

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES, 2005-2006 2852

SeniorCare Program Projections

Maintain SeniorCare Cash Benefit@135% FPG

	<u>FY 06</u>	<u>FY 07</u>
Number of Recipients	7,000	7,000
Annual Cost Per Client	\$ 720	\$ 1,440
Total Cost	\$ 5,040,000	\$ 10,080,000

Drug Benefit @175% FPG

Number of Recipients	3,900	4,095
Annual Cost Per Client	\$ 320	\$ 640
Total Cost	\$ 1,248,000	\$ 2,620,800

Summary -- Combined Cash and Drug Assistance

	<u>FY 06</u>	<u>FY 07</u>
Number of Recipients	10,900	11,095
Total SeniorCare Program Benefits	\$ 6,288,000	\$ 12,700,800

Administrative Costs

Eligibility (Public Assistance)	\$ 326,400	\$ 306,900
Claims Processing (Health Care Services)	\$ 163,900	\$ 140,900
Information and Referral (Sr & Disabilities Svcs)	\$ 59,000	\$ 63,500
Total Administrative Costs	\$ 549,300	\$ 511,300

Combined Program and Administrative Costs

	\$ 6,837,300	\$ 13,212,100
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Projected Balance in Senior Care Fund 1/1/06

Balance in AK Senior Care Fund for carryforward to FY07
General Fund Need

\$ 8,086,800	
\$ 0	\$ 1,249,500
	\$ 11,962,600

Population Growth 5%
Premium/Deductible Inflatior 5%



Comparison of Qualifications and Benefits

Beginning January 2006 to June 2007

	SeniorCare Cash Assistance	SeniorCare Prescription Drug Assistance
Qualifications	<ul style="list-style-type: none"> ➔ Up to 135% of Poverty Level ➔ Annual Income below \$16,133 Single \$21,641 Couple ➔ Liquid Assets below \$6,000 Single \$9,000 Couple 	<ul style="list-style-type: none"> ➔ Up to 175% of Poverty Level ➔ Annual Income below \$20,913 Single \$28,052 Couple ➔ Liquid Assets below \$50,000 Single \$100,000 Couple
SeniorCare Benefit January 2006	➔ \$120 a month cash assistance (up to \$1,440 annual)	➔ \$670 Annual Medicare/Comparable Insurance Prescription Drug Premiums and Deductible
Medicare Benefit January 2006	<ul style="list-style-type: none"> ➔ Annual Medicare Premiums and deductible covered \$670 ➔ Full prescription drug coverage Medicare Part D 	➔ Standard Medicare Part D, prescription drug coverage
Seniors Served (Total 11,000)	➔ 7,000	➔ 4,100

HB 106



FRANK H. MURKOWSKI
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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 21, 2005

The Honorable John Harris
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Harris:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to health care benefits available to eligible low-income senior citizens.

In 2004, the SeniorCare program was enacted that provided for needs-based cash assistance and a prescription drug benefit (ch. 3, SLA 2004). Today, approximately 6,800 seniors with incomes below 135 percent of the federal poverty level for Alaska receive \$120 a month in cash assistance through the SeniorCare program. This program has been very successful in reaching senior citizens in Alaska truly in need of cash assistance.

Unfortunately, the SeniorCare program is anticipated to sunset no later than January 1, 2006. Therefore, the legislation I am proposing today will repeal the temporary law created last year and replace it with a permanent law that will strengthen the SeniorCare program and allow it to continue. It is crucial that the State of Alaska continue to provide critical support for Alaska's most needy senior citizens beyond January 1, 2006.

My proposal to improve SeniorCare is through the creation of a supplement to the recently enacted federal Medicare drug benefit for Alaska's seniors. Under the new federal Medicare benefit, many seniors are still required to pay premiums and deductible expenses for prescription drugs out of their own pockets. For Alaska seniors with incomes up to 300 percent of the federal poverty level, I propose that SeniorCare pay these premiums and deductibles on our seniors' behalf - a benefit of approximately \$670 per person annually. Seniors with Medigap or other comparable coverage will also be eligible to receive this benefit as long as they meet the basic income and asset standards for SeniorCare.

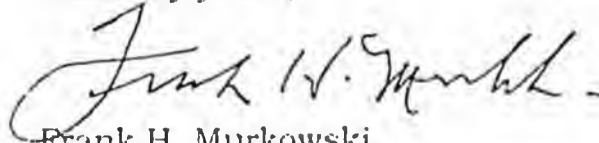
The Honorable John Harris
January 21, 2005
Page 2

I anticipate that over 40 percent of the estimated 41,000 Alaska seniors will be eligible for the SeniorCare benefit. With passage of this legislation, the end result will be that as of January 2006 virtually all seniors in Alaska will be eligible for prescription drug coverage through a combination of federal, state, and employer-sponsored drug plans. This represents an achievement in which we should all be proud.

Over the past several years I have listened to our senior citizens throughout Alaska and there is no doubt in my mind that adequate prescription drug coverage remains a top priority of our seniors. Additional state support for SeniorCare in the years to come will help resolve this longstanding issue. It is a sound investment well worth making.

I urge your prompt and favorable action on this measure.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Frank H. Murkowski".

Frank H. Murkowski
Governor

Enclosure

HB

107

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 107(RES)
(H) Publish Date: 2/18/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
Title Atty Fees: Hunting/Fishing Interferenc RDU _____
Component _____
Sponsor Representative Ramras _____
Requester House Resources Committee 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	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

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 included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
Passage of this legislative would have no fiscal impact.

Prepared by: Sarah Gilbertson Phone 465-6137
Division: Legislative Liaison Date/Time 1/28/05 8:35 a.m.
Approved by: Acting Commissioner Wayne Regelin Date 1/28/2005
Agency: Alaska Department of Fish & Game

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: CSHB 107(JUD)
(H) Publish Date: 3/7/05

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title "An Act providing for the award of full actual RDU CIVIL
attorney fees and costs to a person aggrieved by unlawful..." Component Torts and Workers' Compensation
Sponsor Representative Ramras
Requester House Resources 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	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

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 sheet if necessary)

This bill amends AS 16.05.791(b) by allowing a person aggrieved by unlawful obstruction or hindrance of hunting, fishing, or the viewing of fish or game to recover full actual attorney fees and costs of action to collect damages, fees, and costs. An actual award of fees and costs against the State would be requested in the judgments & claims section of the annual supplemental appropriations bill and are thus not included in this fiscal note. The bill makes an exception for a law enforcement officer while performing the duties of the office.

Passage of this legislation is not anticipated to result in a fiscal impact for the Department of Law.

Prepared by: Kathryn Daughhete, Director Phone 465-3673
Division Administrative Services Division Date/Time 3/1/05 1:45 PM
Approved by: K. Daughhete for Scott Nordstrand, Acting Attorney General Date 3/1/2005
Agency Department of Law

amendment pg 2

24-LS0444\S

lines 18-19

CS FOR HOUSE BILL NO. 107(JUD)

24

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 3/7/05

Referred: Finance

Sponsor(s): REPRESENTATIVE RAMRAS

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to unlawful obstruction or hindrance of hunting, fishing, trapping, or
2 viewing of fish or game; and amending Rule 82, Alaska Rules of Civil Procedure, and
3 Rule 508, Alaska Rules of Appellate Procedure."

