME THE ALASKA POWER AUTHORITY AS A STATE AGENCY IN EXEMPT SERVICE.

WHEREAS, the Alaska Power Authority was created as a public corporation of the State of Alaska with a separate and independent legal existence in the Department of Commerce and Economic Development; and

WHEREAS, the Alaska Power Authority consists of a seven member board of directors required to employ an Executive Director, who employs additional staff as necessary, and is granted powers under AS 44.83.080 to carry on and further its corporate purposes; and

WHEREAS, the Alaska Power Authority, although considered to be a State agency in exempt service not covered by the provisions of AS 39.25 (the State Personnel Act), is not specifically named as such in this chapter; and

WHEREAS, the Authority has been advised by the Office of the Attorney General to seek legislation to provide clarification on the status of the Executive Director and staff;

NOW THEREFORE, BE IT RESOLVED, by the Board of Directors of the Alaska Power Authority:

That AS 39.25.110 is recommended for statutory amendment to specifically name the Alaska Power Authority as being a State agency in exempt service, thereby exempting the Authority from the provisions of the State Personnel Act;

BE IT FURTHER RESOLVED, that the Alaska Power Authority Board of Directors respectfully requests the Governor to introduce legislation providing for amendment to AS 39.25.110 as recommended herein.

This resolution having been submitted to a vote, the vote thereon was as follows:

YEAS: _____

NAYS: _____

ABSENT: _____

And the resolution was declared adopted on this the _____ day of _____, 1985.

ALASKA POWER AUTHORITY

BY: _____
Chairman

BY: _____
Secretary

JOSEPH C. AMICO*
 LLOYD V. ANDERSON
 LUANN E. BAILEY
 SUSAN P. BEHLKE
 RONALD G. BIRCH**
 WILLIAM H. BITTNER
 KATHRYN A. BLACK
 RODNEY B. CARMAN
 JOSEPH M. CHOMSKI**
 PAUL L. DILLON
 CYNTHIA L. DUCEY
 ERIC A. EISEN**
 JOSEPH W. EVANS
 CARL E. FORSBERG
 WILLIAM W. GARNER*
 KENNETH J. GOLDMAN
 RICHARD G. HAGGART
 BRUCE E. HORTON
 HAL R. HORTON
 CAROL JOHNSON
 MARC W. JUNE
 STANLEY T. LEWIS
 JEFFREY B. LOWENFELS
 LAWRENCE Z. OSTROVSKY
 MICHAEL J. PARISE
 SUZANNE C. PESTINGER
 TIMOTHY PETUMENOS
 MICHAEL V. REUSING
 ELISABETH H. ROSS
 BUDD SIMPSON
 STEPHEN F. SORENSEN
 MERIDAN STRICKLAND
 BARRY N. SUMMER*
 JON K. TILLINGHAST
 DANIEL WESTERBURG

LAW OFFICES

BIRCH, HORTON, BITTNER, PESTINGER AND ANDERSON
 A PROFESSIONAL CORPORATION
 1127 WEST SEVENTH AVENUE
 ANCHORAGE, ALASKA 99501
 TELEPHONE (907) 276-1530
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 TELEX 25-358

RECEIVED
 FEB 19 1985
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 (907) 586-2890
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 JUNEAU, ALASKA 99801
 (907) 586-2890
 1155 CONNECTICUT AVE., N.
 SUITE 1200
 WASHINGTON, D. C. 20036
 (202) 659-8200

February 13, 1985

*D.C. BAR ONLY
 **D.C. AND ALASKA BAR
 ALL OTHERS ALASKA BAR ONLY

William Mellow
 Assistant Attorney General
 Attorney General's Office
 Pouch "K"
 Juneau, Alaska 99811

Jonathan B. Rubini
 Assist. Attorney General
 Attorney General's Office
 Pouch "K"
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Frank Raye, Director
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 Department of Administration
 Pouch "C"
 Juneau, Alaska 99811

Mr. Brad Thompson
 Division of Risk Mgmt.
 State of Alaska
 Pouch "C"
 Juneau, Alaska 99811

Mr. Dick Stone
 Northern Adjusters
 2609 Arctic Blvd.
 Anchorage, Alaska 99503

Re: Sidney R. Kidwell v. State of Alaska
 James E. Benka v. State of Alaska

Gentlemen:

I have already discussed with most of you my thoughts on these cases. As you are aware, two employees of the Alaska Power Authority, Kidwell and Benka, have sued the State of Alaska for wrongful termination. This letter and the attached Research Memorandum focuses on the claim made by these employees that they were fired contrary to the provisions of the Alaska Personnel Act.

