

**SB**

**392**

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT

APR 28 2004

SENATE FINANCE COMMITTEE

DATE: 04/21/04

FURTHER:

DATE TURNED IN TO OFFICE: 28 April 2004

Finance Committee considered

SENATE BILL NO. 392

SB 392 REGULATORY COMMISSION OF ALASKA

"An Act relating to the expenses of investigation, hearing, or public advocacy before the Regulatory Commission of Alaska, to calculation of the regulatory cost charge for public utilities and pipeline carriers to include the Department of Law's costs of its public advocacy function, to inspection of certain books and records by the attorney general when participating as a party in a matter before the Regulatory Commission of Alaska; and providing for an effective date."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

Senate Bill:

Same Title

New Title

House Bill:

Same Title

Technical Title Change

New Title w/ SCR # \_\_\_\_\_

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero.	FN#
LAW	4/22/04	300.0			

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero.	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
COCHAIR: <i>[Signature]</i>	<input checked="" type="checkbox"/>			
COCHAIR: <i>[Signature]</i>	<input checked="" type="checkbox"/>			

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APR 28 2004

SENATE FINANCE  
COMMITTEE

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: SB392-Law-RAPA-4-22-C  
Bill Version: SB 392  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: LAW  
Title "An Act relating to the expenses of investigation, hearing, or public advocacy before the Regulatory..." RDU CIVIL  
Component Regulatory Affairs Public Advocacy  
Sponsor Senate Labor & Commerce  
Requester Senate Labor & Commerce Component No. \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual	300.0	300.0	300.0	300.0	300.0	300.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>300.0</b>	<b>300.0</b>	<b>300.0</b>	<b>300.0</b>	<b>300.0</b>	<b>300.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1007 Interagency Receipts	(1,012.8)	(1,012.8)	(1,012.8)	(1,012.8)	(1,012.8)	(1,012.8)
1141 RCA Receipts	1,312.8	1,312.8	1,312.8	1,312.8	1,312.8	1,312.8
<b>TOTAL</b>	<b>300.0</b>	<b>300.0</b>	<b>300.0</b>	<b>300.0</b>	<b>300.0</b>	<b>300.0</b>

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill amends AS 42.05.254 by clarifying that the general costs of public advocacy will continue to be paid from the established regulatory cost charge mechanism. The bill also exempts state agencies from reimbursing the Regulatory Commission of Alaska (commission) for commission costs in a proceeding to which the state agency is a party. The bill adjusts the previously established statutory cap on the regulatory cost charge upwards by .07% and allocates the total amount between the RCA and the Department of Law's public advocacy function. The increase is to allow for the \$300,000 increase in budget authority shown in this fiscal note. Additionally, the bill provides the Department of Law qualified access to utility and pipeline carrier books and records similar to that afforded the RCA's former public advocacy staff.

Prepared by: Kathryn A. Daughetee, Director Phone 465-3673  
Division Administrative Services Date/Time 4/22/04 3:54 PM  
Approved by: Kathryn Daughetee for Gregg D. Renkes, Attorney General Date 4/22/2004  
Agency Department of Law

FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

BILL NO. SB 392

ANALYSIS CONTINUATION

Continuing in the spirit of Executive Order 111, the Governor's FY 2005 amended budget completes the transfer of responsibility and oversight for the regulatory public advocacy function by transferring the associated staff positions and adding additional interagency receipt authority to the newly created Regulatory Affairs Public Advocacy section in the Department of Law. Through the statutory changes proposed in this legislation, the new section shall be budgeted directly from the regulatory receipts rather than through an interagency transfer of funds. This fiscal note converts the receipts portion only but may require further amending to include the transfer of expenditure authorization and positions if the portion of the Governor's amended budget that would make that change is not adopted.

# Alaska State Legislature

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## SENATOR CON BUNDE

District P

VICE-CHAIR: SENATE FINANCE COMMITTEE  
CHAIR: SENATE LABOR & COMMERCE COMMITTEE  
MEMBER: LEGISLATIVE BUDGET & AUDIT COMMITTEE

*DURING INTERIM*  
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## **SB 392 Sponsor Statement** RCA Public Advocacy/Dept of Law

Last year's Executive Order 111 transferred the responsibility for advocacy on behalf of the public in utility matters before the Regulatory Commission of Alaska (RCA) from the RCA to the attorney general, and established the public advocacy function within the Department of Law (DOL). AS 42.23.020(e). As a result, RCA personnel historically responsible for public advocacy now act under the authority and direction of the DOL. This bill completes the prior transfer of authority by expressly providing for various aspects of its execution.

SB 392 clarifies that regulatory cost charge receipts (not general fund) will continue to pay for the general costs of public advocacy now administered by the DOL, just as those receipts historically paid for public advocacy costs when the function was performed by RCA personnel.