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

5 * Section 1. AS 16.05.790(a) is amended to read:

6 (a) Except as provided in (e) of this section, a person may not intentionally
7 obstruct or hinder another person's lawful hunting, fishing, trapping, or viewing of fish
8 or game by

9 (1) placing one's self in a location in which human presence may alter
10 the

11 (A) behavior of the fish or game that another person is
12 attempting to take or view; or

13 (B) feasibility of taking or viewing fish or game by another
14 person; [OR]

1 (2) creating a visual, aural, olfactory, or physical stimulus in order to
2 alter the behavior of the fish or game that another person is attempting to take or view;

3 or

4 (3) physically interfering or tampering with equipment being used
5 for lawful hunting, fishing, trapping, or viewing purposes.

6 * Sec. 2. AS 16.05.790(d) is amended to read:

7 (d) In a prosecution under this section, it is an affirmative defense that the
8 person was

9 (1) a law enforcement officer engaged in performing the duties of
10 the office; or

11 (2) lawfully entitled to obstruct or hinder the hunting, fishing, trapping,
12 or viewing of fish or game.

13 * Sec. 3. AS 16.05.791(b) is amended to read:

14 (b) A person aggrieved by a violation of AS 16.05.790 is entitled to recover
15 general damages and special damages, including license and permit fees, travel costs,
16 guide-outfitting fees, costs for special equipment and supplies, and other related
17 expenses. The prevailing party in an action described in this subsection, other
18 than an action relating to commercial fishing, is entitled to costs and 90 percent
19 of reasonable actual attorney fees.

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

22 INDIRECT COURT RULE CHANGE. The provisions of AS 16.05.791(b), amended
23 by sec. 3 of this Act, have the effect of amending Rule 82, Alaska Rules of Civil Procedure,
24 and Rule 508, Alaska Rules of Appellate Procedure, by providing for the award of 90 percent
25 of reasonable actual attorney fees to the prevailing party in an action brought by a person
26 aggrieved by a violation of AS 16.05.790.

ADOPTED 3/15/05 N/O

AMENDMENT I

OFFERED IN THE HOUSE
TO: CS HB 107 (JUD)

BY REPRESENTATIVE HAWKER

- 1 Page 2, lines 18-19:
- 2 Delete "90 percent of"
- 3
- 4 Page 2, lines 24-25:
- 5 Delete "90 percent of"

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NATIONAL RIFLE ASSOCIATION OF AMERICA

INCORPORATED 1871

11260 WAPLES MILL ROAD
FAIRFAX, VA 22030

February 17, 2005

The Honorable Jay Ramras
Alaska State House of Representatives
Alaska State Capitol
Juneau, AK 99801

Dear Representative Ramras:

I would like to commend you on having the foresight and courage to introduce legislation designed to preserve the rights of Alaska's outdoorsmen and women. HB 107, "An Act relating to the unlawful obstruction or hindrance of hunting, fishing, trapping or viewing of fish or game is a significant step in the right direction to protect law abiding citizens.

As you may be aware, I have been intricately involved in the rights of Alaska's outdoor community for well over 25 years. Over that time period I have found the environmental/animal rights activists are the most relentless crusaders against our traditional values and way of life. They are in fact "true believers" who care little or nothing for the rights of others, and are especially disdainful of others personal values and viewpoints.

Since the days when Alaskans battled unsuccessfully with "outside interests" over D-2, the environmental community has not wavered from its consistent effort to erode or eliminate such traditional Alaskan activities like hunting and trapping. Although millions of acres were set aside in ANILCA for their sole benefit, it was not enough. To this day they continue in their crusade to shut down more areas, and are becoming bolder in their rhetoric and actions against those of us who choose to live a more natural lifestyle.

HB 107 will go a long way toward preventing the kind of unlawful activities groups like PETA and HSUS encourage their members to take against hunters and other outdoor users. Although hunters have never attempted to pass rules or regulations coercing non-hunters to participate in their activities, or keep them from pursuing activities of their choice, the anti-hunting community has continually supported actions to eliminate hunting and trapping. Tools like those provided in HB 107 are an unfortunate, but necessary remedy to protect the rights of Alaskans who continue to live with a strong connection to the land.

Once again, thank you for introducing such an important piece of legislation. If there is anything I can do to assist you in this endeavor, please don't hesitate to let me know.

Sincerely,

Eddie Grasser
NRA Field Rep.

Representative Jay Ramras
Co-Chair, House Resources
V-Chair, Economic Develop.
Tourism & Trade
House State Affairs
119 N. Cushman St. Suite 207
Fairbanks, Alaska 99701
Phone: (907) 452-1088
Fax: (907) 452-1146

Alaska State Legislature



While in Session
State Capitol, Room 104
Juneau, Alaska 99801-1182
(907) 465-3004
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Toll Free: (877) 465-3004

House District 10

House of Representatives

Sponsor Statement

CS for HB 107(JUD)

Committee Substitute for House Bill 107 (JUD) is a change to existing statute regarding persons who hunt, fish, trap, or view wildlife in Alaska. Presently, if any of these people are obstructed from participating in this most basic of Alaskan experiences, they can seek relief in our courts. The courts are permitted to grant damages for most of the expenses except reasonable actual attorney's fees and costs. CSHB 107 will allow the judge to grant full costs and up to 90% of Attorney fees.

There is a growing sentiment across the country that disturbing wildlife in any manner is unacceptable. Hunting, fishing, trapping, and viewing wildlife are considered an important part of why we live in Alaska and why thousands of tourists visit our state each year. Those individuals or groups who would hinder a wildlife experience know that most people will not take them to court because of the attorney fees and costs involved with litigation.

Alaskans and visitors should not be subjected to having to pay because of interference, obstruction, or hindrance of their most basic rights. CSHB 107 will allow an opportunity for the prevailing party to recoup most of those costs associated with hindering an Alaskan Wildlife Experience.

Representative Jay Ramras
Co-Chair, House Resources
V-Chair, Economic Develop.
Tourism & Trade

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Alaska State Legislature



While in Session
State Capitol, Room 104
Juneau, Alaska 99801-1182
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House District 10

House of Representatives

MEMO

To: House Finance Committee Members

Fm: Jim Pound

Cc:

Date: March 9, 2005, 12:07 PM

Re: Changes to HB 107

Page 2 Line 4 & 5

Added language: This is based on a criminal situation in which the individual actually cut a trap line and released the animals. Because of existing statute the individual was charged with Criminal Mischief.

Page 2 Line 9 & 10

Added Language: This is based on a situation where a Fish and Wildlife helicopter was operating at a low altitude. The complainant in this case alleged that that helicopter cause to largest set of his life to jump out of the net.

Page 2 lines 17-19

Allows for the prevailing part to collect full costs and 90 percent of reasonable actual attorney fees.

Sec. 16.05.790. Obstruction or hindrance of lawful hunting, fishing, trapping, or viewing of fish or game.