Our investigation reveals that the Alaska Power Authority did not follow the Alaska Personnel Act because they were under the impression that the personnel act did not apply to the Alaska Power Authority.

As you can see from the attached Research Memorandum, we have a substantial concern that the personnel act will be held to apply to the Alaska Power Authority. I have routed results of this research to a broader group of people than I normally would in view of the fact that it:

William Mellow
Jonathan G. Rubini, Esq.
Frank Raye
Brad Thompson
Dick Stone
February 13, 1985
Page 2

appears important that the State consider remedial legislation specifically exempting the Alaska Power Authority from the provisions of the personnel act.

We have much more detailed memoranda in the file on the factual circumstances surrounding the termination of Kidwell and Benka which we can make available for your review. The issue addressed in the attached memorandum however is a purely legal issue regarding the procedures that must be followed under the Alaska Personnel Act. It did not appear necessary to detail the facts of the Kidwell and Benka cases in order to keep you advised.

Very truly yours,

BIRCH, HORTON, BITTNER,
PESTINGER & ANDERSON



Timothy Petumenos

TP/jm
Encl.
cc: Ray Benish
David Ritze

**STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date: _____

REQUEST:
Bill/Resolution No.: SB 292
Title: An act placing the employees of APA in the exempt service under the State Personnel Act
Sponsor: Senate Rules Committee
Requestor: Governor
Date of Request: _____

FISCAL DETAIL
Agency Affected: Alaska Power Authority
Program Category Affected: _____
BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL			- 0 -			
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT			NOT APPLICABLE			
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING						

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS			- 0 -			
OTHER						
TOTAL			NOT APPLICABLE			

POSITIONS:

FULL-TIME			- 0 -			
PART-TIME			NOT APPLICABLE			
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Robert D. Heath Phone: 276-0001
 Division: Alaska Power Authority Date: 4/12/85

Approved by Commissioner: _____ Date: _____
 Agency: _____

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

Fiscal Note

degree of independence and perpetuity necessary for a consistent long term cost-beneficial program such as described in this document. There should be full recognition of the management commitment that is necessary for the long term capital commitment and long term construction cycles of the electric generation facilities inherent under this concept.

The Committee assumes that the Alaska Power Authority (APA) will be the organization to administer this program. Since State funds will be involved, the legislature and administration will continue to be interested in the success of the program.

It is the recommendation of the Committee that a nine member board be created with the fiduciary responsibility of setting policy and directing the operation of the Power Authority. The Board would be constituted as follows:

- The Commissioner of Commerce and Economic Development--This would be the only Board member without a fixed term and would be the specific person charged with representing the interests of the Governor and his administration.
- Four Directors appointed by the Governor for staggered six year terms and approved by the legislature--These four members should include one member from the banking industry and one a consumer representative and two from business and industry.
- Four Directors from the Alaska Systems Coordinating Council (ASCC)--The Alaska Systems Coordinating Council is an existing group of electric utility

managers who on ad hoc basis are now coordinating the development of electric generation and transmission systems within the State. The Governor should appoint and the legislature approve these four Directors--two Railbelt, one Southeast Alaska, and one bush utility manager. The ASCC should make recommendations to the Governor. As with the other appointed members, the ASCC Directors should serve six year staggered terms.

An important function of the Board of Directors will be to set electric power development policy and to assure that cost-beneficial planning and operations are conducted by the APA that will benefit all Alaskan consumers. In order to insure that generating capacity additions are the ones which result in minimum cost, are compatible to long range plans and contribute to system optimization, any equalization payments for prospective units must be based solely on pre-construction approval by the Power Authority Board. In no event should the Authority be required to purchase power either directly or indirectly through a participating system which was not generated by said participating system.