The bill also adjusts the regulatory cost charge ceiling and creates two, distinct percentages of total regulatory cost charge receipts to separately fund the RCA and the DOL public advocacy function in order to provide each entity with budgetary independence from the other.

SB 392 also provides the DOL with qualified access to utility or pipeline carrier records similar to that afforded the RCA's former public advocacy staff in order to maintain efficient and economical access to information where the RCA has determined that comprehensive review and hearing is appropriate.

Finally, the bill clarifies that state agencies are exempt from paying the allocated costs of RCA proceedings to which the state agency is a party because there is no net fiscal benefit to the state in doing so.

Senate Bill: SB 392  
Short Title: RCA Public Advocacy/Dept. of Law  
Sponsor: Senate Labor and Commerce  
Current Version: SB 392  
Contact: Senator Bunde's office 365-4843

### **Summary**

- Clarifies that regulatory cost charges will fund the DOL public advocacy function;
- Modifies the regulatory cost charge mechanism to provide the DOL public advocacy function with budgetary independence from the RCA;
- Provides DOL public advocacy function with qualified access to utility records;
- Clarifies that state agencies are exempt from paying allocated costs of proceedings before the RCA.

### **Benefits**

- Completes consolidation of public advocacy within DOL;
- Gives advocacy function budgetary independence from RCA ;
- Gives DOL advocates qualified access to utility records to facilitate economical and efficient investigation;
- Eliminates inefficiency by exempting state agencies from paying allocated costs of RCA proceedings

### **Background**

Last year Executive Order 111 transferred the responsibility for advocacy on the behalf of the public in utility matters before the RCA from the RCA to the attorney general and established the public advocacy function within the DOL. RCA personnel historically responsible for RCA public advocacy (PAS) now act under the authority and direction of the DOL. The regulatory cost charge receipts historically funded the RCA and RCA personnel serving in the public advocacy role. With the transfer of that function and the associated personnel to DOL it is necessary to revise the RCC funding authority as well.

SB \_\_\_: "An Act relating to the expenses of investigation, hearing, or public advocacy before the Regulatory Commission of Alaska, to calculation of the regulatory cost charge for public utilities and pipeline carriers to include the Department of Law's costs of its public advocacy function, to inspection of certain books and records by the attorney general when participating as a party in a matter before the Regulatory Commission of Alaska; and providing for an effective date."

### SB 392 (RCA Public Advocacy)

➤ Generally:

- the need for the bill arises from the transfer of authority for public advocacy on matters before the Regulatory Commission of Alaska (RCA) under last year's **Executive Order 111**.
- E.O. 111 transferred the responsibility for **advocacy on behalf of the public** interest on utility matters from the RCA to the attorney general and established the public advocacy function within the Department of Law (DOL). AS 44.23.020(e). RCA personnel historically responsible for public advocacy now act under the authority and direction of the DOL.

➤ Accordingly:

- the bill **completes the prior transfer of authority** by expressly providing for various aspects of its execution, as regards public advocacy funding and access to records.

➤ Specifically, the bill would:

- clarify that *regulatory cost charge receipts (not general fund) will continue to pay for* the general costs of public advocacy now administered by the DOL, just as those receipts historically paid for public advocacy costs when the function was performed under the RCA. *See Sections 2,3,4,9,10, and 11.*
- adjust the regulatory cost charge ceiling and budget the RCA and the DOL public advocacy function, respectively, with *separate, fixed percentages of total* regulatory cost charge receipts under the adjusted ceiling. *See Sections 1 and 8.*
- provide the DOL with *qualified access to records* formerly obtained by the RCA's public advocacy staff. *See Sections 5, 7, 11, 12, and 16*
- *explicitly exempt* state agencies from paying the allocated costs of RCA proceedings to which the state agency is a party. *See Sections 6, 13, 14 and 15*

## SB 392 (RCA Public Advocacy) Sectional Analysis

**Sections 2, 3, 4, 9, 10 & 11:** These sections clarify that the general costs of public advocacy for utility and pipeline matters before the Regulatory Commission of Alaska (RCA) will continue to be paid from the existing regulatory cost charge mechanism under AS 42.05.254 and AS 42.06.286.

Historically, advocacy on behalf of the public interest was performed by personnel within the RCA. Therefore, the cost of that advocacy was a part of the RCA's budget funded by receipts from the regulatory cost charge, not from the general fund. Effective July 1, 2003, Executive Order 111 (issued during last year's legislative session) transferred the responsibility for public advocacy from the RCA to the attorney general and established the public advocacy function within the Department of Law (DOL).