Statute text

(a) Except as provided in (e) of this section, a person may not intentionally obstruct or hinder another person's lawful hunting, fishing, trapping, or viewing of fish or game by

(1) placing one's self in a location in which human presence may alter the

(A) behavior of the fish or game that another person is attempting to take or view; or

(B) feasibility of taking or viewing fish or game by another person; or

(2) creating a visual, aural, olfactory, or physical stimulus in order to alter the behavior of the fish or game that another person is attempting to take or view.

(b) For purposes of (a) of this section, "lawful" means

(1) in compliance with

(A) this title, regulations adopted under this title, or applicable federal statutes and regulations;

(B) the Marine Mammal Protection Act (P.L. 92-522) or the Endangered Species Act (P.L. 93-205); or

(C) federal regulations adopted under 16 U.S.C. 3111 - 3126 relating to subsistence hunting, fishing, or trapping on federal land; and

(2) with the permission of the private landowner if the hunting, fishing, trapping, or viewing of fish or game occurs on private land.

(c) Notwithstanding AS 12.25, only a peace officer may arrest a person for violating this section. A peace officer who has probable cause to believe that a person has violated this section may arrest or cite the person or order the person to desist.

(d) In a prosecution under this section, it is an affirmative defense that the person was lawfully entitled to obstruct or hinder the hunting, fishing, trapping, or viewing of fish or game.

(e) This section does not apply to

(1) lawful competitive practices among persons engaged in lawful hunting, fishing, or trapping;

(2) actions taken on private property with the consent of the owner; or

(3) the obstruction or hindrance of the viewing of fish or game by a person actively engaged in lawful fishing, hunting, or trapping.

(f) A person who violates this section is guilty of a misdemeanor and is punishable by a fine of not more than \$500 or imprisonment for not more than 30 days, or both.

History

(§ 1 ch 47 SLA 1991)

Rule 79. Costs — Taxation and Review.

Text

(a) Allowance to Prevailing Party. Unless the court otherwise directs, the prevailing party is entitled to recover costs allowable under paragraph (f) that were necessarily incurred in the action. The amount awarded for each item will be the amount specified in this rule or, if no amount is specified, the cost actually incurred by the party to the extent this cost is reasonable.

(b) Cost Bill. To recover costs, the prevailing party must file and serve an itemized and verified cost bill, showing the date costs were incurred, within 10 days after the date shown in the clerk's certificate of distribution on the judgment. Failure of a party to file and serve a cost bill within 10 days, or such additional time as the court may allow, will be construed as a waiver of the party's right to recover costs. The prevailing party must have receipts, invoices, or other supporting documentation for each item claimed. This documentation must be available to other parties for inspection and copying upon request and must be presented to the clerk upon request. Documentation may be filed only if requested by the clerk or in response to an objection.

(c) Objection and Reply. A party may object to a cost bill by filing and serving an objection within 7 days after service of the cost bill. The prevailing party may respond to an objection by filing and serving a reply within 5 days after service of the objection.

(d) Taxing of Costs by Clerk. Promptly upon expiration of the time for filing objections, or if an objection is filed, the time for filing a reply, the clerk shall issue an itemized award of costs allowable under this rule. No cost bill hearing will be held unless requested by the clerk. If a hearing is held, it will be limited to issues identified by the clerk in the notice of hearing. The clerk may deny costs requested by the prevailing party on grounds that

- (1) the cost is not allowed under paragraph (f);
- (2) the party failed to provide an adequate description or adequate supporting documentation following a request by the clerk or another party; or
- (3) the amount claimed by the prevailing party is unreasonable.

The clerk may not deny costs on grounds that the costs were not necessarily incurred in the action. If a party objects on this basis, the party must seek review under paragraph (e) of the clerk's action in awarding the cost.

(e) Review by Court. A party aggrieved by the clerk's action in awarding costs may file a motion for review of the clerk's award. The motion must be filed and served within five days after the date shown on the clerk's certificate of distribution on the award. The motion must particularly designate each ruling of the clerk to which objection is made. Matters not so designated will not be considered by the court.

Costs awarded by the clerk are presumed to be reasonable.

(f) Allowable Costs. The following items are the only items that will be allowed as costs:

- (1) the filing fee;
- (2) fees for service of process allowable under Administrative Rule 11 or postage when process is served by mail;
- (3) other process server fees allowable under Administrative Rule 11;
- (4) the cost of publishing notices required by law or by these rules;
- (5) premiums paid on undertakings, bonds, or security stipulations where required by law, ordered by the court, or necessary to secure some right accorded in the action;
- (6) the cost of taking and transcribing a deposition allowed by Civil Rule 30(a) or 31(a) (including a deposition that is ordered by the court or agreed to by the parties under those rules), as follows:

- (A) the court reporter's fee and travel expenses to communities where a local court reporter is not available;
- (B) expenses allowed by Civil Rule 30.1(e) for recording, editing, or using an audio or audio-visual deposition; and
- (C) the cost of the original plus one copy of the transcript;
- (7) witness fees allowed under Administrative Rule 7;
- (8) the fee of an interpreter or translator for a witness when that witness is entitled to a fee under Administrative Rule 7;
- (9) travel costs allowed under paragraph (g) of this rule;
- (10) long distance telephone charges for telephonic participation by an attorney or party at court proceedings, depositions, the meeting of the parties required by Civil Rule 26(f), and interviews of witnesses other than the party;
- (11) charges paid by the prevailing party's attorney for computerized legal research;
- (12) copying costs for paper copies, photographs, and microfilm, the cost of scanning, imaging, coding, and creating electronic media files, such as computer diskettes or tapes, and the cost of duplicating text files or otherwise copying documents or data in an electronic medium, as follows:
 - (A) for copies from the court, a copy center, or a person or entity other than the prevailing party's attorney, the amount charged for the copies; and
 - (B) for copies from the prevailing party's attorney, the amount charged by the attorney or \$.15 per copy, whichever is less.
- (13) exhibit preparation costs;
- (14) the cost of transcripts ordered by the court; and
- (15) other costs allowed by statute.
- (g) Travel Costs. (1) Travel costs will be allowed for
 - (A) one attorney to attend trial, hearings on dispositive motions, settlement conferences, and the meeting of the parties required by Civil Rule 26(f), but only if no local attorney is present; if more than one out-of-town attorney attends a proceeding at which no local attorney is present, travel costs will be allowed for the attorney who traveled the shortest distance to the trial site;
 - (B) one attorney to attend depositions, interviews of witnesses who are not deposed, and meetings to review documents produced in the course of discovery;
 - (C) one legal assistant or investigator to interview witnesses who are not deposed or to review documents produced in the course of discovery; and
 - (D) witnesses to the extent permitted by Administrative Rule 7.
- (2) Travel costs are subject to the following limitations:
 - (A) air fare is allowed at the coach class fare or the actual fare, whichever is less;
 - (B) ground transportation, including car rental, is allowed outside the traveler's home city; and
 - (C) food and lodging is allowed at the same per diem rate allowed for court employees.
- (3) In unusually complex cases, the court may allow a prevailing party to recover travel costs for more than one attorney to participate in the activities described in section (g)(1)(A) of this rule. To request travel costs for more than one attorney, the prevailing party must file a motion for court review of the clerk's award as provided in paragraph (e) and must include supporting documentation for each item claimed. These costs should not be included in the cost bill filed with the clerk.

