

HB

108

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 108
(H) Publish Date: 2/11/2005

Revision Date/Time (Note if correction): _____ Dept. Affected: Environmental Conservation
Title: Adding exemptions to the regulation of water and sewer utilities RDU: Division of Water
Sponsor: House Labor & Commerce Component: Facility Construction
Requester: House Community & Regional Affairs Component No. 637

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 00

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would have no effect on DEC programs or resources.

Prepared by: Dan Easton Phone: 465-5135
Division: Water Date/Time: 2/9/05 8:04 AM
Approved by: Kurt Fredriksson, Acting Commissioner Date: 2/9/2005
Agency: Department of Environmental Conservation

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: HB 108
(H) Publish Date: 2/11/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
Title: Water & Sewer Utilities RDU: Regulatory Commission of Alaska (399)
of Political Subdivisions Component: Regulatory Commission of Alaska
Sponsor: Labor & Commerce
Requester: House Community & Regional Affairs Component No.: 2417

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	(345.0)	(345.0)	(345.0)	(345.0)	(345.0)	(345.0)
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	(345.0)	(345.0)	(345.0)	(345.0)	(345.0)	(345.0)

CAPITAL EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
CHANGE IN REVENUES (1141)	(345.0)	(345.0)	(345.0)	(345.0)	(345.0)	(345.0)

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1141 RCA Receipts	(345.0)	(345.0)	(345.0)	(345.0)	(345.0)	(345.0)
TOTAL	(345.0)	(345.0)	(345.0)	(345.0)	(345.0)	(345.0)

Estimate of any current year (FY2005) cost: 345 0
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time	-3	-3	-3	-3	-3	-3
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would remove the Municipality of Anchorage d/b/a AWWU (water and sewer utilities) from RCA oversight. AWWU is expected to pay approximately \$345,000 in RCC in FY2005. This removal from RCA oversight would result in the loss of funds for the equivalent of three positions.

The RCA's budget is funded through the Regulatory Cost Charge (RCC) mechanism and direct charge mechanisms. No general funds are allocated for support of the agency. The RCC is recalculated each year and allows the agency to recover its operating costs through an assessment on the revenues of the utilities and pipeline carriers it regulates.

Prepared by: Kate Giard, Chair Phone: 907 263 2110
Division: Regulatory Commission of Alaska Date/Time: 2/9/05 1 00 PM
Approved by: Edgar Blatchford, Commissioner Date: 2/9/2005
Agency: Commerce, Community & Economic Development

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: HB 108
(H) Publish Date: 2/18/05

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title Water & Sewer Utilities of Political RDU CIVIL
Subdivisions Component Regulatory Affrs & Public Advocacy
Sponsor Labor & Commerce
Requester House Community & Regional Affairs Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	(93.0)	(93.0)	(93.0)	(93.0)	(93.0)	(93.0)
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	(93.0)	(93.0)	(93.0)	(93.0)	(93.0)	(93.0)

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
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TOTAL	(93.0)	(93.0)	(93.0)	(93.0)	(93.0)	(93.0)

Estimate of any current year (FY2005) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time	-1	-1	-1	-1	-1	-1
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
The bill would effectively remove the Municipality of Anchorage d/b/a AWWU (water and sewer utilities) from oversight by the Regulatory Commission of Alaska (RCA). This removal would result in significant loss of funding for both the RCA and Law's Regulatory Affairs & Public Advocacy Section (RAPA). Both RCA and RAPA are funded wholly through the RCA's Regulatory Cost Charge (RCC) mechanism and other direct charges assessed against the regulated utilities and pipeline carriers. Loss of these funds would necessitate elimination of one professional level analyst position from the section or a one-third reduction to the section's utilities expert/witness consulting budget.

Prepared by: Robert Meiners, Dep. Director Phone 465-5427
Division Administrative Services Date/Time 2/16/05 8:35 AM
Approved by: Robert Meiners for Scott Nordstrand, Acting Attorney General Date 2/16/2005
Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

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(H) Publish Date: 2/11/2005

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of water and sewer utilities Component Facility Construction
Sponsor House Labor & Commerce
Requester House Community & Regional Affairs Component No. 637

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CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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Estimate of any current year (FY2005) cost: 0.0

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POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would have no effect on DEC programs or resources.

Prepared by: Dan Easton Phone 465-5135
Division: Water Date/Time 2/9/05 8:04 AM
Approved by: Kurt Fredriksson, Acting Commissioner Date 2/9/2005
Agency: Department of Environmental Conservation

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of Political Subdivisions Component: Regulatory Commission of Alaska
Sponsor: Labor & Commerce
Requester: House Community & Regional Affairs Component No. 2417

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Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
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TOTAL OPERATING	(345.0)	(345.0)	(345.0)	(345.0)	(345.0)	(345.0)

CAPITAL EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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1005 GF/Program Receipts						
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1141 RCA Receipts	(345.0)	(345.0)	(345.0)	(345.0)	(345.0)	(345.0)
TOTAL	(345.0)	(345.0)	(345.0)	(345.0)	(345.0)	(345.0)

Estimate of any current year (FY2005) cost: 345.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

POSITIONS	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Full-time	-3	-3	-3	-3	-3	-3
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would remove the Municipality of Anchorage d/b/a AWWU (water and sewer utilities) from RCA oversight. AWWU is expected to pay approximately \$345,000 in RCC in FY2005. This removal from RCA oversight would result in the loss of funds for the equivalent of three positions.