Over the past few years, the State of Alaska has provided loans or grants for substantial sums of monies to develop generation capacity--most notable examples are the Four Dam Pool and the Fairbanks-Anchorage Intertie. It is the recommendation of this committee that these loans be converted to grants by the State and be considered as equity of the Alaska Power Authority. These projects obviously fit within the context of the concept presented by the Committee, in that they contribute to lowering the cost of generation for all

- (3) prior positions held by a state employee;
 - (4) whether a state employee is in the classified, partially exempt, or exempt service;
 - (5) the dates of appointment and separation of a state employee; and
 - (6) the compensation authorized for a state employee.
- (c) A state employee has the right to examine the employee's own personnel files and may authorize others to examine those files.
- (d) An applicant for state employment who appeals an examination score may review written examination questions relating to the examination unless the questions are to be used in future examinations. (§ 18 ch 144 SLA 1960; am § 5 ch 112 SLA 1982)

Effect of amendments. — The 1982 amendment rewrite this section.

Article 2. Coverage of Personnel.

<p>Section 90. Coverage of chapter 100. Classified service 110. Exempt service</p>	<p>Section 120. Partially exempt service 130. Extension of partially exempt and classified services</p>
--	--

Sec. 39.25.090. Coverage of chapter. This chapter and the rules adopted under it apply to all positions in (1) the classified service, and (2) the exempt and partially exempt service as specifically provided. (§ 3 ch 144 SLA 1960; am § 6 ch 112 SLA 1982)

Effect of amendments. — The 1982 amendment inserted "exempt and" in item (2).

Sec. 39.25.100. Classified service. The classified service consists of all positions in the state service not included in the exempt service or in the partially exempt service. (§ 4 ch 144 SLA 1960)

NOTES TO DECISIONS

Quoted in *Mueller v. Alaska State Bd. of Personnel*, Sup. Ct. Op. No. 396 (File No. 738). 425 P.2d 145 (1967); *State v. Bogenrife*, Sup. Ct. Op. No. 918 (File No. 1665), 513 P.2d 13 (1973).

Sec. 39.25.110. Exempt service. Unless otherwise provided by law, the following positions in the state service constitute the exempt service and are exempt from the provisions of this chapter and the rules adopted under it:

- (1) persons elected to public office by popular vote or appointed to fill vacancies in elected offices;

- (2) justices, judges, magistrates, and employees of the judicial branch including employees of the Judicial Council;
- (3) employees of the state legislature and its agencies;
- (4) the head of each principal department in the executive branch;
- (5) officers and employees of the University of Alaska;
- (6) certificated teachers and noncertificated employees employed by a regional educational attendance area established and organized under AS 14.08.031 — 14.08.041 to teach in, administer, or operate schools under the control of a regional educational attendance area school board;
- (7) certificated teachers employed by the Department of Education as correspondence teachers or teachers in skill centers operated by the Department of Education;
- (8) patients and inmates employed in state institutions;
- (9) persons employed in a professional capacity to make a temporary or special inquiry, study or examination as authorized by the governor;
- (10) members of boards, commissions, or authorities;
- (11) the officers and employees of the following boards, commissions, and authorities:
 - (A) Alaska Gas Pipeline Financing Authority;
 - (B) Alaska Permanent Fund Corporation;
 - (C) Alaska Energy Center;
 - (D) Alaska Industrial Development Authority;
 - (E) Alaska Commercial Fisheries Entry Commission;
 - (F) Alaska Commission on Postsecondary Education;
- (12) the executive secretary and legal counsel of the Alaska Municipal Bond Bank Authority;
- (13) physicians licensed to practice in this state and employed by the division of mental health and developmental disabilities, Department of Health and Social Services;
- (14) petroleum engineers and petroleum geologists employed in a professional capacity by the Department of Natural Resources and by the Oil and Gas Conservation Commission, except for those employed in the division of geological and geophysical surveys in the Department of Natural Resources;
- (15) officers, agents, and employees of the Alcoholic Beverage Control Board granted limited peace officer powers by the Alcoholic Beverage Control Board under AS 04.06.110;
- (16) persons employed by the division of marine transportation as masters and members of the crews of vessels who operate the state ferry system and who are covered by a collective bargaining agreement provided in AS 23.40.040;
- (17) officers and employees of the state who reside in foreign countries;
- (18) employees of the Alaska Seafood Marketing Institute;

(19) firefighters employed by the Department of Natural Resources for a fire emergency;

(20) employees of the Office of the Governor and the office of the lieutenant governor, including the staff of the governor's mansion;

(21) [Repealed June 30, 1988] Employees of the Citizens' Advisory Commission on Federal Areas in Alaska (AS 41.37.010);