(4) To recover travel costs, the prevailing party must include the following information for each trip: the name of the traveler, whether the traveler is an attorney, legal assistant, or investigator, the reasons for the travel, and the travel dates.

(h) Equitable Apportionment Under AS 09.17.080. In a case in which damages are apportioned among the parties under AS 09.17.080, costs must be apportioned and awarded according to the provisions of Civil Rule 82(e).

Rule 82. Attorney's Fees.

Text

(a) Allowance to Prevailing Party. Except as otherwise provided by law or agreed to by the parties, the prevailing party in a civil case shall be awarded attorney's fees calculated under this rule.

(b) Amount of Award.

(1) The court shall adhere to the following schedule in fixing the award of attorney's fees to a party recovering a money judgment in a case:

Judgement and, if awarded prejudgement interest

	Contested with trial	Contested without trial	Non Contested
First \$25,000	20%	18%	10%
Next \$75,000	10%	*8%	*3%
Next \$400,000	10%	*6%	*2%
Over \$500,000	10%	*2%	*1%

(2) In cases in which the prevailing party recovers no money judgment, the court shall award the prevailing party in a case which goes to trial 30 percent of the prevailing party's reasonable actual attorney's fees which were necessarily incurred, and shall award the prevailing party in a case resolved without trial 20 percent of its actual attorney's fees which were necessarily incurred. The actual fees shall include fees for legal work customarily performed by an attorney but which was delegated to and performed by an investigator, paralegal or law clerk.

(3) The court may vary an attorney's fee award calculated under subparagraph (b)(1) or (2) of this rule if, upon consideration of the factors listed below, the court determines a variation is warranted:

- (A) the complexity of the litigation;
- (B) the length of trial;
- (C) the reasonableness of the attorneys' hourly rates and the number of hours expended;
- (D) the reasonableness of the number of attorneys used;
- (E) the attorneys' efforts to minimize fees;
- (F) the reasonableness of the claims and defenses pursued by each side;
- (G) vexatious or bad faith conduct;
- (H) the relationship between the amount of work performed and the significance of the matters at stake;

- (I) the extent to which a given fee award may be so onerous to the non-prevailing party that it would deter similarly situated litigants from the voluntary use of the courts;
- (J) the extent to which the fees incurred by the prevailing party suggest that they had been influenced by considerations apart from the case at bar, such as a desire to discourage claims by others against the prevailing party or its insurer; and
- (K) other equitable factors deemed relevant.

If the court varies an award, the court shall explain the reasons for the variation.

(4) Upon entry of judgment by default, the plaintiff may recover an award calculated under subparagraph (b)(1) or its reasonable actual fees which were necessarily incurred, whichever is less. Actual fees include fees for legal work performed by an investigator, paralegal, or law clerk, as provided in subparagraph (b)(2).

(c) **Motions for Attorney's Fees.** A motion is required for an award of attorney's fees under this rule or pursuant to contract, statute, regulation, or law. The motion must be filed within 10 days after the date shown in the clerk's certificate of distribution on the judgment as defined by Civil Rule 58.1. Failure to move for attorney's fees within 10 days, or such additional time as the court may allow, shall be construed as a waiver of the party's right to recover attorney's fees. A motion for attorney's fees in a default case must specify actual fees.

(d) **Determination of Award.** Attorney's fees upon entry of judgment by default may be determined by the clerk. In all other matters the court shall determine attorney's fees.

(e) **Equitable Apportionment Under AS 09.17.080.** In a case in which damages are apportioned among the parties under AS 09.17.080, the fees awarded to the plaintiff under (b)(1) of this rule must also be apportioned among the parties according to their respective percentages of fault. If the plaintiff did not assert a direct claim against a third-party defendant brought into the action under Civil Rule 14(c), then

(1) the plaintiff is not entitled to recover the portion of the fee award apportioned to that party; and

(2) the court shall award attorney's fees between the third-party plaintiff and the third-party defendant as follows:

(A) if no fault was apportioned to the third-party defendant, the third-party defendant is entitled to recover attorney's fees calculated under (b)(2) of this rule;

(B) if fault was apportioned to the third-party defendant, the third-party plaintiff is entitled to recover under (b)(2) of this rule 30 or 20 percent of that party's actual attorney's fees incurred in asserting the claim against the third-party defendant.

(f) **Effect of Rule.** The allowance of attorney's fees by the court in conformance with this rule shall not be construed as fixing the fees between attorney and client.

Rule 508. Costs.

Text

(a) Dismissal or Denial. If an appeal is dismissed or petition denied by the appellate court, costs shall not be allowed to the appellee or respondent, unless otherwise ordered by the court.

(b) Affirmance of Judgment. In all cases of affirmance of a judgment or any order or decision of the superior court, costs shall be allowed to the appellee or respondent unless otherwise ordered by the court.

(c) Reversal or Partial Reversal. In cases of reversal of any judgment, order or decision of the superior court, costs shall be allowed the appellant or petitioner unless otherwise ordered by the court. In cases of partial affirmance and partial reversal, the court will determine which party, if any, shall be allowed costs.

(d) Costs to be Awarded. When costs are awarded in the appellate court, they shall include, unless the court otherwise orders and subject to Rules 210(b)(6) and (c)(6), the filing fee, the costs of preparing the transcript, premiums for any bond under Rule 204(c) or 204(d), and the costs of duplicating and mailing briefs and excerpts of records. Duplicating costs will not be awarded in excess of the rate generally charged by printers in the city in which counsel is located.

(e) Attorney's Fees. Attorney's fees may be allowed in an amount to be determined by the court. If such an allowance is made, the clerk shall issue an appropriate order awarding fees at the same time that an opinion or an order under Rule 214 is filed. If the court determines that an appeal or cross-appeal is frivolous or that it has been brought simply for purposes of delay, actual attorney's fees may be awarded to the appellee or cross-appellee.

(f) Procedure.

(1) Bill of Costs. At the time an opinion or an order under Rule 214 is filed, the clerk shall notify the party or parties entitled to recover costs under subsections (b) and (c) of this rule. That party or parties shall serve and file an itemized and verified bill of costs within 10 days after the date of notice of the opinion or order. Date of notice is defined in Civil Rule 58.1(c). The bill of costs shall be limited to the items specified in subsection (d) of this rule. Failure to file a timely bill of costs is a waiver of the right to recover costs. Objections to the bill of costs may be filed within 7 days after service of the bill. Promptly after expiration of the time for filing objections, the clerk shall issue an itemized award of costs. A hearing on the bill of costs shall not be held unless requested by the clerk. The clerk may not delegate to a deputy clerk the authority to award costs in cases in which objection is filed, except with the approval of the chief justice. Return of the record shall not be delayed pending the award of costs.