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Prepared by: Kate Giard, Chair Phone: 907 263 2110
Division: Regulatory Commission of Alaska Date/Time: 2/9/05 1 00 PM
Approved by: Edgar Blatchford, Commissioner Date: 2/9/2005
Agency: Commerce, Community & Economic Development

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Subdivisions Component Regulatory Affrs & Public Advocacy
Sponsor Labor & Commerce
Requester House Community & Regional Affairs Component No. _____

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CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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TOTAL	(93.0)	(93.0)	(93.0)	(93.0)	(93.0)	(93.0)

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time	-1	-1	-1	-1	-1	-1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill would effectively remove the Municipality of Anchorage d/b/a AWWU (water and sewer utilities) from oversight by the Regulatory Commission of Alaska (RCA). This removal would result in significant loss of funding for both the RCA and Law's Regulatory Affairs & Public Advocacy Section (RAPA). Both RCA and RAPA are funded wholly through the RCA's Regulatory Cost Charge (RCC) mechanism and other direct charges assessed against the regulated utilities and pipeline carriers. Loss of these funds would necessitate elimination of one professional level analyst position from the section or a one-third reduction to the section's utilities expert/witness consulting budget.

Prepared by: Robert Meiners, Dep. Director Phone 465-5427
Division: Administrative Services Date/Time 2/16/05 8:35 AM
Approved by: Robert Meiners for Scott Nordstrand, Acting Attorney General Date 2/16/2005
Agency: Department of Law

24-LS0455NF
Craver
3/17/05

3/17/05 adopted N/O

CS FOR HOUSE BILL NO. 108()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

change pg 2 + 3

Offered:
Referred:

Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the regulation of water and sewer utilities of political subdivisions
2 that are not in competition with other water and sewer utilities; and providing for an
3 effective date."

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

5 * Section 1. AS 42.05.711(b) is amended to read:

6 (b) Except as otherwise provided in this subsection and in (c) of this section,
7 public utilities owned and operated by a political subdivision of the state, or electric
8 operating entities established as the instrumentality of two or more public utilities
9 owned and operated by political subdivisions of the state, are exempt from this
10 chapter, other than AS 42.05.221 - 42.05.281 and 42.05.385. However,

11 (1) the governing body of a political subdivision may elect to be
12 subject to this chapter; and

13 (2) a utility or electric operating entity that is owned and operated by a
14 political subdivision and that directly competes with another utility or electric

1 operating entity is subject to this chapter and any other utility or electric operating
2 entity owned and operated by the political subdivision is also subject to this chapter;
3 this paragraph does not apply to

4 (A) a utility or electric operating entity owned and operated by
5 a political subdivision that competes with a telecommunications utility;

6 (B) a water utility owned by a political subdivision that
7 does not directly compete with another water utility; or

8 (C) a sewer utility owned by a political subdivision that
9 does not directly compete with another sewer utility.

10 * Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 EFFECT ON PENDING MATTERS BEFORE THE REGULATORY
13 COMMISSION. On and after the effective date of this section, the Regulatory Commission
14 of Alaska may continue to investigate and make determinations in regard to any matters
15 concerning a water or a sewer utility exempt from AS 42.05 as provided by
16 AS 42.05.711(b)(2)(B) and (C), added by sec. 1 of this Act, that is pending on the effective
17 date of this section; however, the authority of the Regulatory Commission of Alaska to
18 continue to investigate and make determinations concerning a matter is limited to issues
19 relating to the time period before the effective date of this section.

20 * Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 CONTINGENT EFFECT. (a) The additions of AS 42.05.711(b)(2)(B) and
23 42.05.711(b)(2)(C) made by sec. 1 of this Act, and sec. 2 of this Act, take effect only if the
24 governing body of at least one political subdivision that owns a water utility subject to
25 AS 42.05.711(b)(2)(B), added by sec. 1 of this Act, or the governing body of at least one
26 political subdivision that owns a sewer utility subject to AS 42.05.711(b)(2)(C), added by sec.
27 1 of this Act, approves an ordinance that establishes a public body composed of members
28 appointed by the governing body to establish a fair and open process for setting rates for the
29 water or sewer utility based on standard industry practices.

30 (b) The chair of the Regulatory Commission of Alaska shall promptly notify the
31 lieutenant governor and the revisor of statutes of the occurrence of the first of the

1 contingencies described in (a) of this section.

2 * Sec. 4. Sections 1 and 2 of this Act take effect on the day after the date the chair of the
3 Regulatory Commission of Alaska notifies the lieutenant governor and the revisor of statutes
4 under sec. 3(b) of this Act that a political subdivision has approved an ordinance that
5 establishes a public body composed of members ^{approved} [appointed] by the governing body to establish
6 a fair and open process for setting rates for the water or sewer utility based on standard
7 industry practices, or on the effective date of sec. 3 of this Act, whichever is later.