These sections of SB 392 amend existing statutes to complete the transfer of authority by expressly providing that regulatory cost charge receipts will continue to pay the costs associated with the public advocacy function that is now administered by the DOL. (Public advocacy funding is currently administered through a separate RDU within the RCA. It will be transferred from the DCED to DOL.) They do not change the regulatory cost charge mechanism.

**Sections 1 & 8:** First, these sections of SB 392 increase the regulatory cost charge ceiling by .0007 (from the current .80% to .87%) of the total adjusted gross revenues of all regulated public utilities and pipeline carriers derived from operations in the state. The regulatory cost charges that the RCA annually expects to collect may not exceed the ceiling. The existent cap has not changed since the statute was enacted in 1992. This adjustment in the regulatory cost charge ceiling constitutes an increment of approximately \$300,000. The purpose of the increase in the cap is to provide adequate funding to retain experts when necessary to support the DOL's public advocacy function before the RCA. The RCA budget did not historically contain a specific line item for expert retention by its public advocacy staff.

Second, under the adjusted overall regulatory cost charge ceiling, these sections specify separate, fixed caps on the respective budgets of the RCA and the DOL public advocacy

function. This will complete the transfer of authority for public advocacy by providing each entity with budgetary independence from the other. Accordingly, the RCA budget amount may not exceed .70 % of the total adjusted gross revenues of all regulated public utilities and pipeline carriers; and the DOL public advocacy budget may not exceed .17% of those same total adjusted gross revenues (.70%+.17%=.87%, the adjusted overall cap).

The legislature maintains the authority to appropriate the budget of the RCA and the budget of the DOL public advocacy function.

**Sections 5 & 11:** These sections of SB 392 provide the attorney general with qualified access to utility or pipeline carrier books and records when he participates in RCA dockets in a public interest advocacy role under AS 42.04.070(c) or AS 44.23.020(e).

Prior to the transfer of authority to the attorney general under Executive Order 111, public interest advocacy was performed by Commission staff, who had a statutory right to unfettered access to utility or pipeline carrier records in order to perform their function. AS 42.05.501 and AS 42.06.440. Such access allows efficient and economical use of state resources to investigate public utility and pipeline carrier public interest issues in cases where the commission has determined that comprehensive review and hearing is appropriate. This need for efficient and economical access has not changed by the shift of responsibility for public interest advocacy to the Attorney General. The amendments to AS 42.05.501 and AS 42.06.440 acknowledge these goals but also provide the utility or pipeline carrier with an opportunity for objection to the commission.

**Sections 7 & 12:** These sections of SB 392 work in tandem with Sections 5 and 11 of SB 392. The amendments recognize that public utilities and pipeline carriers may need to request that documents obtained by the attorney general under the amendments contemplated by Sections 5 and 11 be held confidential from public disclosure under the Public Records Act. AS 40.25 *et. seq.* Sections 7 and 12 provide a vehicle for public utilities and pipeline carriers to do so, which request would then be reviewed by the commission for a good cause determination.

**Sections 6 & 13:** These sections explicitly exempt other state agencies from reimbursing the RCA for costs under AS 42.05.651 and AS 42.06.610 in proceedings to which the state agency is a party. Existent law does not expressly include or exclude state agencies from paying RCA costs. Allowing one state agency to order another state agency to pay its costs provides no net fiscal benefit to the State of Alaska. In fact, the agency subject to the RCA order expends resources to prepare and request an appropriation from the legislature to pay the RCA and the legislature expends resources examining and acting on the request. These sections would not affect the RCA's ability to require reimbursement from parties that are not state agencies.

**Sections 14 & 15:** These sections of SB 392 amend the uncodified law to provide that specific provisions enacted by Sections 6 and 13 of this Act apply to RCA orders issued in related proceedings begun before the effective date of the Act and that those specific provisions are retroactive to May 30, 2003.

**Section 16:** This section amends the uncodified law to instruct the revisor of statutes to change the heading of AS 42.05.501.

**Section 17:** This section provides for an effective date of July 1, 2004.

20 April 2004

Contact: Daniel Patrick O'Tierney  
Senior Assistant Attorney General  
for Regulatory Affairs  
Office of the Public Advocate  
State of Alaska Department of Law  
907.269.5100  
[daniel\\_patrick\\_o'tierney@law.state.ak.us](mailto:daniel_patrick_o'tierney@law.state.ak.us)



April 26, 2004

The Honorable Lyda Green, Co-Chair  
Senate Finance Committee  
Alaska Capitol, Room 516  
Juneau, AK 99801-1182

The Honorable Gary Wilken, Co-Chair  
Senate Finance Committee  
Alaska Capitol, Room 518  
Juneau, AK 99801-1182

Dear Chairs Green and Wilken:

**SB 392 (Senate Labor and Commerce)—Support**

On behalf of the AARP members in Alaska, we encourage you and your colleagues on the Senate Finance Committee to support SB 392, sponsored by the Senate Labor and Commerce Committee. SB 392 would reinforce the ability of the Attorney General to represent our citizens as the public advocate in matters before the Regulatory Commission of Alaska (RCA).