(2) Reconsideration. A party aggrieved by an order awarding costs under subsection (f)(1) of this rule or an order awarding attorney's fees under subsection (e) of this rule may file a motion for reconsideration within ten days after the date of notice of the order. The non-moving party may file a response within seven days after service of the motion. Reconsideration of an award of costs or attorney's fees under (f)(1) or (e) will be determined by an individual justice or judge. Full court reconsideration of such individual justice's or judge's decision may be sought pursuant to Appellate Rule 503(h)(2)(B).

(3) Rehearing. If a timely petition for rehearing is filed, the clerk shall not award costs until the court has disposed of the case on rehearing. Supplemental or amended bills of costs may not be filed after disposition of a petition for rehearing unless requested by the court.

(g) Exemptions.

(1) Workers' Compensation Appeals. In an administrative appeal from the Alaska Workers' Compensation Board or in an appeal from a denial of a claim of benefits under the Employment Security Act, an award of costs or attorney's fees shall not be made against the claimant in either the supreme court or the superior court unless the court finds that the claimant's position was frivolous, unreasonable, or taken in bad faith.

(2) In an administrative appeal from the Alaska Workers' Compensation Board, full reasonable attorney's fees will be awarded to a successful claimant. Counsel for the claimant shall serve and file an affidavit of services rendered on appeal within 10 days from the date of notice of an opinion or an order under Rule 214. Objections to the affidavit of services may be filed within 7 days of service of the affidavit. An individual justice shall determine the amount of fees to be awarded.

(h) Execution. Upon proper application, the clerk of the trial court may issue writs of execution upon the award of costs and attorney's fees made pursuant to this rule, without the approval of a judge of the trial court.

(SCO 439 effective November 15, 1980; amended by SCO 507 effective July 1, 1982; by SCO 508 effective July 1, 1982; by SCO 512 effective October 1, 1982; by SCO 552 effective February 1, 1983; by SCO 554 effective April 4, 1983; by SCO 562, effective May 2, 1983; by SCO 583 effective February 1, 1984; by SCO 619 effective June 15, 1985; by SCO 847 effective January 15, 1988; by SCO 1024 effective July 15, 1990; by SCO 1155 effective July 15, 1994; by SCO 1279 effective July 31, 1997; by SCO 1440 effective October 15, 2001; and by SCO 1482 effective October 15, 2002)

Note: In 1997 the legislature enacted AS 18.16.030(m), which provides that a filing fee may not be required of, and court costs may not be assessed against, a minor in a proceeding to bypass parental consent to an abortion. According to ch. 14, § 10 SLA 1997, AS 18.16.030(m) has the effect of amending Administrative Rule 9, Civil Rule 79, and Appellate Rule 508 by prohibiting filing fees and assessment of court costs in certain actions. Instead of amending individual rules to implement AS 18.16.030, the supreme court has adopted a separate rule on judicial bypass proceedings in the superior court and a separate rule on judicial bypass appeals. See Probate Rule 20 & Appellate Rule 220.

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						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

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						
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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

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 RDU Division of Water
of water and sewer utilities 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 ()						
-------------------------------	--	--	--	--	--	--

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

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
Title Water & Sewer Utilities RDJ 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)

FUND SOURCE	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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

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.

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						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

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

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 Secs 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.

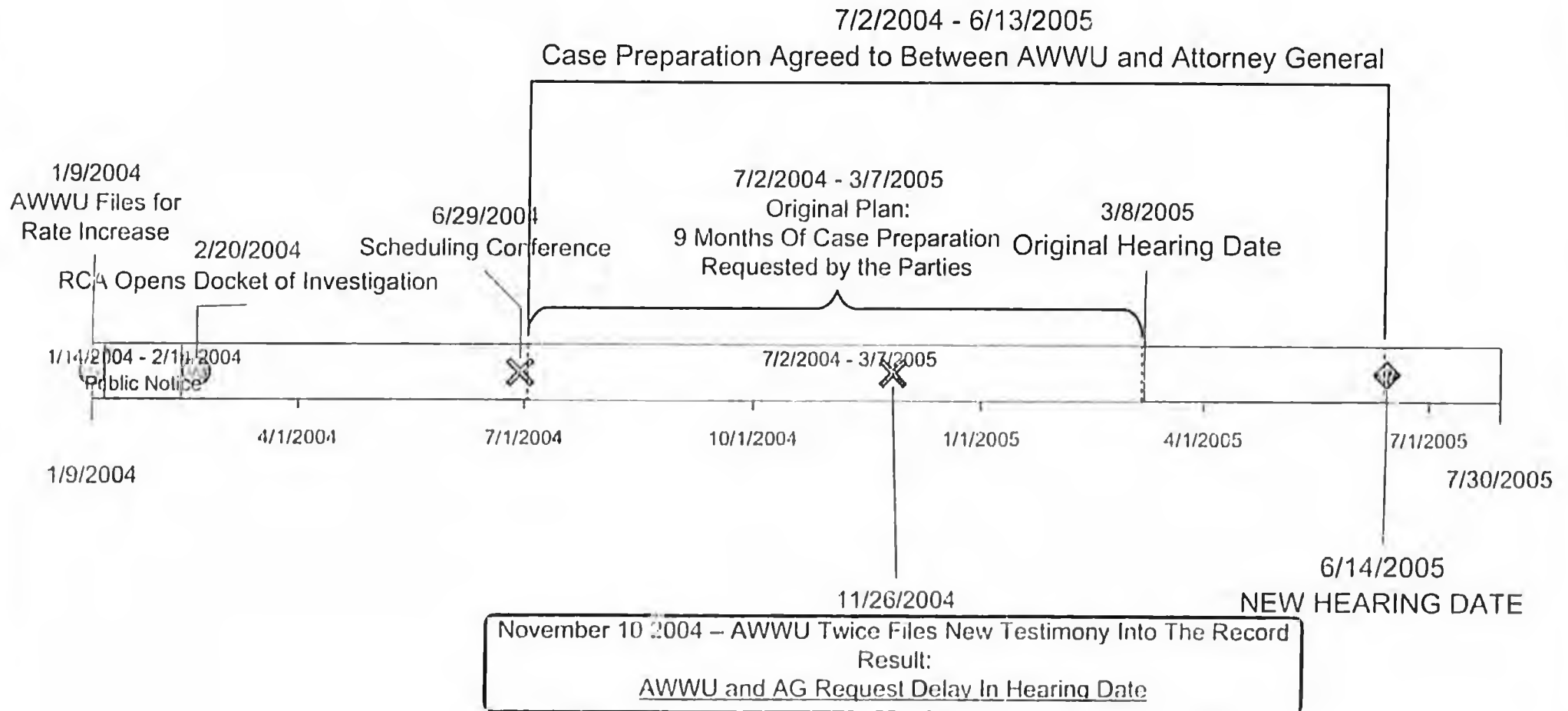
19 *** Sec. 5.** Sections 2 and 3 of this Act take effect on the day after the date the chair of the
20 Regulatory Commission of Alaska notifies the lieutenant governor and the revisor of statutes
21 under sec. 4(b) of this Act that a political subdivision has approved an ordinance that
22 establishes 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.

