

**HB**

**363**

<TARGET><BILL>HB 363</BILL><SUBJECT>HB  
363</SUBJECT><COMM>HENE29</COMM></TARGET>

## TABLE OF CONTENTS

1. HB363 Supporting Documents-Letter FRE 4-4-16.PDF
2. HB363 Fiscal Note-DCCED-RCA-04-01-16.pdf
3. HB363 ver A.PDF
4. HB363 Supporting Documents-Letter Juneau Hydropower 4-4-16.pdf
5. HB363 Supporting Documents-Letter APA 3-4-2016.pdf
6. HB363 Supporting Documents-Letter AIPPA 3-4-2016.pdf
7. HB363 Supporting Documents-Letter CIRI 3-4-2016.pdf
8. HB363 Sponsor Statement.pdf

April 4, 2016

**REPRESENTATIVE LIZ VAZQUEZ**

Alaska State Legislature  
State Capitol, Room 432  
Juneau, AK 99801

*Subject: Letter Supporting HB 363, Extension of Regulatory Exemption for Small Renewable Energy Generation Plants*

Dear Representative Vazquez:

Fishhook Renewable Energy, LLC (FRE) supports prompt passage of HB 363, which would extend the existing regulatory exemption for small renewable energy generation plants in Alaska. As you are most likely aware, the Federal Government and the other 49 States exempt small power producers from Sate regulation.

FRE obtained project-specific exemption from the Regulatory Commission of Alaska (RCA) in 2008, before the existing AS 42.05.711(r) provision was enacted. Had this provision existed, FRE would have avoided thousands of dollars in direct expenses, labor resources, and elapsed time that were required to obtain our project specific exemption (RCA Docket U08-132). The costs incurred to obtain our exemption were an entirely unnecessary barrier to project development. We whole-heartedly support eliminating this barrier for similar small renewable energy producers in Alaska to further encourage private development of renewable power projects.

Thank you for sponsoring this bill and for your on-going efforts to encourage responsible private-sector development of our state's local and renewable energy resources.

Sincerely,



Michael D. Dahl, PE  
Project Engineer  
Fishhook Renewable Energy, LLC

# Fiscal Note

State of Alaska  
2016 Legislative Session

Bill Version: HB 363  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: HB363-DCCED-RCA-04-01-16  
Title: EXTEND EXEMPTION FOR SMALL POWER  
PLANTS  
Sponsor: VAZQUEZ  
Requester: (H) Special Committee on Energy

Department: Department of Commerce, Community and  
Economic Development  
Appropriation: Regulatory Commission of Alaska  
Allocation: Regulatory Commission of Alaska  
OMB Component Number: 2417

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2017 Appropriation Requested	Included in Governor's FY2017 Request	Out-Year Cost Estimates					
			FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None								
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time								
Part-time								
Temporary								

<b>Change in Revenues</b>								
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**Estimated SUPPLEMENTAL (FY2016) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2017) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version:**

Not applicable, initial version.

Prepared By:	Robert M. Pickett, Chairman	Phone:	(907)276-6222
Division:	Regulatory Commission of Alaska	Date:	04/01/2016 08:30 AM
Approved By:	Catherine Reardon, Director	Date:	04/01/16
Agency:	Division of Administrative Services, DCCED		

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2016 LEGISLATIVE SESSION

BILL NO. HB 363

**Analysis**

HB363 would extend the exemption created in 2010 for owners of renewable energy generation facilities from regulation by the Regulatory Commission of Alaska (RCA). The exempted entity would not be subject to RCA certification requirements or RCA regulation of rates and standards of service.

The original exemption was created for a plant or facility originally placed into commercial operation before January 1, 2016, a date tied to the expiration of the federal Business Energy Investment Tax Credit (ITC). The ITC was most recently amended in December 2015, and currently expires for large wind on December 31, 2019.

Since the RCA will not be required to certificate or regulate the owners of renewable energy generation facilities, the agency will not experience any increase in workload due to the passage of SB 193. The RCA does not anticipate fiscal impact from this legislation.



Juneau Hydropower, Inc.  
PO Box 22775  
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April 4, 2016

Representative Liz Vazquez  
Chair, House Special Committee on Energy  
State Capitol Room 432  
Juneau AK, 99801

**Juneau Hydropower support for HB 363 extension of exemption for small power producers**

Dear Chair Vazquez,

Juneau Hydropower is an independent power producer developing the Sweetheart Lake Hydroelectric Facility that will receive its Federal Energy Regulatory Commission License this year. Hydropower permitting and licensing can take on average 10 years, but we are happy to report that we will complete the task in under 6 years.