(22) youth employed by the Department of Natural Resources under the Youth Employment and Student Intern programs. (§ 5 ch 144 SLA 1960; am § 1 ch 48 SLA 1961; am § 1 ch 133 SLA 1961; am § 3 ch 93 SLA 1962; am § 3 ch 24 SLA 1966; am § 31 ch 46 SLA 1970; am § 65 ch 69 SLA 1970; am § 13 ch 113 SLA 1970; am § 3 ch 78 SLA 1971; am § 18 ch 78 SLA 1974; am § 42 ch 127 SLA 1974; am § 2 ch 32 SLA 1975; am § 2 ch 79 SLA 1975; am § 37 ch 124 SLA 1975; am § 1 ch 157 SLA 1976; am § 3 ch 90 SLA 1978; am § 7 ch 18 SLA 1980; am § 43 ch 106 SLA 1980; am § 10 ch 131 SLA 1980; am § 4 ch 148 SLA 1980; am § 4 ch 106 SLA 1981; am §§ 2, 3 ch 37 SLA 1982; am § 7 ch 112 SLA 1982; am § 1 ch 11 SLA 1983; am § 1 ch 103 SLA 1984)

Effect of amendments. — The first 1980 amendment added paragraph (22). (See now paragraph (11)(B).)

The second 1980 amendment added paragraph (23). (See now paragraph (11)(D).)

The third 1980 amendment added paragraph (24). (See now paragraph (15).)

The fourth 1980 amendment added paragraph (25). (See now paragraph (11)(C).)

The 1981 amendment added a paragraph (26) (see now paragraph (18)), relating to employees of the Alaska Seafood Marketing Institute.

The first 1982 amendment added a paragraph (27) (see now paragraph (21)), relating to employees of the Citizens' Advisory Commission on Federal Areas in Alaska. Section 3, ch. 37, SLA 1982, effective June 30, 1988, repeals this paragraph.

The second 1982 amendment rewrote this section.

The 1983 amendment rewrote paragraph (13).

The 1984 amendment added paragraph (22).

NOTES TO DECISIONS

The thrust of the exemptions in this chapter, the Public Employees Retirement System, former AS 39.35.680(5)(c), and the statutory leave provisions for state employees, AS 39.20.310, is to provide for those public employees who are not susceptible to ordinary recruiting and examining procedures. *Hafling v. Inlandboatmen's Union*, Sup. Ct. Op. No.

1743 (File No. 3438), 585 P.2d 870 (1978).

No inconsistency between ferry crew exemption of this section and inclusion of such personnel with Public Employment Relations Act, AS 23.40.070 et seq. — See *Hafling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Sec. 39.25.120. Partially exempt service. (a) Positions in the partially exempt service are included in the position classification plan established under this chapter and are compensated according to the pay plan (AS 39.27.011).

(b) A person holding a position in the partially exempt service is not required to take an examination or qualify or earn a place on a register,

AS44.83.030 DOCUMENT= 1 OF 1 PAGE = 1 OF 2

CHAPTER = 44.83

SECTION = 44.83.030

TITLE = 44

HEADINGS TITLE 44.
State Government.
CHAPTER 83.
Alaska Power Authority.
ARTICLE 1.
Creation and Organization.

CITATION Sec. 44.83.030.

CATCH LINE

MEMBERSHIP OF THE AUTHORITY.

TEXT The authority shall consist of the following directors:

(1) three public directors to be appointed by the governor and confirmed by the legislature; only one director may be appointed from each judicial district described in AS 22.10.010;

(2) the director of the office of management and budget, or the director's designee within that office, and three commissioners of principal executive departments appointed by the governor.

HISTORY (Sec. 1 ch 278 SLA 1976; am sec. 2 ch 156 SLA 1978; am sec. 2 ch 118 SLA 1981; am sec. 25 ch 63 SLA 1983)

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

HISTORICAL REVIEW OF THE COMPOSITION OF THE APA BOARD:

- 1976: 4 public members, appointed by the Governor, and the Commissioner of DCED;
- 1978: 4 directors, appointed by the Governor, and the Commissioner of DCED. Commissioners of C&RA, DNR, DOT, and Revenue have the rights and privileges, but not voting.
- 1979: same
- 1980: same
- 1981: same
- 1982: 3 public members from different judicial districts; director of management and Budget, and 3 commissioners.
- 1983: same
- 1984: 7 directors, with 6 of those members appointed by the Governor. Of the 7, 3 must be public members, 3 must be commissioners, and the director of OMB.
- 1985: same

Advisory Committee on Statewide Power Production
Recommendation: Change the current composition of the APA Board to give it long term stability, free from political pressure.