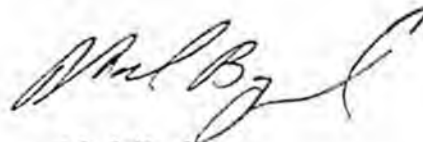
- The proposed structure will provide for strong consumer protection by focusing expert resources on financial and system integrity and customer interests.
- The Authority proposal is for a seven member board with staggered five-year terms. Board members would be recommended by the Mayor and appointed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

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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.

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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: 1-P

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

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2004 STATE LEGISLATIVE PROGRAM
MUNICIPAL PRIORITY ISSUES
LEGISLATION

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2005 STATE LEGISLATIVE PROGRAM
MUNICIPAL PRIORITY ISSUES

Legislation

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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.

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"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

1

**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.

HB

109

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: February 18, 2005

FURTHER REFERRALS:

Date of Committee Action: 4/12/05

The FINANCE Committee considered:

HB 109

HOUSE BILL NO. 109

SCREENING NEWBORNS FOR HEARING ABILITY

"An Act relating to establishing a screening, tracking, and intervention program related to the hearing ability of newborns and infants; providing an exemption to licensure as an audiologist for certain persons performing hearing screening tests; relating to insurance coverage for newborn and infant hearing screening; and providing for an effective date."

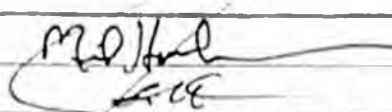
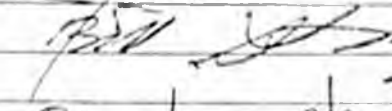
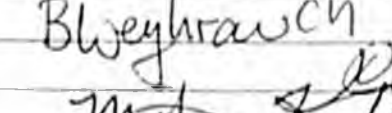

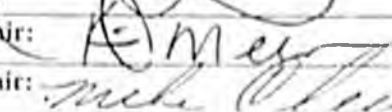

Recommends it be replaced with HCS or CS for HB 109 (FIN)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts.:
 ADM
 CED
 COR
 CRT
 LED
 DEC
 DEG
 GOV
 HSS
 ILL
 LAW
 LWF
 MVA
 DNR
 DPS
 REV
 DOT
 FA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
DHSS		✓		
DOE			✓	
DCED				✓

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	Hawker			X	
	Holm			X	
	St. Pierre				
	Weybrauch			X	
	MOSES			X	
	Kelly	X		X	
	FESTALE	X			
Chair:	Meyer	✓			
Chair:	Chevall	✓			

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FISCAL NOTE
FN #

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO HB109CS(FIN)-DHSS-DPH-04-13-05

ANALYSIS CONTINUATION

4) There is a need to follow an additional 10% of all newborns each year who are at high risk for later onset hearing loss during their first three years of life. Thus, the program requires a reporting and surveillance system for tracking all newborns and assisting them with ongoing hearing screening, diagnostic and intervention services. 5) The department is proposing elimination of Sec. 47.20.310 (g). It is not possible on this short notice to determine the increased cost to the department of the mandate included in (g), and therefore this fiscal note assumes that subsection (g) is deleted.

At present the Division of Health Care Services is receiving two federal grants to support the development of this program. One grant, scheduled to be completed in March of FY 05, covers the expenses associated with development of the newborn hearing program, including assisting hospitals with implementation and education, and professional and public educational information. The second grant will end in August of 2005 and covers start up costs associated with the statewide early detection/intervention surveillance and tracking system. Both grants have been submitted for continuation funding for three additional years. This would provide funds for infrastructure costs through FY 08 if awarded.

The increased line item expenditures shown on page 1 will be utilized for:
GRANTS AND CLAIMS (\$31.9 in FY 06): Additional funds for special hearing resources would be needed for the existing Early Prevention/ILP programs to work with the anticipated increased volume -- children are identified earlier and thus require services during the 0-3 period. The additional grant funds would be awarded incrementally over the next five fiscal years to allow for increased capacity-building to support special hearing services for children identified with hearing loss in preparation for school readiness and learning. The dollar figure is based on:

1) An average FY 05 cost of \$3,100 per newly enrolled infant, with a 3% inflation factor built in annually. 2) Only assumes about 50% of the newly diagnosed infants would enroll in the early intervention hearing resources program (10 new infants in FY 06; 12 in FY 07; 14 in FY 08; 16 in FY 09; and 18 in FY 10 and FY 11).

The General Funds replacing Federal Funds (and so not shown as line item expenditures on page 1) will be allocated by cost category as follows:

PERSONAL SERVICES (\$30.6 is necessary in FY08 to cover the fourth quarter personnel expenses when the federal grant expires in March of 2008; \$72.0 covers all of these personnel expenses in FY 09 and assumes a 3.5 percent annual merit increase):

a) 0.5 FTE - EHDI Health Program Manager II (R/19). This position oversees the maintenance of the reporting and surveillance activities of the program, assures early intervention referrals, tracks high-risk infants through the age of 3, provides outreach education to providers, and technical assistance to health care facilities throughout the state.

b) 0.5 FTE - Administrative Clerk III (R/10). This position provides administrative support and data entry for the activities required for maintenance of a statewide newborn hearing screening program.

TRAVEL (\$1.0 in FY 08): Travel costs are included for the EHDI manager to visit screening sites for TA and program compliance. Additional travel funds would be required in FY 09 with the termination of federal funding.

(Continued on P. 3)

FISCAL NOTE
FN #

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. HB109CS(FIN)-DHSS-DPH-04-13-05

ANALYSIS CONTINUATION

SUPPLIES (\$1.0 in FY 08): This includes the cost of postage to mail brochures and technical assistance resources.

CONTRACTUAL (\$27.7 in FY 08): Includes the actual cost of supporting web-based data and surveillance system. Cost averages at \$3.00 per newborn. Costs also include those needed for the reprinting of educational materials for parents and providers.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB109-EED-ESS-04-12-05
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Education & Early Development
Title: "An Act relating to establishing a screening, tracking, and intervention program related to the hearing of newborns" RDU: TLS
Component: Special & Supplemental Services
Sponsor: Representative Ramras
Requester: Labor and Commerce Component No. 166

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	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0					
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)

Sec. 47.20.330 relates to the establishment of guidelines for the provision of follow-up care for newborn and infant children in the state who have been identified as having or being at risk of developing a hearing loss. The Department of Education & Early Development identifies no costs at this time.

Prepared by: Barbara Thompson, Director
Division: Teaching & Learning Support
Approved by: Karen Rehfeld, Deputy Commissioner
Agency: Education & Early Development

Phone: 465-8727
Date/Time: 4/12/05 10:08 AM
Date: 04/12/2005

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSHB 109(L&C)
() Publish Date: _____

Revision Date/Time (Note if correction):
Title Screening Newborns for Hearing Ability

Dept. Affected: Commerce
RDU Occupational Licensing (117)
Component Occupational Licensing

Sponsor Ramras, et al
Requester House Finance

Component No. 2360

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						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1u37 GF/Mental Health						
Other 1156 - Receipt Supported Services						
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)

The amendment made to the Audiology statute in Section 3 of this bill does not require new funding to be implemented.