We were motivated that in 2010 Alaska declared an Energy Plan to have 50% renewables by 2025. Just as importantly, we were motivated that the Legislature began exempting small power producers from excessive State regulation. To date we have invested many millions of private Alaskan money to develop Alaska's renewable energy resources at our risk. Apparently, Alaska is the only state that requires small power producers be regulated despite federal law that exempts small power producers from state regulation. Alaska fixed this issue, in part, by exempting small power producer from State regulation with a sunset date of January 1, 2016. In order to allow for continued and future investments that now needs extending to 2025.

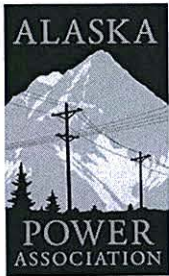
Your bill assists our State in attracting private investment and private expertise to develop renewable energy resources to lower the high cost of energy in Alaska. We fully support your bill to reduce the over reach and unnecessary regulatory and costly burdens placed on small renewable energy investors. Alaska is an expensive place to permit and license projects of any kind. It is wise with these fiscal times, that we reduce unnecessary regulation. Over regulation costs the RCA time and staff to process paperwork and costs the small power producer untold thousands of legal and regulatory expense while creating an energy development "barrier of entry" that discourages Alaskan entrepreneurs and private investment into Alaska's energy security.

We support your efforts to extend the sunset to 2025 to assist current and potential developers by providing the regulatory certainty necessary to develop long-term energy projects in Alaska. The House Bill 363 is simple, it merely extends the sunset of a wise exemption to over regulation. We appreciate your introduction and leadership to get this bill passed quickly.

Regards,

A handwritten signature in black ink, appearing to read "D. Keith Comstock".

D. Keith Comstock  
CEO and President



## Alaska Power Association

703 West Tudor Road, Suite 200  
Anchorage, Alaska 99503-6650  
(907) 771-5700  
Fax: (907) 561-5547  
www.alaskapower.org

March 4, 2016

Honorable Liz Vazquez  
Alaska State Capitol, Room 432  
Juneau, Alaska 99801  
Fax: (907) 465-6592  
Email: Representative.Liz.Vazquez @akleg.gov

Subject: House Bill 363

Dear Representative Vazquez:

Alaska Power Association (APA) and its members have reviewed House Bill 363, and, at this time, we are not taking a position on the bill. We realize that this bill does not create any new exemptions, but simply extends the timeframe in which a plant or facility that generates power from renewable resources must be built in order to qualify for the exemption.

Although we are not taking a position on the bill, we would like to take this opportunity to comment on the statute referenced, AS 42.05.711(r):

1. The statute's 65 MW size restriction appears to be too high. The potential justification for exemption from RCA certification and regulation is very different if the exemption applies to a small 500 kilowatt (kW) renewable resources facility as opposed to a large 65 MW facility.
2. The statute exempts a facility that sells its output to *multiple* regulated electric utilities. Sales to multiple electric utilities raise concerns about preventing the facility from discriminating among customers with respect to rates, terms, or conditions of service.
3. The statute exempts a facility even if it is closely affiliated with a regulated electric utility to which it sells power. That raises additional concerns about the potential for discriminatory preferences among the electric utilities that purchase power from the facility.
4. It appears that the statutory exemption in AS 42.05.711(r) is not necessary for the following reasons: First, under federal law, most renewable energy resource electric generation

Honorable Liz Vazquez  
March 4, 2016  
Page 2 of 2

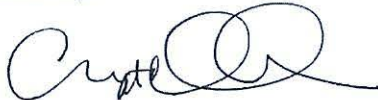
plants that propose to sell power only to another electric utility can already become exempt from state and local regulation by becoming a "qualifying facility" (QF). *See* 18 C.F.R. § 292.602(c); 18 C.F.R. § 292.601(a), (b). Second, regardless of whether the facility is exempt as a QF, the facility can also become exempt from RCA certification and regulation through a petition to the RCA showing that the exemption is "in the public interest." *See* AS 42.05.711(d).

5. The statutory exemption precludes affected electric utilities from having input on determining whether the exemption of a particular project is justified.

6. The statutory exemption impairs the RCA's ability to ensure that the facility's rates, terms, and conditions of service are just, reasonable, and non-discriminatory, particularly when the facility sells power to multiple electric utilities.

Alaska Power Association represents the statewide electric utility industry. Our membership serves communities from Barrow to Unalaska, through the Interior and Southcentral, and down the Inside Passage. We stand ready to assist you and your staff with any questions or suggestions you may have that pertain to HB 363 or the statute it modifies.

Sincerely,

A handwritten signature in black ink, appearing to read 'Crystal Enkvist', with a stylized flourish at the end.

Crystal Enkvist  
Executive Director



March 4, 2016

Members

- Alaska Power & Telephone, Inc.
- CIRI
- Juneau Hydropower, Inc.
- Delta Wind Farm
- Fishhook Renewable Energy
- Alyeska Resort
- STG Incorporated
- Chenega Energy, LLC
- Cape Fox Corporation
- American Transmission Co.