3-16-05
Adopted
(as amended)

24-LS0455\G.1
Craver
3/16/05

AMENDMENT 1

OFFERED IN THE HOUSE

BY REPRESENTATIVE MEYER

TO: CSHB 108(), Draft Version "G"

1 Page 1, line 2, following "utilities":

2 Insert "; and providing for an effective date"

3 *Delete Lines 4-7 in Section 1 (Amendment b)*

4 Page 2, following line 24:

5 Insert new bill sections to read:

6 **** Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 CONTINGENT EFFECT. (a) The additions of AS 42.05.711(b)(2)(B) and
9 42.05.711(b)(2)(C) made by sec. 2 of this Act, and sec. 3 of this Act, take effect only if the
10 governing body of at least one political subdivision that owns a water utility subject to
11 AS 42.05.711(b)(2)(B), added by sec. 2 of this Act, or the governing body of at least one
12 political subdivision that owns a sewer utility subject to AS 42.05.711(b)(2)(C), added by sec.
13 2 of this Act, approves an ordinance that establishes a public body composed of members
14 appointed by the governing body to establish a fair and open process for setting rates for the
15 water or sewer utility based on standard industry practices.

16 (b) The chair of the Regulatory Commission of Alaska shall promptly notify the
17 lieutenant governor and the revisor of statutes of the occurrence of the first of the
18 contingencies described in (a) of this section.

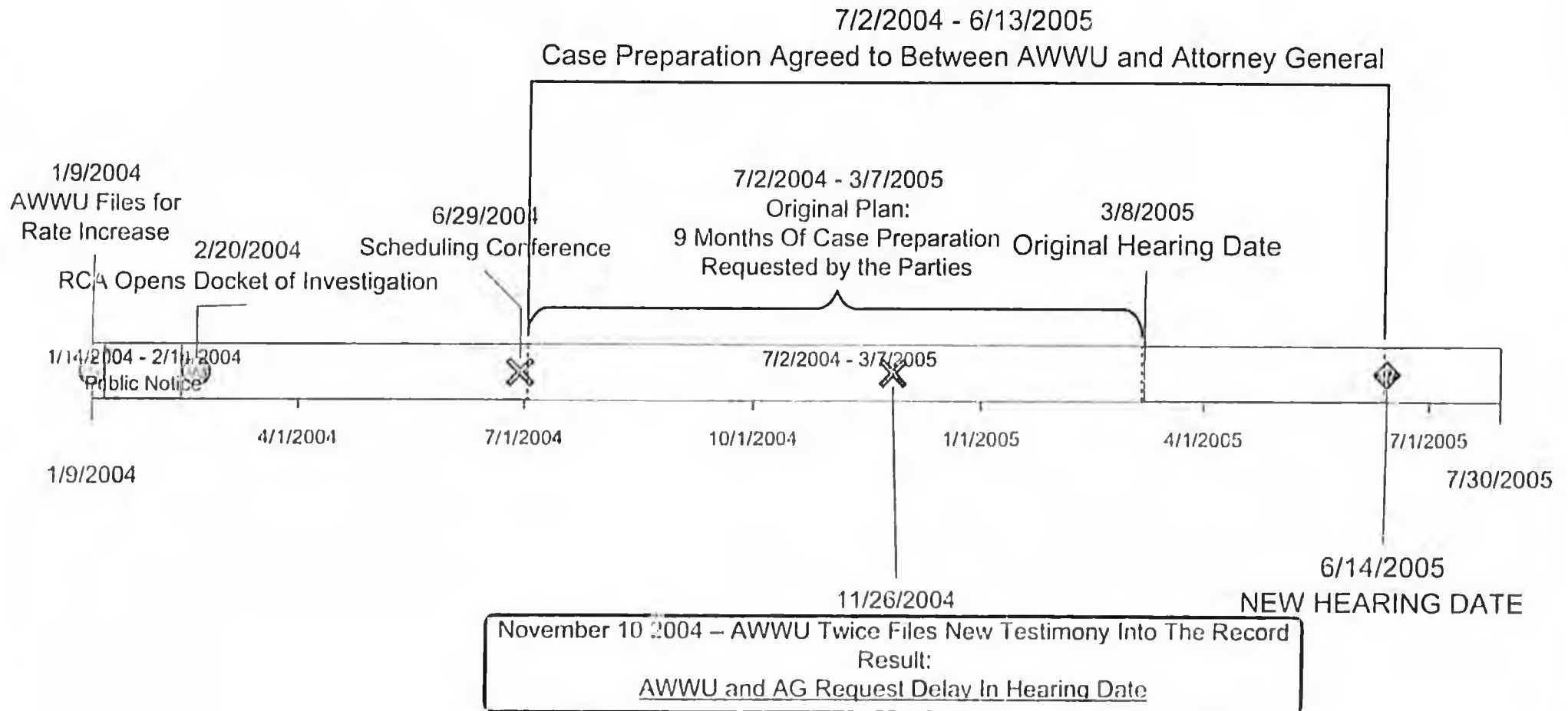
19 *** Sec. 5.** Sections 2 and 3 of this Act take effect on the day after the date the chair of the
20 Regulatory Commission of Alaska notifies the lieutenant governor and the revisor of statutes
21 under sec. 4(b) of this Act that a political subdivision has approved an ordinance that
22 establishes a public body composed of members appointed by the governing body to establish
23 a fair and open process for setting rates for the water or sewer utility based on standard

1 industry practices, or the effective date of secs. 1 and 4 of this Act, whichever is later."