Prepared by: Jennifer Strickler, Administrative Manager
Division Occupational Licensing
Approved by: Edgar Blatchford, Commissioner
Agency Commerce, Community, and Economic Development

Phone (907) 465-2144
Date/Time 4/11/05 6:24 PM
Date 4/11/2005

4/12/05
amended pg 5

24-LS0450V

CS FOR HOUSE BILL NO. 109(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 2/9/05

Referred: Health, Education and Social Services, Finance

Sponsor(s): REPRESENTATIVES RAMRAS, Gara, Elkins, Wilson, Gruenberg, McGuire, Anderson, LeDoux, Guttenberg, Lynn, Joule, Kerttula, Dahlstrom

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to establishing a screening, tracking, and intervention program related
2 to the hearing ability of newborns and infants; providing an exemption to licensure as
3 an audiologist for certain persons performing hearing screening; relating to insurance
4 coverage for newborn and infant hearing screening; and providing for an effective
5 date."

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

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

9 **LEGISLATIVE FINDINGS.** The legislature finds that
10 (1) hearing loss occurs in newborns and infants more frequently than any other
11 health condition for which newborn or infant screening is required;
12 (2) 80 percent of the language ability of a child is established by the time the
13 child is 18 months of age, and appropriate language training is vitally important to the healthy

1 developme nt of cognitive, social, emotional, and academic skills;

2 (3) early detection of hearing loss in a child and early intervention and
3 treatment have been demonstrated to be highly effective in facilitating a child's healthy
4 development in a manner consistent with the child's age and cognitive ability;

5 (4) children with hearing loss who do not receive early intervention and
6 treatment frequently require special education services, and these services are publicly funded
7 for the vast majority of children with hearing needs in the state; and

8 (5) appropriate screening and identification of newborns and infants with
9 hearing loss will facilitate early intervention and treatment and may serve the public purpose
10 of promoting the healthy development of children while reducing public expenditures.

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

13 LEGISLATIVE INTENT. Subject to the availability of appropriations to implement
14 AS 47.20.300 - 47.20.390, enacted by sec. 6 of this Act, the Department of Health and Social
15 Services shall implement the program required by this Act so that 100 percent of all newborns
16 and infants in the state are being screened for hearing loss by January 1, 2008.

17 * Sec. 3. AS 08.11.120(b) is amended to read:

18 (b) Notwithstanding the provisions of this chapter,

19 (1) a nurse licensed under AS 08.68 may perform hearing sensitivity
20 evaluations;

21 (2) an individual licensed as a hearing aid dealer under AS 08.55 may
22 deal in hearing aids;

23 (3) an individual holding a class A certificate issued by the Conference
24 of Executives of American Schools of the Deaf may teach the hearing impaired;

25 (4) an individual may engage in the testing of hearing as part of a
26 hearing conservation program that complies with the regulations of the Occupational
27 Safety and Health Administration of the federal government if the individual is
28 certified to do the testing by a state or federal agency acceptable to the Occupational
29 Safety and Health Administration;

30 (5) an individual may perform hearing screening under
31 AS 47.20.310 if authorized to do so under a protocol adopted under

1 AS 47.20.310(e) by the Department of Health and Social Services.

2 * Sec. 4. AS 18.50 is amended by adding a new section to read:

3 Sec. 18.50.162. Notification about hearing screening. When the bureau
4 receives a certificate of live birth under AS 18.50.160 for a newborn who was
5 delivered outside of a hospital, the bureau shall forward the names and addresses of
6 the parents to the department employees who administer the screening program set out
7 in AS 47.20.310 - 47.20.390. Those department employees shall notify the child's
8 parents of the merits of having the child screened for hearing ability.

9 * Sec. 5. AS 21.42 is amended by adding a new section to read:

10 Sec. 21.42.349. Coverage for newborn and infant hearing screening. (a)
11 Except for a fraternal benefit society, a health care insurer that offers, issues for
12 delivery, delivers, or renews in this state a health care insurance plan shall provide
13 coverage for newborn and infant hearing screening under the schedule described in (b)
14 of this section if the plan covers services provided to women during pregnancy and
15 childbirth and the dependents of a covered individual.

16 (b) The minimum coverage required under (a) of this section includes

17 (1) a newborn or infant hearing screening to be performed within 30
18 days after the child's birth; and

19 (2) if the initial screening under (1) of this subsection determines that
20 the child may have a hearing impairment, a confirmatory hearing diagnostic
21 evaluation.

22 (c) The coverage required by this section may be subject to standard policy
23 provisions that are applicable to other benefits, such as deductible or copayment
24 provisions.

25 * Sec. 6. AS 47.20 is amended by adding new sections to read:

26 **Article 2. Newborn and Infant Hearing Screening, Tracking, and Intervention**
27 **Program.**

28 Sec. 47.20.300. Department to implement program. The department shall
29 plan, develop, and implement a hearing screening, tracking, and intervention program
30 to facilitate compliance with the requirements of AS 47.20.310 - 47.20.390.

31 Sec. 47.20.310. Screening requirements. (a) Subject to (b) of this section,

1 the physician in attendance at or immediately after the birth of a child in a hospital in
2 this state, or, if a physician is not in attendance at or immediately after the birth, the
3 person attending the newborn child in a hospital in this state, shall, unless medically
4 contraindicated, cause the child to be screened to determine whether the child has a
5 potential hearing impairment using the methods determined by the department under
6 (c) of this section. Unless medically contraindicated, the screening shall occur before
7 the newborn is released from the hospital or before the infant is 30 days old,
8 whichever is earlier. Each birthing center that provides maternity and newborn care
9 services shall provide that each newborn in the center's care is referred for an
10 appointment to a licensed audiologist or to a hospital or other newborn hearing
11 screening provider before discharge. Unless medically contraindicated, the screening
12 shall occur before the infant is 30 days old.

13 (b) Notwithstanding (a) of this section, the physician or other person at or
14 immediately after the birth of a child in a hospital or birthing center that averages less
15 than 20 births a year is not required to screen the child as described in (a) of this
16 section but shall, before the newborn is released from the hospital or birthing center,
17 refer the child for screening at another facility or with another provider. Unless
18 medically contraindicated, the screening shall occur before the child is 30 days old.

19 (c) If it is determined by screening that a newborn child may have a hearing
20 impairment, the physician or other person who is required under (a) of this section to
21 cause the child to be screened shall

22 (1) refer the child for confirmatory diagnostic evaluation;

23 (2) make reasonable efforts to promptly notify the child's parent that
24 the child may have a hearing impairment and explain to the parent the potential effect
25 of the impairment on the development of the child's speech and language skills and
26 psychosocial and cognitive development; and

27 (3) notify the department of the hearing screening results on a form
28 approved by the department.

29 (d) When the Bureau of Vital Statistics receives a certificate of live birth
30 under AS 18.50.160 for a newborn who was delivered at a place other than a hospital,
31 the bureau shall notify the department employees who administer AS 47.20.310 -

1 47.20.390. The department employees shall notify the child's parents of the merits of
 2 having a hearing screening performed, and the department shall provide information to
 3 the parents to assist the parents in accomplishing the hearing screening within 30 days
 4 after the child's birth.