9 member Board, with 6 year staggered terms, composed as follows:

- 1) One Commissioner (DCED)
- 2) four members from the utility industry
- 3) Two members from business and industry
- 4) one banker
- 5) one consumer representative

Review of APA Board Composition

BOARD: POWER AUTHORITY, ALASKA

TITLE: Alaska Power Authority

DEPT: Department of Commerce and Economic Development

AUTHORITY: AS 44.83.010

STATUS: ACTIVE

REQUIREMENTS: FINANCIAL DISCLOSURE

PROHIBITIONS:

TERM: 4-year - overlapping

DESCRIPTION: 7 directors - 6 appointed by Governor: 3 public from different judicial districts (for terms), and 3 Commissioners, plus Director, Div. of Budget and Management; Board elects Chair.

SPECIAL FACTS: Quorum - 4 members; public corporation with independent legal existence; receives grants

FUNCTION: Promote general prosperity and economic welfare of Alaskans by providing a means of constructing, acquiring, financing, and operating power projects and facilities that recover and use waste energy.

COMPENSATION: Standard travel/per diem

MEETINGS: 12 times per year; 48 days maximum

*FOR FURTHER INFORMATION CONTACT: Executive Director, Alaska Power Authority, 334 West Fifth Avenue, Second Floor, Anchorage, AK 99501 - 276-0001

85

Power Authority.

<u>MEMBER</u>	<u>APPT</u>	<u>REAPPT</u>	<u>TERM</u>
David L. Allison 217 Second Street Juneau 99801 Public/Restricted	83/07/06	84/07/02	88/07/01
Robert L. Huffman 1018 Galena Street Fairbanks 99701 Public/Restricted	83/02/28	83/06/30	87/07/01
Richard J. Knapp DCT/PF - Pouch Z Juneau 99811 Comm./State Dept.	84/06/30		
Loren Lounsbery DCED Juneau 99811 Comm./State Dept.	85/01/03		
Gordon Harrison OME Juneau 99811 OMB-Dir/Mandate	84/11/13		
Lee R. Nunn, Jr. 6311 Habicht Court Anchorage 99504 Public/Restricted	83/06/07		85/07/01
Esther Wunnicke DNR Juneau 99811 Comm./State Dept.	83/01/18		

BOARD: POWER AUTHORITY, ALASKA

TITLE: Alaska Power Authority

DEPT: DCED

AUTHORITY: AS 44.83.010

STATUS: ACTIVE

REQUIREMENTS: FINANCIAL DISCLOSURE

PROHIBITIONS:

TERM: 4-year - overlapping

DESCRIPTION: 7 directors - 6 appointed by Governor: 3 public from different judicial districts (for terms), and 3 Commissioners, plus Director, Div. of Budget & Management; Board elects Chair.

SPECIAL FACTS: Quorum - 4 members; public corporation with independent legal existence; receives grants

FUNCTION: Promote general prosperity and economic welfare of Alaskans by providing a means of constructing, acquiring, financing and operating power plants and facilities that recover and use waste energy.

REGISTRATION: Standard travel/per diem

MEETINGS: 12 times per year; 48 days maximum

Power Authority, Larry Crawford, E.D., 334 West Fifth Avenue,
Anchorage 99501 - 277-7641

84

Power Authority

<u>MEMBER</u>	<u>APPT</u>	<u>REAPPT</u>	<u>TERM</u>
David L. Allison 217 Second Street Juneau 99801 Pub/Restricted	83/07/06		84/07/01
Robert Heath Revenue Juneau 99811 Comm./ST Dept.	83/11/23		
Robert L. Huffman 1018 Galena Street Fairbanks 99701 Pub/Restricted	*83/02	83/06/30	87/07/01
Richard Lyon Commerce Juneau 99811 Comm./ST Dept. - Chair	83/01/18		
Pete McDowell OMB Juneau 99811 OMB-Dir/Mandate	83/01/18		
Lee R. Nunn, Jr. 6311 Habicht Court Anchorage 99504 Pub/Restricted	83/06/07		85/07/01
Esther Wunnicke DNR Juneau 99811 Comm./ST Dept.	83/01/18		

84

POWER AUTHORITY, ALASKA

(SLA 278; AS 44.83.010) 3 public members from different judicial districts; director of Budget & Management; 3 commissioners. Requires financial disclosure.