AARP relies on the RCA because it offers our members and all Alaskans the best opportunity to achieve basic consumer protections:

- The ability to make informed choices about utility services
- The security of safe and reliable energy and telecommunications services
- The assurance that sales practices and advertisements are fair, so they do not confuse, mislead, or frighten the public
- The reassurance that consumers receive accurate information, communicated clearly and in plain language, so we understand our rights and remedies

The Attorney General's office has responsibility for public advocacy under the Regulatory Commission of Alaska. SB 392 will allow the Attorney General to recoup expenses for this function from the utilities. We think this makes sense. With tight budgets, unless the Attorney General can recoup RCA-related costs from the utilities, the public advocacy costs will be weighed against competing priorities within the budget of the Attorney General. It is much more effective to break out expenses related to the RCA and have them paid by the utilities. This will allow the Attorney General to fulfill his RCA-related public advocacy functions properly.

SB 392 also allows the Attorney General access to the accounts and documents of each utility so that the Attorney General will be able to represent the citizens of Alaska more effectively. Without access, the Attorney General is prevented from weighing all factors relevant to a case before the RCA.

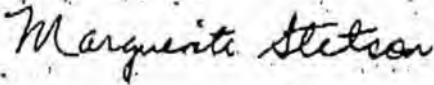
The RCA assures consumers the right to affordable rates and access to such basic necessary services as utilities and communications. We rely on the Attorney General to represent consumers on cases before the RCA. Without the provisions of SB 392, the RCA will not be able to protect our rights as consumers. AARP families need SB 392; all Alaskans need this bill.

AARP recommends an "AYE" vote on SB 392.

If you have any questions about our position, please feel free to contact Marie Darlin, Coordinator of the AARP Capital City Task Force (907- 586-3637); Patrick Luby, AARP Legislative Representative (907-762-3314); or me (907-245-5259).

Thank you for your consideration.

Sincerely,



Marguerite Stetson  
AARP State Coordinator for Advocacy  
3009 Northwood Street  
Anchorage, Alaska 99517-1871  
907-245-5259 (voice)  
907-245-5279 (fax)  
[ffmas@aurora.uaf.edu](mailto:ffmas@aurora.uaf.edu)

CC: Vice-Chair Con Bunde  
Senator Ben Stevens  
Senator Fred Dyson  
Senator Lyman Hoffman  
Senator Donny Olson  
Marie Darlin  
Patrick Luby

SB 392

NAME: PAT LUBY Subject/Bill No: SB 392

Co./Dept./Title: AARP ADVOCACY DIRECTOR Phone: 907-762-3314

Address: 3601 C ST #1420, A/A Zip: 99503

Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_

Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_

Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_

Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_

Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

NOT Heard

4/28/04 AM

SENATE FINANCE COMMITTEE

SIGN-IN

SB 392-REGULATORY COMMISSION OF ALASKA

NAME: PAT LUBY Subject/Bill No: SB 392  
 Co./Dept./Title: ADVOCACY DIRECTOR AARP Phone: 907-762-3314  
 Address: 3601 C ST #1420, A/A Zip: 99503  
 Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
 Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Address: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
 Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Address: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
 Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Address: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Do you wish to testify?  Yes  No  Respond To Questions

**SENATE COMMITTEE REPORT  
First Committee of Referral**

DATE: 04/20/04

FURTHER: Finance

Date of 5-Day Notice: 4/15/04  
(in accordance with Uniform Rule 23)

DATE TURNED IN TO OFFICE: 4/20/04

Labor and Commerce Committee considered SENATE BILL NO. 392

**SB 392 REGULATORY COMMISSION OF ALASKA**

"An Act relating to the expenses of investigation, hearing, or public advocacy before the Regulatory Commission of Alaska, to calculation of the regulatory cost charge for public utilities and pipeline carriers to include the Department of Law's costs of its public advocacy function, to inspection of certain books and records by the attorney general when participating as a party in a matter before the Regulatory Commission of Alaska; and providing for an effective date."

and recommends:

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- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
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<b>Senate Bill:</b>	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<b>House Bill:</b>	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
DCED	4/29/04		✓		1
LAW	4/20/04	✓			2

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

**SIGNATURES AND RECOMMENDATIONS:**

	Do PASS	Do NOT PASS	NO REC	AMEND
Seckins <i>Ralph Seckins</i>	✓			
Seckins <i>[Signature]</i>	✓			
CHAIR: <i>[Signature]</i>	✓			