3-16-05

Waiting for a new
CS to include
amendment 1, as
amended

Regulatory Commission of Alaska AWWU Rate Case - 16 Month Timeline



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Municipality of Anchorage

P.O. Box 196650 • Anchorage, Alaska 99519-0650 • Telephone: (907) 343-4431 • Fax: (907) 343-4431 <http://www.muni.org>

Mayor Mark Begich

Office of the Mayor

March 14, 2005

Representative Tom Anderson
State Capitol, Room 432
Juneau, Alaska 99801-1182

Subject: AWWU Authority

Dear Representative Anderson:

It is my intent to work with the Anchorage Assembly to create an Authority to manage the Anchorage Water and Wastewater Utility (AWWU). I have worked with the AWWU Advisory Commission over the last year to develop this proposal. The effort led to the Advisory Commission holding five public meetings in just the last six weeks. Both the Advisory Commission and I are in agreement with the proposed Authority concept.

In support of HB 108, and discussions regarding this Authority structure, I offer the following concepts which I and the AWWU Advisory Commission support.

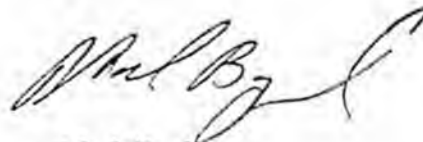
- The proposed structure will provide for strong consumer protection by focusing expert resources on financial and system integrity and customer interests.
- The Authority proposal is for a seven member board with staggered five-year terms. Board members would be recommended by the Mayor and appointed by the Assembly. The board will be made up of members with qualifications in engineering, finance, public health, business, law, and consumer advocacy.
- The ratemaking process will follow industry standard practices, as expressed by the America Water Works Association (AWWA) and the Water Environment Federation (WEF). All rate adjustments will be recommended by the Board to the Assembly for approval. Both the Board and the Assembly will hold public hearings on rate adjustments.

Community, Security, Prosperity

A work session is scheduled with the Anchorage Assembly on April 8th to discuss this Authority concept. It is my intent to introduce an ordinance in mid-April to establish the Authority. This will allow for complete analysis and discussion by the Assembly and the public.

As the process for the creation of an AWWU Authority moves forward, I will keep you informed.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Begich", written in a cursive style.

Mark Begich
Mayor

cc: Patricia Curl, Chair AWWU Advisory Commission

ANCHORAGE WATER UTILITY
 RATE HISTORY
 1992 THROUGH 2004

Docket/Order	Type of Rate Increase	Rate Increase Received	Effective Date of Increase	Single Family Rate	Commercial Metered Rate
per U-90-64(4)	Permanent	6.00%	3-Jun-92	\$24.75	\$3.14
per U-94-89(5) COSS	Cost of Service ⁽¹⁾	0.00%	1-Jun-95	\$25.80	\$2.64
per U-04-023(1)	Interim	13.61%	23-Feb-04	\$29.35	\$3.00

⁽¹⁾ Cost of Service rates reallocate costs to customer classes without changing the total revenue to the Utility

ANCHORAGE WASTEWATER UTILITY
 RATE HISTORY
 1992 THROUGH 2004

Docket/Order	Type of Rate Increase	Rate Increase Received	Effective Date of Increase	Single Family Rate
per U-90-64()	Permanent	14.89%	8-Jun-92	\$21.65
per U-94-88(5)COSS	Cost of Service ⁽¹⁾	0.00%	1-Jun-95	\$21.80
per LO# L0001127	Permanent	-2.75%	1-Jan-01	\$21.20
per U-04-022(1)	Interim	8.06%	23-Feb-04	\$22.90

⁽¹⁾ Cost of Service rates reallocate costs to customer classes without changing the total revenue to the Utility



Municipality of Anchorage

P.O. Box 196650 • Anchorage, Alaska 99519-6650 • Telephone: (907) 343-4431 • Fax: (907) 343-4499 <http://www.muni.org>


Mayor Mark Begich

Office of the Mayor

MEMORANDUM

DATE: February 3, 2004

TO: The Honorable Tom Anderson, Chair
House Labor & Commerce Committee

FROM: Anchorage Mayor Mark Begich 

SUBJECT: Self-regulation of Anchorage Water and Wastewater Utilities

The Municipality of Anchorage and the Anchorage Assembly have designated "Regulating Anchorage's Own Water/wastewater Utilities" as a top municipal legislative priority for 2004. This would require an exemption from regulation by the Regulatory Commission of Alaska (RCA), something that every other municipally owned utility in Alaska, except one, already enjoys.* Anchorage as the largest, most highly sophisticated city in the state, is fully capable of soundly regulating its own municipally owned utilities. Self-regulating Anchorage's water utility would save rate-payers money and enhance local control.

AWWU has provided its customers excellent service, low, stable rates and sound finances, as well as continuity of management. Over the years, the mayor and assembly have made sound decisions in their oversight of municipally owned utilities. Municipal public hearings are held on any proposed rate increase. Municipal regulation will continue to balance consumer protection with the financial soundness of the public utility. It will allow the utilities to continue to operate on a sound business basis. The process will be accountable to local people, more responsive, timely and economical than current RCA regulation.