MEMBERS	REPLACING	APPT.	TERM
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Mr. Charles Conway 821 N Street, Suite 201 Anchorage, Alaska 99501 (Chair)	Reappointed	81/08/17	84/07/01
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Mr. Robert B. Weeden Box 80425 Fairbanks, Alaska 99701 479-6664	Reappointed	81/08/17	83/07/01
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Mr. John Schaeffer Box 106 Kotzebue, Alaska 99752		81/09/01	85/07/01
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Ron Lehr, Director
Division of Budget & Management
Pouch AM
Juneau, Alaska 99811

The Honorable Robert Ward
Commissioner
Dept. of Transportation
& Public Facilities
Pouch Z
Juneau, Alaska 99811

The Honorable Chuck Webber
Commissioner
Dept. of Commerce & Economic
Development
Pouch D
Juneau, Alaska 99811

The Honorable Ernst Mueller
Commissioner
Dept. of Environmental Conservation
Pouch O
Juneau, Alaska 99811

CONTACT AGENCY:

Eric Yould, Executive Director
333 W. Fourth Street
Anchorage, AK 99501
(277-7641)

D #1 (G-11)

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ME

Mr
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Mr.
950
Anc
Bus

Mr.
App
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Anc
Anc

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82/83

POWER AUTHORITY, ALASKA

(SLA 278; AS 44.83.010) 3 public members from different judicial districts; director of Budget & Management; 3 commissioners. Requires financial disclosure.

MEMBERS	REPLACING	APPT.	TERM
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Mr. Charles Conway 821 N Street, Suite 201 Anchorage, Alaska 99501 (Chair)	Reappointed	81/08/17	84/07/01
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Juneau, Alaska 99811

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Eric Yould, Executive Director
333 W. Fourth Street
Anchorage, AK 99501
(277-7641)

82

POWER AUTHORITY, ALASKA

(SLA 278; AS 44.83.010) 4 public members; financial disclosure;
four-year terms.

MEMBERS	REPLACING	APPT.	TERM
Thomas E. Kelly 225 Cordova, Building B Suite 307 Anchorage, Alaska 99501	Charles Behlke	80/06/23	83/01/01
Mr. Chuck Conway Box 520 Sitka, Alaska 99835	Reappointed	80/12/15	85/01/01
Robert B. Weeden Box 80425 Fairbanks, Alaska 99701	Jacob Wick	80/06/23	84/01/01
Mr. Arnold G. Espe 2204 Arcadia Drive Anchorage, Alaska 99503	Bob Ward	79/02/14	82/01/01

CONTACT AGENCY:

Eric Yould, Executive Director
333 W. Fourth Street
Anchorage, AK 99501
(277-7641)

ID #1 (G-12)

(SLA 278; AS 44.56.010-240) 4 public members; members are subject to
*legislative confirmation and financial disclosure; four-year terms.

MEMBERS	REPLACING	APPT.	TERM
Mr. Charles Behlke P. O. Box 80257 Fairbanks, Alaska 99758	Frank Murkowski	79/02/14	83/01/01
Mr. Chuck Conway Box 520 Sitka, Alaska 99835		76/12/21	81/01/01
Mr. Jacob Wick Box 746 Kodiak, Alaska 99615		77/03/25	80/01/01
Mr. Arnold G. Espe 2204 Arcadia Drive Anchorage, Alaska 99503	Bob Ward	79/02/14	82/01/01

CONTACT AGENCY:

Commerce & Economic Development
(465-2500)

*Confirmation is required by statute but is not allowed under the
constitution.

ID #80

ALASKA POWER AUTHORITY

(SLA 278; AS 44.56.010-240) 4 public members; members are subject to
*legislative confirmation and financial disclosure.

MEMBERS	REPLACING	APPT.	TERM
Mr. Charles Behlke P. O. Box 80257 Fairbanks, Alaska 99758	Frank Murkowski	79/02/14	83/01/01
Mr. Chuck Conway Box 520 Sitka, Alaska 99835		76/12/21	81/01/01
Mr. Jacob Wick Box 746 Kodiak, Alaska 99615		77/03/25	80/01/01
Mr. Arnold G. Espe 2204 Arcadia Drive Anchorage, Alaska 99503	Bob Ward	79/02/14	82/01/01

CONTACT AGENCY:

Commerce & Economic Development
(465-2500)

*Confirmation is required by statute but is not allowed under the
constitution.