Board of Directors

- Earle Ausman, President
- Keith Comstock
- Mike Craft
- Bob Grimm
- Ethan Schutt
- Randall Call
- Greg Porter
- Chuck Blair
- Jim St. George

Executive Director

Duff Mitchell  
Contact

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907.789.2775

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[www.aippa.info](http://www.aippa.info)

Representative Liz Vazquez  
Chair, House Special Committee on Energy  
State Capitol Room 432  
Juneau AK, 99801

RE: Alaska Independent Power Producers Association (AIPPA) support for HB 363 extension of exemption for small power producers

Dear Representative Vazquez,

AIPPA is a diverse organization that boasts of its membership the leading renewable energy developers and independent power producers in Alaska. Independent power producers (IPP's), which are efficient and innovative renewable energy developers generate 38% of America's electrical generation. In Alaska, IPP's represent a much smaller, but growing share of the total generation. The previous State exemption on small power producers helped pave the way for millions of dollars of private investment in Alaska's energy resources. Many Alaska IPP investments would not likely have invested in Alaska jobs and energy infrastructure without the exemption of regulation that now expired on January 1, 2016.

AIPPA supports the simple and effective language of HB 363 that extends the period that small power producers are exempt from State regulation. As you and many of your colleagues know, the federal government exempts all small power producers from state regulation as does the other 49 states. Alaska is the exception to the over-regulation of small power producers. AIPPA supports HB 363 because it removes the state overreach that this extension cures to 2025.

This simple, but effective bill cures unnecessary "state overreach" in our regulations and removes unnecessary State bureaucracy and regulatory costs that discourage private investment. HB 363 provides the encouragement of small power producers to invest in Alaska energy resources to help drive down the cost of power for Alaskans.

AIPPA appreciates your interest and continued leadership in making Alaska regulations more effective and less burdensome on Alaskan enterprise. HB 363 encourages private investment in Alaska at a time when Alaska needs it most. We appreciate your sponsorship and leadership on this important Alaska regulation matter.

Regards,

Duff W. Mitchell  
Executive Director



March 4, 2016

Dear Ms. Vazquez:

Cook Inlet Region, Inc. (CIRI) supports prompt passage of House Bill 363: "An Act extending the exemption from regulation by the Regulatory Commission of Alaska for certain facilities or plants generating energy from renewable energy resources." We believe that HB 363, a simple extension of the sunset date of an exemption that was passed by a prior legislature represents good, commonsense public policy that will facilitate and encourage private investment in projects in Alaska.

CIRI used the exemption embodied in the statute that has now sunsetted as a part of the development process for its successful Fire Island Wind project. The negotiated off-take agreement and the private risk dollars invested to develop Fire Island Wind have now provided long-term, flat-priced renewable wind power to Chugach Electric Association for more than 2 years now with 22 years to go. We believe this is a model of how private investment in this sector can be beneficial to the public without burdening the state government with direct financial support.

While we have already successfully utilized the exemption at issue for our project, we believe it is important to extend the sunset so that other independent project proponents can have regulatory certainty in their own respective project development activities.

We look forward to passage of HB 363 by this legislature.

Sincerely,

A handwritten signature in black ink, appearing to read "E Schutt", written over a horizontal line.

Ethan Schutt  
Senior Vice President, land and energy development  
Cook Inlet Region, Inc.

# ALASKA STATE LEGISLATURE

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REPRESENTATIVE LIZ VAZQUEZ

District 22 – Jewel Lake, Sand Lake, Kincaid, Dimond, & North Campbell Lake

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## Sponsor Statement for House Bill 363

**"An Act extending the exemption from regulation by the Regulatory Commission of Alaska for certain facilities or plants generating energy from renewable energy resources."**

HB 363 seeks to continue a middle ground compromise between a thoroughly deregulated market and the highly regulated electrical market of Alaska. The exemption from RCA regulation is only applicable to facilities that generate renewable energy that is sold to a regulated utility. This arrangement maintains RCA oversight over the power sales agreements and thereby provides a layer of protection to ratepayers.

Regulation of these small IPPs (Independent Power Producers) can pose several negative effects. First, it presents an obstacle to investment. Keeping barriers of entry and startup costs high discourages interested parties from investing in renewable, possibly cheaper forms of energy. Second, regulation also increases the cost of government through review and regulation processes of small IPPs, who would, by federal statute, otherwise be exempt from regulation.

The extension of the regulatory sunset date from January 1, 2016 to January 1, 2025 provides fiscal and regulatory certainty for Alaskan villages, communities, and entrepreneurs seeking to invest their funds into developing and generating power rather than filing regulatory proceedings. The extension of exemption reduces the cost of government while empowering and enabling the development of our renewable energy resources.

The bill will also maintain an open door to Alaska's electricity market and encourages private sector investment in renewable energy for Alaskans with regulatory certainty to 2025.