Anchorage has extensive experience regulating other municipally owned enterprises. The Port of Anchorage, Merrill Field and Solid Waster Services are all financially sound and provide first class customer service. Actually, Anchorage has self-regulated its public utilities for more years than have state regulators.

RCA regulation is slow, expensive and partially duplicates the review process that the municipal administration and assembly already apply. AWWU ratepayers pay in excess of \$500,000 per year to the RCA to cover the cost of regulation. The greater cost is in the form of regulatory lag, the delay in obtaining approval of a requested rate change.

* The City of Pelican requested continued RCA regulation of its water utility when it was sold.

Community, Security, Prosperity

The Municipality in 1991 petitioned the APUC (predecessor to the RCA) to exempt AWWU and the electric utility from regulation. The Commission denied the request for self-regulation of the electric utility. By a 2-2 vote, the commission split on the question of exempting AWWU. The opinion by the commissioners who opposed self-regulation cited competition by the electric utility with other electric utilities as the reason why AWWU should remain regulated by the state.

To accomplish the exemption from RCA regulation a new section is needed in AS 42.05.711:

"A water/wastewater utility owned by and serving a first class or home rule municipality is exempt from regulation by the Commission, other than AS 42.05.221 - 42.05.281 and 42.05.385."

This section was amended as recently as the year 2000 by SB 324 to protect Ketchikan's public utilities, which have been self-regulated for 50 years, from the risk of regulatory takeover by the RCA in light of possible telephone competition.

2005 STATE LEGISLATIVE PROGRAM
MUNICIPAL PRIORITY ISSUES

Legislation

ISSUE/PROJECT NAME: Regulate our own utilities to save taxpayers money
ISSUE/IMPROVEMENT TYPE: Economic Development Legislation
PRIORITY: 1

ISSUE/PROJECT DESCRIPTION:

We support state legislation that would include the Municipality of Anchorage water and wastewater utilities (AWWU) in the existing exemption from regulation by the Regulatory Commission of Alaska (RCA) that state law already provides to other municipally owned utilities.

AWWU is the only municipally owned water and wastewater utility in Alaska subjected to state regulation, with the sole exception of the City of Pelican. [Unlike AWWU, Pelican requested to be regulated by the RCA.] Anchorage ratepayers pay higher rates for state regulation, but these regulatory charges are not imposed on utilities owned by other municipalities. Currently Anchorage ratepayers pay about \$550,000 per year.

Municipal regulation of AWWU will continue to balance consumer protection with the financial soundness of the utilities. It will be:

Directly accountable to local people
More responsive
More timely
More economical
Simpler

Utility customers are also municipal voters. They will hold the Mayor and Assembly members fully accountable for their actions overseeing municipally owned utilities like AWWU.

The Municipality has extensive experience regulating other municipally owned enterprises. They are all financially sound and also provide first class customer service. For example, the Solid Waste Services Collection Utility has been regulated by the Municipality for many years. Its customers enjoy among the lowest refuse collection rates in the country. The rates for residential and commercial refuse collection have not increased in the past thirteen years. This exemption could be accomplished by amending AS 42.05.711 to add a new section to read:

"A water/wastewater utility serving a municipality with a population of more than 200,000 is exempt from regulation by the Commission, other than AS 42.05.221 - 42.05.281 and 42.05.385."

Legislative District (s):

House: 16-32

Senate: I-P

CONTACT PERSON: Robert Lohr, Management Systems Officer, 343-4467

MUNICIPALITY OF ANCHORAGE

Cara Anderson 1
Rene Romo - Mayor Anchorage

2004 STATE LEGISLATIVE PROGRAM
MUNICIPAL PRIORITY ISSUES
LEGISLATION

ISSUE/PROJECT NAME: Regulating our own utilities

ISSUE/IMPROVEMENT TYPE: Legislation- Utility

STATE GRANT REQUEST: None

LOCAL MATCH: N/A

PRIORITY: 1

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During the recent California energy crisis the utilities regulated by the state public utilities commission got in trouble, with the largest gas and electric utility having to file bankruptcy. On the other hand, municipally owned utilities fared very well.

POLITICAL SUBDIVISIONS:

Community Council: Anchorage

Assembly Section: 9

Legislative District(s):

House: 16-32

Senate: 1-P

CONTACT PERSON: Robert Lohr, Management Systems Officer, 343-4467

Gina Anderson 1
Renee Romero - 5 years ASL

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Community Council: Anchorage
Assembly Section: 9
Legislative District(s):
House: 16-32
Senate: I-P

CONTACT PERSON: Robert Lohr, Management Systems Officer, 343-4467

**2005 STATE LEGISLATIVE PROGRAM
MUNICIPAL PRIORITY ISSUES**

Legislation

ISSUE/PROJECT NAME: Regulate our own utilities to save taxpayers money
ISSUE/IMPROVEMENT TYPE: Economic Development Legislation
PRIORITY: 1

ISSUE/PROJECT DESCRIPTION:

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Legislative District (s):

House: 16-32

Senate: I-P

CONTACT PERSON: Robert Lohr, Management Systems Officer, 343-4467

MUNICIPALITY OF ANCHORAGE

**TESTIMONY OF MARK PREMO, GENERAL MANAGER,
ANCHORAGE WATER & WASTEWATER UTILITY,
on HOUSE BILL NO. 108,
before the HOUSE Finance Committee
on March 16, 2005.**

Mr. Chairman and distinguished committee members,

My name is Mark Premo, and I am the General Manager of the Municipality of Anchorage Water and Wastewater Utility, which is commonly referred to as AWWU.

