

HB

233

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FILE



ALASKA STATE LEGISLATURE
HOUSE RULES COMMITTEE
REPRESENTATIVE JOHN COGHILL, CHAIRMAN
State Capitol Juneau, AK 99801-1182 (907) 465-3719
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Sponsor Statement

Senate CS for CSHB 233(L&C) "An Act relating to giving notice of unclaimed net margin distributions made by electric and telephone cooperatives"

The purpose of HB 233 addresses the sometimes burdensome and ineffective noticing requirements of unclaimed property law regarding capital credits of electric and telephone cooperatives. Electric and telephone cooperatives from time to time receive excess revenue from members that exceed the expenses of operations. The cooperative keeps these excess revenues in a member-owned capital account called capital credits, on behalf of the member.

Cooperatives may refund a portion of accumulated capital credits, but in some cases the cooperative seeking to refund the capital credits no longer has a valid address for the member. As a result, many go unclaimed. Current Alaska unclaimed property law allow the credits to revert back to the cooperative as long as the cooperative, at least six months prior to the reversion 1) mailed a notice to last known address of the member; 2) publishes a notice of proposed reversion in the same manner required for publishing a service of summons by publication; and, 3) publishes a notice of the unclaimed capital credits four times, during four consecutive calendar weeks in a newspaper of local circulation.

While mailing to last known address of members sometimes result in finding members, newspaper publication does not result in a significant increase in the number of members who cash their capital credit checks, particularly for rural cooperatives. As a result, cost of compliance with this notice requirement is significant and the effectiveness is questionable. HB 233 allows cooperatives the option of using the internet, instead of newspaper publication, to notify its members of unclaimed capital credits. Alaska is the most "wired" state in the country and this bill allows for cooperatives to notify its members using a method most likely to reach them.



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Sectional

Senate CS for CSHB 233(L&C) "An Act relating to giving notice of unclaimed net margin distributions made by electric and telephone cooperatives"

Section 1. Specifies that electric and telephone cooperatives who have internet websites have the option to post unclaimed net margins on their internet website and post their website in a newspaper of local distribution.

Section 2. Adds a new subsection to AS 34.45.200 giving "newspaper of general circulation" the meaning given in AS 09.35.140 and defining "notice line" as it relates to the bill.

Saturday, March 29, 2008

10:00 AM

HB 233-UNCLAIMED PHONE/ELEC COOP DISTRIBUTIONS

Derek Miller, Staff, Rep. Kelly

Teleconference

Richard Gazaway, Hearing Examiner, Regulatory Commission of Alaska

HB 373-SCHOOL BOND DEBT REIMBURSEMENT

Finance/Pete Ecklund

Eddy Jeans, Director, Education Support Services, Department of Education and Early Development

HB 19-LTD. DRIVER'S LICENSES/IGNITION INTERLOCK

Meyer

Whitney Brewster, Director, Division of Motor Vehicles, Department of Administration

HB 75-DRIVERS LICENSE: ALCOHOL AWARENESS/MINOR

Ramras/Jane Pierson

Whitney Brewster, Director, Division of Motor Vehicles, Department of Administration

HB 338-POWER PROJECT FUND/BULK FUEL LOAN FUND

Nelson/Tyson Fick

2 NEW FN DCCED

Sarah Fisher-Goad, Deputy Director of Operations, AEA

Mike Black, Deputy Commission, Department of Commerce, Community and Economic Development

Chris Anders, Deputy Director - Credit, AEA

Tara Jollie Director, Division of Community Advocacy, DCCED

Questions:

Bill Rolfzen, Local Government Specialist, DCCED

Teleconference

Steve Van Sant, State Assessor, DCCED

April 20, 2007

Labor and Commerce Committee
Alaska House of Representatives
Juneau, Alaska

Re: AVEC's Testimony on HB 233, Unclaimed Cooperative Distributions

Honorable Committee Members:

My name is Meera Kohler. I am the President & CEO of Alaska Village Electric Cooperative (AVEC). We are a non-profit electric utility that serves 52 villages, primarily in northwest and western Alaska. The 21,000 residents of our communities represent almost half of Alaska's village population.

We are a borrower from the USDA Rural Utilities Service and are required by our mortgage covenants to generate a modest "profit" each year from our operations. These profits or "margins" are allocated back to our member-owners as "capital credits" each year. The allocation is essentially done on a pro-rata basis. In other words, if the member contributed 10% of our gross electric revenues, then they will have 10% of the margins allocated to them.