ID #80

79

(SLA 278; AS 44.56.010-240; 4 public members; members are subject
 *legislative confirmation and financial disclosure)

NAMES AND ADDRESSES	Replacing	New Appt.	Acct.	Term Expires
Frank Murkowski . 3 Mi. Chena Pump Road Fairbanks 99701		2/21/76		1/1/79
Chuck Conway Box 520 Sitka 99835		10/31/76		1/1/81
Jacob Wick Box 746 Kodiak 99615		3/31/77		1/1/80
Bob Ward 6711 Foothill Dr. Anchorage 99501		* 11/6/77		1/1/82
CONTACT AGENCY: Department of Commerce and Economic Development Office of the Commissioner (465-2500)				
* Confirmation is required by statute but is not allowed under the constitution				

78



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

SB 292 Sectional Analysis

Section 1) Adds the APA to the list of Boards, Commissions, and authorities whose officers and employees are in the exempt service.

Section 2) Changes the composition of the APA Board to seven members as follows:

Commissioner of DCED

one director from the banking industry

one consumer representative

two directors from business and industry

two directors who are managers in the utility industry;

Directors appointed by the Governor shall serve staggered 6 year terms, and are subject to confirmation by the Legislature.

Section 3) Adds new language so that the board advises the executive director, rather than the powers of authority being held directly by the board.

Section 4) Directors appointed by the Governor must be state residents and comply with conflict of interest provisions.

Section 5) Adds language so that the powers of the authority are vested in the executive director. Adds staff of the APA to the exempt service category.

Section 6) Amends language to be consistent with sections 3 and 5.

Section 7) Current ^{Public} members will serve out their terms.

Section 8) Immediate effective date.

Cramer
2/13/86
#2

Original sponsor: Kules/Governor

1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR SENATE BILL NO. 292 (L&C)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Fower Authority; and
7 providing for an effective date."

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

9 * Section 1. AS 39.25.110(11) is amended to read:

10 (11) the officers and employees of the following boards,
11 commissions, and authorities:

- 12 (A) Alaska Gas Pipeline Financing Authority;
- 13 (B) Alaska Permanent Fund Corporation;
- 14 (C) Alaska Energy Center;
- 15 (D) Alaska Industrial Development Authority;
- 16 (E) Alaska Commercial Fisheries Entry Commission;
- 17 (F) Alaska Commission on Postsecondary Education;
- 18 (G) Alaska Power Authority;

19 * Sec. 2. AS 44.83.030 is repealed and reenacted to read:

20 Sec. 44.83.030. MEMBERSHIP OF THE AUTHORITY. The board of
21 directors of the authority consists of seven members. The commis-
22 sioner of commerce and economic development serves as a director and
23 the governor shall appoint one director from the banking industry, one
24 consumer representative, two directors from business and industry, and
25 two directors who are managers in the utility industry. Directors
26 appointed by the governor serve for staggered terms of six years and
27 are subject to confirmation by a majority of the members of the legis-
28 lature in joint session.

29 * Sec. 3. AS 44.83.040(a) is amended to read:

1 (a) The directors shall elect one of their number as chairman
2 and may elect other officers they determine desirable. The board
3 shall advise the executive director on the management of the auth-
4 ority. Four [THE POWERS OF THE AUTHORITY ARE VESTED IN THE DIRECTORS,
5 AND FOUR] directors of the authority constitute a quorum. Action may
6 be taken and motions and resolutions adopted by the authority at a
7 meeting by the affirmative vote of a majority of the directors. The
8 directors of the authority serve without compensation, but they shall
9 receive the same travel pay and per diem as provided by law for board
10 members.

11 * Sec. 4. AS 44.83.045(a) is amended to read:

12 (a) The [PUBLIC] directors appointed by the governor must
13 [SHALL] be residents and qualified voters of Alaska and shall comply
14 with the requirements of AS 39.50 (conflict of interests). [THE
15 PUBLIC DIRECTORS SHALL SERVE OVERLAPPING FOUR-YEAR TERMS.]