I am testifying in support of HB 108.

This bill would exempt AWWU, from economic regulation by the Regulatory Commission of Alaska, and place it in the same status of every other municipally owned water/wastewater utility in Alaska, except one, Pelican.

~~**First some background.**~~

~~AWWU is two separate utilities, both subject to economic and service area regulations by the RCA.~~

~~The Water Utility, a former City of Anchorage utility, has been under RCA regulation since inception of the APUC in 1970.~~

~~The Anchorage Sewer Utility, which was formerly owned by the Greater Anchorage Area Borough, was voluntarily submitted to the APUC for regulation in 1971.~~

~~An umbrella organization, AWWU, was formed in 1975, following unification of the Municipality of Anchorage.~~

~~The Municipality of Anchorage in 1991 petitioned the then APUC to exempt AWWU and its electric utility from regulation.~~

~~The Commission split evenly, by a 2-2 vote, on the question of exempting the electric utility and AWWU.~~

~~The opinion by the commissioners opposing self regulation cited competition by the Municipality's electric utility and telephone utility with other utilities as the primary reason why AWWU should remain regulated by the state.~~

~~No commissioner suggested then or has since suggested that competition between the water and wastewater was present, nor is there any competition there today.~~

During the last Session, ~~on April 28, 2004,~~ the House of Representatives approved HB 515. This bill would have exempted AWWU from economic regulation by the RCA. Time ran out and the Senate did not act on the bill.

THERE ARE TWO MAIN REASONS

^ Why ~~does~~ the Municipality of Anchorage desire exemption from RCA Regulation?

1) The current RCA regulation processes and procedures are slow and expensive *AND 2) THESE REGULATIONS AND PROCEDURES ARE NON-RESPONSIVE TO LOCAL NEEDS.*

From 1993 to 2003, AWWU filed only minor housekeeping and procedural matters with the RCA and never requested a rate increase yet AWWU ratepayers have paid approximately \$2.8 million in regulatory assessments to the RCA during this period as part of every monthly bill. In 2004, AWWU paid \$ 445,000 to cover the cost of regulation and we estimate that in 2005 we will pay more than \$500,000.

However, the greater cost to AWWU and its customers is in the form of the cost of preparing filings and regulatory lag.

~~AWWU filed for the initial part of a two phase rate increase and a refundable interim rate in January 2004. The public hearing has been delayed and rescheduled by the RCA and is now set for June 2005, 15 months later. This large delay substantially increases the jeopardy for the AWWU rate payers and AWWU in the event that a portion of the requested rates have to be refunded. In addition, the RCA delayed action on setting~~

~~second stage interim rates from January 1, 2005 to February 8, 2005. This action alone cost AWWU \$540,000 in non-recoverable lost revenue. Also, due to the unprecedented and large amount of discovery questions, over 530 in all, the case has also become extremely costly~~

18th

History and present events show that local regulation is faster, less structured and more economical.

~~2) Current RCA regulations and procedures are non-responsive to local needs.~~

The RCA process was designed for private utilities and is not entirely appropriate for municipal utilities.

The RCA process is very structured, *AND INTIMIDATING TO A RATE PAYER.*

The RCA is not accountable to Anchorage residents. The Municipality is more responsive to local needs and is directly accountable to the ratepayers, who are served by the utilities. These customers are Municipal voters.

Public hearings are held by the Municipality on all rate matters.

I ask for the Committee's support of HB No. 108.

Self regulation has worked effectively across the nation, in other Alaskan communities, and in Anchorage.

Anchorage has regulated its own public utilities for many more years than have state regulators.

The Municipality of Anchorage has a proven track record of effectively regulating the Port of Anchorage, Merrill Field and Solid Waste Services.

All are financially strong, highly reputable enterprises that provide excellent customer service. Rate changes have been infrequent.

AWWU has provided its customers excellent service, low, stable rates and sound finances. In 2004, AWWU filed for the first rate increases since 1992.

For more than a decade rate payers have benefited as AWWU has reduced positions and expenses by leveraging technology and improving business processes while at the same time increasing spending on system repairs and rehabilitation.

This has all been done without direction and assistance (or value added) from the RCA.

Over the years, the mayor and assembly have made sound decisions in their oversight of AWWU and other municipally owned utilities.