Several years later, the capital credits are returned to the members, either by a credit to their electric account or by check. In a number of cases, the member has left the community, sometimes without leaving a forwarding address. These are the members whose distributions go unclaimed. If we are unsuccessful in tracking down the member, their distribution eventually reverts back to AVEC and is placed in an account used exclusively for student scholarships.

At issue here is how efforts are made to locate the missing members. Present law requires publication of the members' names in a newspaper of general circulation in our judicial district. Since our cooperative serves members in 52 disparate villages, we wind up spending many thousands of dollars to publish in a number of different newspapers. We do have a website, and the names of unlocatable members are continuously published there.

Passage of this legislation will help all of the members of Alaska's non-profit electric and telephone cooperatives. Money that is not spent on newspaper advertising would increase margins and would remain in the pockets of the utility consumers of Alaska. It would also recognize that modern technology provides very inexpensively what previously necessitated expensive and time-consuming efforts.

Your support of HB 233 is respectfully urged.

Thank you,

Meera Kohler
President & CEO

**Written Testimony of Robert A. Wilkinson
Copper Valley Electric Association Inc.
before
House Labor & Commerce Committee
on
House Bill 233
Unclaimed Net Margin Distributions by Electric and Telephone Cooperatives**

Good afternoon, members of the House Labor & Commerce Committee. My name is Robert A. Wilkinson, and I am the Chief Executive Officer of Copper Valley Electric Association. CVEA is a member owned non-profit electric cooperative organized under Alaska Statute 10.25. CVEA provides central station electric service to 3,600 customers along 260 miles of the Glenn, Richardson, and Edgerton Highways. Included in our service area is the City of Valdez and a dozen communities spread across the Copper River Basin.

Article 7 of the Cooperative's Bylaws provides that all income received from the members in excess of operating costs and expenses are furnished as capital or net margins with the expectation that one day said net margins will be refunded to the member. Net margins are held in an account in the member's name until such time as the Cooperative authorizes a refund. Often, net margins may be retained by the cooperative for a generation or longer before refunds are authorized. Many Alaska cooperatives, including CVEA, have a scheduled period for refunding net margins on a 20 year cycle.

In addition to the length of time between when the margins are provided by the member and when they are refunded, there are other considerations which lead to a large number of unclaimed net margins. During the summer months, recreation, tourism, government and fishing industries employ seasonal workers. Other

industries also seem to contribute to the turnover of our membership. This continual turnover of community residents results in a very large number of former members who cannot be located when it comes time to mail a refund check. A recent analysis of our current membership revealed the following interesting statistics:

- Only 1 in 5 members has been on the CVEA system 20 years or longer.
- ½ of our current membership has been on the CVEA system 10 years or less.
- 90% of CVEA's current members have joined the Cooperative since 1980.

The end result of the foregoing discussion is that CVEA has a substantial number of invalid addresses for the intended distributions. Current law requires that in addition to mailing a notice of reversion to the last known address the Cooperative is required to publish a notice in a newspaper in accordance with Alaska Rule of Civil Procedure 4. Such a publication is very expensive and, at least in CVEA's experience, is questionably effective.

This past year following CVEA's 2004 net margin distribution, we posted names of persons with unclaimed distributions on our website (www.cvea.org). While we have no empirical data to support our claim, the consensus of our accounting personnel is that website advertising is more effective than newspaper advertising for a growing number of reasons. More people are using the internet every day, CVEA promotes the website as a place to find this information, the site can be up and available longer, it is always "on", and use of the internet for communicating with customers about important information is gaining widespread acceptance and for that reason more members are using it as their source of information about the Cooperative. Finally, research indicates a growing number of states are using the

power of the internet for providing public notice related to unclaimed property including the Alaska Department of Revenue.

There is one other shortcoming of the existing unclaimed property act with respect to noticing unclaimed margin distributions and that is the expense of newspaper publication. In the case of CVEA the cost to publish the names of persons with invalid addresses runs into the thousands of dollars each year we make a disbursement. While internet posting will certainly result in some administrative cost, it will be a fraction of the cost of publishing those same names in the local or Anchorage newspaper. Perhaps of greater concern is the opportunity cost of not spending those publication dollars on charitable, scientific, or educational programs. Alaska Statute 10.25.10 provides that cooperatives may make donations for the public welfare. In the case of CVEA, \$100,000 has been awarded in scholarships to graduating seniors, all funded with escheated capital from unclaimed distributions. House Bill 233 will help to minimize the cost of noticing and maximize the dollars available for assisting with post secondary education.