16 * Sec. 5. AS 44.83.045(c) is amended to read:

17 (c) The authority shall employ an executive director who may [,
18 WITH THE APPROVAL OF THE AUTHORITY,] employ additional staff as neces-
19 sary. The powers of the authority are vested in the executive direc-
20 tor. In addition to its staff of regular employees, the authority may
21 contract for and engage the services of legal and bond counsel, con-
22 sultants, experts, and financial and technical advisors the authority
23 considers necessary for the purpose of conducting studies, investiga-
24 tions, hearings, or other proceedings. The board of directors shall
25 establish the compensation of the executive director. The executive
26 director and staff of the authority are in the exempt service under
27 AS 39.25.110 [IS SUBJECT TO THE PROVISIONS OF AS 39.25.010 - 39.25.-
28 220].

29 * Sec. 6. AS 44.83.110(f) is amended to read:

1 (f) The executive director [CHAIRMAN] of the authority shall
2 annually, no later than January 2, make and deliver to the governor
3 and the legislature a certificate stating the sum, if any, required to
4 restore any capital reserve fund to the capital reserve fund require-
5 ment. The legislature may appropriate the [SUCH A] sum, and the au-
6 thority shall deposit the [ALL] sums appropriated during the then
7 current fiscal year by the legislature for the [SUCH] restoration
8 [SHALL BE DEPOSITED BY THE AUTHORITY] in the proper capital reserve
9 fund. Nothing in this section creates a debt or liability of the
10 state.

11 * Sec. 7. Notwithstanding the amendments to AS 44.83.030 made by sec. 2
12 of this Act, the public directors of the authority on the day before the
13 effective date of this Act shall continue to serve until their terms ex-
14 pire. On the effective date of this Act, the governor shall replace the
15 director of the office of management and budget and the three commissioners
16 in accordance with AS 44.83.030 as amended by this Act.

17 * Sec. 8. This Act takes effect immediately in accordance with AS 01.-
18 10.070(c).
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Introduced: 4/19/85
Referred: Labor and Commerce
and State Affairs

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2

SENATE BILL NO. 292

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act placing the employees of the Alaska Power
Authority in the exempt service under the State
Personnel Act; and providing for an effective date."

7

8

9

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

10

* Section 1. AS 39.25.110(11) is amended to read:

11

(11) the officers and employees of the following boards,

12

commissions, and authorities:

13

(A) Alaska Gas Pipeline Financing Authority;

14

(B) Alaska Permanent Fund Corporation;

15

(C) Alaska Energy Center;

16

(D) Alaska Industrial Development Authority;

17

(E) Alaska Commercial Fisheries Entry Commission;

18

(F) Alaska Commission on Postsecondary Education;

19

(G) Alaska Power Authority;

20

* Sec. 2. AS 44.83.045(c) is amended to read:

21

(c) The authority shall employ an executive director who may,

22

with the approval of the authority, employ additional staff as neces-

23

sary. In addition to its staff of regular employees, the authority

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may contract for and engage the services of legal and bond counsel,

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consultants, experts, and financial and technical advisors the author-

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ity considers necessary for the purpose of conducting studies, inves-

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tigations, hearings, or other proceedings. The board of directors

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shall establish the compensation of the executive director. The

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executive director and staff of the authority are in the exempt

1 service under AS 39.25.110 [IS SUBJECT TO THE PROVISIONS OF AS 39.25.-
2 010 -- 39.25.220].
3 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
4 10.070(c).

CHAIRMAN'S INFORMATION: CSSB 292 (L&C)

- 1) BILL TITLE: "An act relating to the Alaska Power Authority; and providing for an effective date."
 - a) Introduced: Governor (subcommittee rolled in contents of SB 265 changing the composition of the APA Board)
 - b) Co-sponsors:
- 2) INTENT: This measure clarifies that employees of APA are in the exempt service, and restructures the composition of the Power Authority Board. Powers of the authority would be vested in the executive director, and the board shall advise the executive director on the management of the authority.

FISCAL NOTE: 0

N.B. NO EFFECTIVE DATE CLAUSE

- 3) ADDITIONAL REFERRALS: State Affairs, Rules
- 4) PUBLIC HEARINGS:
 - a) Sponsor:
 - b) Public Witnesses:
- 5) BILL ACTION:
 - a) Hold in committee?
 - b) Assign to sub committee for further review?
 - c) Move from committee?
 - d) Close public hearings?
- 6) COMMITTEE ACTION?
 - a) amendments?
 - b) CS adoption? Need to adopt the L&C CS