The Municipality of Anchorage Administration supports the establishment of a strong independent Authority to oversee and regulate AWWU in lieu of the RCA. The Water and Wastewater Advisory Commission and Mayor Begich have reached consensus on a draft Authority structure that includes strong consumer protection provisions. This work started over one year ago and recently culminated in the Advisory Commission holding five public meetings in the last six weeks to accomplish this work. The Mayor and the Advisory Commission are scheduled to make a presentation to the Municipal Assembly at a work session on April 8 on the proposed Authority structure. Subsequent to receiving Assembly input, the Administration's goal is to have an ordinance establishing the AWWU Authority approved by the Municipal Assembly ~~in June 2005.~~

The Municipality of Anchorage supports amendments to HB 108.

During the hearing before the House Commerce and Labor Committee, some members proposed strengthening the bill to include language that the bill would not become effective until the Municipality created an Authority which met some basic requirements designed to protect the consumer or rate payer. There was also interest in addressing the transition of the current rate case AWWU has before the RCA.

YOU HAVE IN YOUR PACKAGE

A ~~Have with me~~ today, a letter of intent from Mayor Begich stating his commitment to establishing an AWWU Authority with strong consumer protection provided by a Board of experts appointed by the Mayor and

FOR CAUSE

approved by the Assembly serving 5 year staggered terms and who could only be removed by the Assembly with the concurrence of the Mayor, ~~for cause~~. The Board would be responsible for the operation and management of AWWU under the oversight of Municipal Assembly. Both the Board and the Assembly would have to hold public hearings on all rate increases.

The Municipality of Anchorage Administration would also support an amendment requiring that the HB 108 would not become effective until the Municipality of Anchorage create an Authority. We would also support an amendment to address the transition of the current rate case if self-regulation occurs.

In conclusion, with the passage of HB No. 108, Municipal regulation of AWWU will balance consumer protection with the financial soundness and AWWU will continue to operate on a sound business basis.

This bill facilitates the proper self-regulation of AWWU similar to HB 515, which passed the House last session.

Alaska State Legislature

House of Representatives



Official Business

State Capitol
Juneau, AK 99801-1182

SPONSOR STATEMENT FOR HB 108 BY: Representative Tom Anderson

TITLE: "An Act relating to the regulation of water and sewer utilities of political subdivisions that are not in competition with other water and sewer utilities."

House Bill 108 would exempt Anchorage Waste Water Utility from regulation by the Regulatory Commission of Alaska (RCA). Except for the City of Pelican, no other municipal owned water/wastewater utility is regulated by the RCA. (Pelican requested regulation of its water utility by the RCA).

The Municipality of Anchorage believes the current RCA regulation processes are cumbersome, slow, expensive, and non-responsive to local needs. Ratepayers are required to pay for the expensive RCA regulatory process as a surcharge on every bill, whether or not their utility has a case pending. For example, from 1993 until 2003 AWWU never had a rate increase from the RCA or the APUC, yet ratepayers have paid a regulatory assessment to the RCA as part of every bill. In 2004 AWWU ratepayers are projected to pay about \$500,000 to the RCA to cover the costs of regulation. The greatest costs appear in the form of regulatory delay in obtaining approval of a requested change.

The MOA is directly accountable to ratepayers served by the utilities - they are voters. The Municipality has experience successfully regulating enterprise activities. The Port of Anchorage, Solid Waste Services and Merrill Field are all financially sound and provide first class customer service. Municipal public hearings are held on any proposed rate increase and the public is very involved in the hearing process.

HB 108 changes existing law by adding lines 5 thru 8 on Page 2. This language states that a water or sewer utility owned by a political subdivision not directly competing with another water or sewer utility is exempt from RCA regulation.

I would ask for your support on HB 108.

Testimony

HB 108

House Finance Committee Hearing

March 16, 2005

Virginia Rusch, Attorney
Representing AARP Alaska

AARP Alaska

Good afternoon, Co-Chairs, Members of the Committee.

My name is Virginia Rusch. The AARP asked me to come here to talk about HB 108, which would remove the Anchorage water and wastewater utilities from regulation by the RCA.

I have worked in the field of utility regulation for many years. Before retiring last summer, I served as an Assistant Attorney General for 23 years, and for 14 of those years I was assigned to the Alaska Public Utilities Commission or the Regulatory Commission of Alaska. For many of those years my job was to be the APUC advocacy staff's lawyer. I also served as the RCA commissioners' own legal advisor for about three and a half years, but I don't have any connection with the RCA now.

Today I am here because many AARP members will be affected by your decisions on HB 108. AARP has over 30 thousand (30,356) members in almost 19 thousand (18,973) households in Anchorage. AARP also has 2680 members in 1675 households in Eagle River and 170 members in 106 households in Girdwood. I can't tell you exactly how many AARP members are AWWU customers, but we know that it is a large number, and the way AWWU is regulated is a concern for our members.

The AARP supports having utility rates determined by an independent agency with adequate expertise and staff, allowing public participation and having a well-funded consumer advocate. We think HB 108 would be contrary to these principles.

AWWU hasn't shown that there will be a process to protect the ratepayers. Mr. ^{prems} said in his testimony to the RCA committee on 2/10 and House Labor and Commerce Committee on 2/16 that the Municipality would have an advisory commission or an authority to set AWWU rates. But he didn't have many details of how this would work. They are really asking you to ~~be~~ a pig in a poke if they haven't even decided who will set the rates and what procedures they will follow. We have a lot of questions.