In closing, I thank the Committee for the opportunity to testify on this important legislation, I truly believe this legislation will be good for electric cooperative customers. I urge the Committee to move this bill for the many sound reasons discussed in my testimony.

Thank you.

WHITE PAPER ADDRESSING
Alaska Unclaimed Property Act
as it Pertains to Electric and Telephone Cooperatives
Organized Under AS 10.25

February 22, 2007

Purpose of this paper

The purpose of this paper is to describe (the sometimes burdensome and ineffective noticing requirements of Alaska's unclaimed property law in regards to capital credits of electric and telephone cooperatives. This paper also suggests ways to improve the law to benefit members of Alaska's cooperative utilities by allowing cooperatives to take advantage of changing technology to contact their members.

Electric and Telephone Cooperative Act

Electric and telephone cooperative utilities organized under AS 10.25 operate on a nonprofit basis. Revenues received which exceed the expenses of operations are furnished to the cooperative by the member with the understanding that the cooperative will retain those excess revenues in a capital account on behalf of the member. The member-owned capital account is called capital credits.

From time to time electric and telephone cooperatives may refund a portion of accumulated capital credits.

Member Refunds May Go Unclaimed

The length of time between when the cooperative receives the excess revenue and when the cooperative attempts to refund capital credits can be 20 years or longer. In some cases the cooperative seeking to refund capital credits no longer has a valid address for the member. As a result, those capital credits may go unclaimed.

Alaska's Unclaimed Property Statute as it Pertains to Capital Credits

Under Alaska's unclaimed property law, capital credits are presumed abandoned if they remain unclaimed by the member for more than one year after the date authorized for distribution. (AS 34.45.200(c)). The abandoned capital credits revert to the cooperative so long as the cooperative, at least six months prior to the reversion, (1) mails a notice of the proposed reversion to the last-known address of the member as shown on cooperative records, and (2) publishes a notice of the proposed reversion in the same manner required for publishing a service of summons by publication. The second requirement requires the cooperative to publish a notice of the unclaimed capital credits four times during four consecutive calendar weeks, once each week, in a newspaper of local circulation. (See Alaska R. Civ. P. 4(e)(2)). Providing notice by publication for a court

case is a last resort that is generally used only when it appears that no other alternative means of notice is available.

The Problem for Alaska Cooperatives

AS 10.25.010(13) provides that electric and telephone cooperatives may make donations for the public welfare or for charitable, scientific, or educational purposes. Many cooperatives use unclaimed capital credits as a source of revenue to fund charitable programs, specifically scholarship programs. While mailings to the last known address of members sometimes result in finding members, for some cooperatives (particularly those outside of urban areas), newspaper publication does not result in a significant increase in the number of members who cash their capital credit checks.

As a result, the effectiveness of the publication by notice requirement of AS 34.45.200(c) is questionable and the cost of compliance can be significant when compared to other methods of notice that take advantage of improved communications technology. The end result is that dollars that might be better spent on other means of providing notice or donated to charity, are instead spent on publishing newspaper advertisements.

What Do Other States Do?

There are over 900 electric cooperatives in the United States.

Research regarding notice requirements for unclaimed capital credits in other states indicates there are a variety of policies for addressing this issue. Many of the modern rules for providing notice take advantage of the power of the internet:

- Four states allow cooperatives to provide electronic notice to owners of unclaimed capital credits.
- Two of the aforementioned states require cooperatives to publish in newspapers the web address where the list of unclaimed credits can be found.
- Some states require a notice only in communications to members.
- One state does not require a notice.
- Eleven states are required to publish names in local newspapers from one to four times.

Other Precedent

Using the internet for noticing unclaimed property has some foundation elsewhere in Alaska's unclaimed property statutes. Under AS 34.45.310(b)(1), the Department of Revenue provides notice to owners of other kinds of unclaimed property using an internet website.

The Department also may notify apparent owners through newspaper publication or any other method it deems efficient. See AS 34.45.310(2). Because electronic notice is already required for unclaimed property held by the Department, there is good reason to believe electronic notice should be sufficient for unclaimed capital credits.

Conclusion

Alaska is the most "wired" state in the country when it comes to internet usage. It makes sense to allow cooperatives to pick the method of notice to their members that will be the most likely to reach them. Simple legislation will allow Alaska cooperatives to harness the power of the internet to inform their members and former members of their unclaimed capital credits. As can be seen above, this is consistent with steps taken by other state legislatures and with the State of Alaska's own approach to other forms of unclaimed property. Suggested language to modify AS 34.45.200 (e) is attached.