

HB

108

Alaska State Legislature

House of Representatives



Official Business

State Capitol
Juneau, AK 99801-1182

SECTIONAL ANALYSIS FOR CS HB 108(FIN) **BY: Representative Tom Anderson**

Section 1. Inserts language that includes water and sewer utilities under the exemption of RCA regulation.

Section 2. Adds to uncodified law language continuing any pending matters before the RCA and thereby not affecting those matters through this legislation.

Section 3. Adds to uncodified law language allowing the legislation to take effect only if the governing body establishes a separate body to continue the fair and open process of setting rates based on standard industry practices.

Section 4. Establishes the effective date as the day after the date the chair of the RCA notifies the lieutenant governor and the revisor of statutes under section 3(b) of this Act that a political subdivision has been created and functions according the intent of the legislation

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House of Representatives



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Juneau, AK 99801-1182

SPONSOR STATEMENT FOR CS HB 108(FIN) 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; and providing for an effective date."

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 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 language stating a water or sewer utility owned by a political subdivision not directly competing with another water or sewer utility is exempt from RCA regulation. Additionally, Section 2 continues any pending matters before the RCA and therefore those matters are not affected by this legislation.

HB 108 also contains a contingency clause in Section 3, which allows the legislation to take effect only if the governing body establishes a separate body to continue the fair and open process of setting rates based on standard industry practices.

I would ask for your support on HB 108.

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS

LABOR & COMMERCE COMMITTEE CHAIRMAN
ADMINISTRATION REGULATION REVIEW COMMITTEE CHAIRMAN
JUDICIARY COMMITTEE VICE CHAIR

website: <http://www.alrepublikans.org/Anderson.htm>



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Representative Tom Anderson

email: Representative_Tom_Anderson@legis.state.ak.us

MEMORANDUM

Date: March 31, 2005

To: Senator Gary Stevens, Chair
Senate Community & Regional Affairs Committee

From: Representative Tom Anderson, Chair *T.A.*
House Labor & Commerce Committee

Re: HB 108

I would request you schedule HB 108 for a hearing before your committee at your earliest convenience.

This legislation 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 (the City of Pelican requested continued RCA regulation of its water utility when it was sold). 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 ratepayers money and enhance local control.

Anchorage has extensive experience regulating other municipally owned enterprises. The Port of Anchorage, Merrill Field, and Solid Waste 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 regulation lag, the delay in obtaining approval of a requested rate change.

Thank you for your consideration of this request. Please contact Josh Applebee at 4954 in my office if you have any additional questions.

CSHB 108(FIN)

Committee Changes

House Finance Committee added Section 2 continuing any pending matters before the RCA and thereby not affecting those matters through this legislation. Thus, open dockets will not be unduly overturned or prematurely closed.

House Finance Committee added Section 3, which adds to uncodified law language allowing the legislation to take effect only if the governing body establishes a separate body to continue the fair and open process of setting rates based on standard industry practices.

House Finance Committee added Section 4, which establishes the effective date of the legislation.

FISCAL NOTE

Gary - (This is a new indeterminate fiscal note by law)

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB108-LAW-RAPA-3
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW *1 zero*
 Title: "An Act relating to the regulation of water and sewer utilities of political subdivisions that are not..." RDU: CIVIL *indeterm*
 Sponsor: House Labor and Commerce Committ Component: Regulatory Affairs and Public Advocacy *1 fiscal*
 Requester: Senate Community and Regional Affa 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	(*****)	(*****)	(*****)	(*****)	(*****)	(*****)
Travel	(*****)	(*****)	(*****)	(*****)	(*****)	(*****)
Contractual	(*****)	(*****)	(*****)	(*****)	(*****)	(*****)
Supplies	(*****)	(*****)	(*****)	(*****)	(*****)	(*****)
Equipment	(*****)	(*****)	(*****)	(*****)	(*****)	(*****)
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	(*****)	(*****)	(*****)	(*****)	(*****)	(*****)

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 - Regulatory Cost Charge	(*****)	(*****)	(*****)	(*****)	(*****)	(*****)
TOTAL	(*****)	(*****)	(*****)	(*****)	(*****)	(*****)

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 removes municipal water and sewer utilities from the regulatory cost charge pool and from oversight by the Regulatory Commission of Alaska. Passage of this legislation will have a significant fiscal impact on both the Regulatory Affairs and Public Advocacy section of the Department of Law and the RCA in terms of lost funding, however the exact amount of the fiscal impact is difficult to determine. It may become necessary to amend the statutory cap governing the amount of regulatory cost charge the State is allowed to collect in order to fund the Commission and public advocacy function.

Prepared by: Kathryn Daughhete, Director
 Division: Administrative Services Division
 Approved by: Kathryn Daughhete for David Marquez, Attorney General
 Agency: Department of Law

Phone: 465-3673
 Date/Time: 3/31/05 4:34 PM
 Date: 3/31/2005



Municipality of Anchorage

P.O. Box 199950 • Anchorage, Alaska 99519-0950 • Telephone: (907) 343-4331 • Fax: (907) 343-4322 <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.

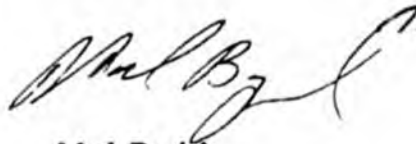
- The proposed structure will provide for strong consumer protection by focusing expert resources on financial and system integrity and customer interests.
- The Authority proposal is for a seven member board with staggered five-year terms. Board members would be recommended by the Mayor and appointed 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 cursive script, appearing to read "Mark Begich".

Mark Begich
Mayor

cc: Patricia Curl, Chair AWWU Advisory Commission



Municipality of Anchorage

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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

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**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

ISSUE/PROJECT DESCRIPTION:

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

Anchorage utilities are the only municipal utilities in Alaska subjected to state regulation. The sole exception is the City of Pelican's water utility, where Pelican requested to be regulated by the RCA. Anchorage ratepayers pay higher rates for this state "service" but these regulatory charges are not imposed on any other municipal utility, except Pelican. Currently Anchorage ratepayers pay \$930,000 per year.

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

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

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.

Voters in the Municipality would hold the Mayor and Assembly members, those elected officials who would set and approve utility rates, fully accountable - and they do vote.

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: I-P

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

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

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
 Component: Facility Construction
 Sponsor: House Labor & Commerce
 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: 0.0

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: _____
 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						
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CHANGE IN REVENUES (1141)	(345.0)	(345.0)	(345.0)	(345.0)	(345.0)	(345.0)
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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						
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						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1141 RCA Receipts	(93.0)	(93.0)	(93.0)	(93.0)	(93.0)	(93.0)
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