AARP Alaska

- If HB 108 is passed, will AWWU's ratemaking process be independent of the Municipality's financial interests? Or will that body be under pressure to shift taxpayer costs to utility ratepayers?
- Will AWWU's ratemaking process allow a consumer advocate with appropriate financial and engineering expertise to examine the rate increase filing and to present a detailed case challenging some utility costs? If so, who would that consumer advocate be? The Attorney General has statutory authority (AS 44.23.020(e)) to advocate the public interest before the commission, but not before a municipal body.
- Will AWWU's ratemaking process be cheaper or faster? The process that allows for real examination of the rate justification is not a fast and cheap process.
- If HB 108 is passed, will AWWU rates immediately be lowered to remove the regulatory cost charge that supports the RCA and the Attorney General as Public Advocate?

Passage of this bill would derail the rate case that is in progress right now. Let me just summarize what is going on there so that you can understand the effect of passing this bill.

AWWU is seeking a total increase of over \$10 million per year, which amounts to an 18 percent increase in customer rates. \$6 million of that is due to a change approved by the Anchorage Assembly that increases the MUSA or payment in Lieu of Taxes charged to these utilities. AWWU's position is that the Anchorage Assembly already decided this and that is the end of the matter. The Attorney General's position is that this increase was not valid. With other costs that the AG says should be disallowed, the AG says that AWWU needs no rate increase at all.

Now I don't know who is right, but both parties will have an opportunity to present their argument to an independent quasi-judicial forum, the RCA, to decide. It is true that this takes longer and costs more than a process without a consumer advocate that can audit and conduct discovery about the utility's costs. But when the amount at stake for ratepayers is over \$10 million per year, the additional time and cost to examine the utility's costs is worthwhile.

AARP Alaska

If HB 108 passes, the RCA will not be able to consider the Attorney General's filings. The issue will be moot.

The Fairbanks Municipal Utilities experience. It is a common error to think that the consumer interest in utility regulation is only to keep rates low, but there is another important aspect. Utility regulation really balances two opposing consumer concerns. One consumer protection goal is to keep rates from being any higher than necessary. But another important aspect is to provide safe and reliable utility service, which requires adequate utility investment and consumers do have to pay for this.

Fairbanks used to have water and sewer utilities owned by the city, with rates recommended by an advisory commission and ultimately approved by the assembly. About ten years ago, the City of Fairbanks sold all of its municipal utilities to a regulated investor owned utility, and came to the APUC for approval of that transfer. I was the commission staff's lawyer at that time. City and utility officials all testified that municipal rate-setting just didn't work because the assembly bowed to political pressure to keep rates too low, thereby preventing the utility from making the investment to provide quality service. I can't help wondering why the City of Anchorage wants to put itself in the position that Fairbanks officials were so eager to get out of?

AARP recommends a "NO" vote on HB 108.

Thank you.

Adopted 24-LS0455\G
Craver
3/15/05
3/16/05
no objection

CS FOR HOUSE BILL NO. 108()

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the regulation of water and sewer utilities of political subdivisions
2 that are not in competition with other water and sewer utilities."

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

4 * Section 1. The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 LEGISLATIVE INTENT. A water or sewer utility owned and operated by a political
7 subdivision that is exempt from AS 42.05 as provided by AS 42.05.711(b)(2)(B) and (C),
8 added by sec. 2 of this Act, is expected to establish fair and open public processes for rate
9 setting.

10 * Sec. 2. AS 42.05.711(b) is amended to read:

11 (b) Except as otherwise provided in this subsection and in (o) of this section,
12 public utilities owned and operated by a political subdivision of the state, or electric
13 operating entities established as the instrumentality of two or more public utilities
14 owned and operated by political subdivisions of the state, are exempt from this

Adopted on 3-16
Amendment by
House Labor and Commerce
Amendment #2

1 chapter, other than AS 42.05.221 - 42.05.281 and 42.05.385. However,

2 (1) the governing body of a political subdivision may elect to be
3 subject to this chapter; and

4 (2) a utility or electric operating entity that is owned and operated by a
5 political subdivision and that directly competes with another utility or electric
6 operating entity is subject to this chapter and any other utility or electric operating
7 entity owned and operated by the political subdivision is also subject to this chapter;
8 this paragraph does not apply to

9 (A) a utility or electric operating entity owned and operated by
10 a political subdivision that competes with a telecommunications utility;

11 (B) a water utility owned by a political subdivision that
12 does not directly compete with another water utility; or

13 (C) a sewer utility owned by a political subdivision that
14 does not directly compete with another sewer utility.

15 * Sec. 3. The uncoded law of the State of Alaska is amended by adding a new section to
16 read:

17 EFFECT ON PENDING MATTERS BEFORE THE REGULATORY
18 COMMISSION. On and after the effective date of this Act, the Regulatory Commission of
19 Alaska may continue to investigate and make determinations in regard to any matters
20 concerning a water or a sewer utility exempt from AS 42.05 as provided by
21 AS 42.05.711(b)(2)(B) and (C), added by sec. 2 of this Act, that is pending on the effective
22 date of this Act; however, the authority of the Regulatory Commission of Alaska to continue
23 to investigate and make determinations concerning a matter is limited to issues relating to the
24 time period before the effective date of this Act.