5 (c) The hearing screening required under this section shall use protocols
 6 established by the department. At a minimum, the protocols must include the use of at
 7 least one of the following physiologic technologies: automated or diagnostic auditory
 8 brainstem response (ABR) or otoacoustic emissions (OAE). The department shall
 9 consider updating the protocols as information is provided to the department that new
 10 physiologic technologies or improvements to existing physiologic technologies will
 11 substantially enhance newborn and infant hearing assessment.

12 (f) Notwithstanding (a) of this section, a physician or other person required to
 13 cause a newborn hearing screening under this section is exempt from this requirement
 14 if the parent of the newborn child objects to the screening procedure on the grounds
 15 that the procedure conflicts with the religious ^{or other} tenets and practices of the parent. The
 16 parent shall sign a statement that the parent knowingly refuses the services, and the
 17 physician or other person shall have a copy of the signed statement retained in the
 18 hospital records of the birth and sent to the department for tracking under
 19 AS 47.20.320.

20 (g) The physician or other person required to cause a newborn hearing
 21 screening under this section shall report the results of newborn hearing screening as
 22 required by the department under AS 47.20.320.

23 **Sec. 47.20.320. Reporting and tracking program.** (a) The department shall
 24 develop and implement a reporting and tracking system for newborns and infants
 25 screened for hearing loss in order to provide the department with information and data
 26 to effectively plan, establish, monitor, and evaluate the newborn and infant hearing
 27 screening, tracking, and intervention program. Evaluation of the program must
 28 include evaluation of the initial hearing screening, follow-up components and the use
 29 and availability of the system of services for newborns and infants who are deaf or
 30 hard of hearing and their families.

31 (b) A physician or other person attending the birth in the state, or a hospital on

1 behalf of a physician or other person attending the birth, shall report information
2 related to hearing screening required under (a) of this section as specified by the
3 department. A person who provides audiological confirmatory evaluation and
4 diagnostic services for newborns and infants whose hearing was screened under
5 AS 47.20.310 shall report information as specified by the department in regulation.

6 (c) The information received under (b) of this section shall be compiled and
7 maintained by the department in the tracking system. The information shall be kept
8 confidential in accordance with the applicable provisions of 20 U.S.C. 1439
9 (Individuals with Disabilities Education Act), as amended by P.L. 105-17. Data
10 collected by the department that was obtained from the medical records of the
11 newborn or infant shall be for the confidential use of the department and are not public
12 records subject to disclosure under AS 40.25.110. Aggregate statistical data without
13 identifying information compiled from the information received is public information.

14 (d) A hospital or other health facility, clinical laboratory, audiologist,
15 physician, registered nurse, certified nurse midwife, direct-entry midwife, officer or
16 employee of a health facility or clinical laboratory, or an employee of an audiologist,
17 physician, or registered nurse is not criminally or civilly liable for furnishing
18 information in good faith to the department or its designee under this section. The
19 furnishing of information in accordance with this section is not a violation of AS 08 or
20 AS 18 or regulations adopted under AS 08 or AS 18 for licensees under those statutes.

21 **Sec. 47.20.330. Intervention program.** (a) The department shall establish
22 guidelines for the provision of follow-up care for newborn and infant children in the
23 state who have been identified as having or being at risk of developing a hearing loss.
24 The services recommended must include appropriate follow-up care for newborns and
25 infants with abnormal or inconclusive screening results, such as diagnostic evaluation,
26 referral, and coordination of early intervention service programs if the newborn or
27 infant is found to have a hearing loss.

28 (b) The parents of all newborns . . . infants diagnosed with a hearing loss, as
29 reported to the department, shall be provided by the department with written
30 information on the availability of follow-up care through community resources and
31 government agencies, including those provided in accordance with 20 U.S.C. 1400 -

1 1491 (Individuals with Disabilities Education Act), as amended. Information provided
2 by the department must include listings of local and statewide nonprofit deaf and hard
3 of hearing consumer-based organizations, parent support organizations affiliated with
4 deafness, counseling and educational services, and programs offered through the
5 department and the Department of Education and Early Development.

6 **Sec. 47.20.340. Outreach campaign.** The department shall conduct a
7 community outreach and awareness campaign to inform medical providers, pregnant
8 women, and families of newborns and infants of the newborn and infant hearing
9 screening, tracking, and intervention program and the value of early hearing screening,
10 tracking, and intervention.

11 **Sec. 47.20.350. Report.** The department shall prepare an annual report for the
12 governor about the newborn and infant hearing screening, tracking, and intervention
13 program administered under AS 47.20.310 - 47.20.390. The report must include
14 recommendations on improving the early screening, tracking, and intervention
15 program, including strategies to increase the rate of early screening and the use of
16 appropriate early intervention techniques. The department shall notify the legislature
17 that the report is available.

18 **Sec. 47.20.360. Performance evaluation.** (a) The department shall collect
19 and compile performance data on the early hearing screening, tracking, and
20 intervention program established under AS 47.20.300 - 47.20.390 to ensure that the
21 program is in compliance with AS 47.20.300 - 47.20.390 and the regulations adopted
22 under AS 47.20.300 - 47.20.390. The performance evaluation must include

23 (1) a comparison of the number of infants born in the state to the
24 number of infants screened;

25 (2) the referral rate for confirmatory diagnostic evaluation;

26 (3) the follow-up rate for intervention; and

27 (4) the number of false screening results.

28 (b) In conducting a performance evaluation, the department shall
29 establish hearing screening performance standards that must include a false positive
30 rate and a false negative rate for screening results of less than or equal to three percent.

31 **Sec. 47.20.390. Definitions.** In AS 47.20.300 - 47.20.390,

1 (1) "commissioner" means the commissioner of health and social
2 services;

3 (2) "department" means the Department of Health and Social Services;

4 (3) "follow-up care" means all of the following:

5 (A) services necessary to diagnose and confirm a hearing loss;

6 (B) ongoing audiological services to monitor hearing;

7 (C) communication services, including aural rehabilitation,
8 speech, language, social, and psychological services;

9 (D) support services for the infant and family; and

10 (E) early intervention services described in 20 U.S.C. 1431 -
11 1445 (Individuals with Disabilities Education Act), as amended;

12 (4) "health care insurer" means an entity regulated by the director of
13 insurance, Department of Commerce, Community, and Economic Development, and
14 includes a health, hospital, or medical service plan corporation, and a health
15 maintenance organization;

16 (5) "hearing loss" means a hearing loss of 40 decibels or greater in the
17 frequency region important for speech recognition and comprehension in one or both
18 ears, approximately 500 through 4000 Hz;

19 (6) "hearing screening" means automated auditory brain stem
20 response, otoacoustic emissions, or other appropriate screening procedure approved by
21 the department;

22 (7) "infant" means a child 30 days to 24 months old;

23 (8) "newborn" means a child less than 30 days old;

24 (9) "parent" means a natural parent, stepparent, adoptive parent, legal
25 guardian, or other legal custodian of the child;

26 (10) "program" means the newborn and infant hearing, tracking, and
27 intervention screening program established under AS 47.20.310 - 47.20.390.

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

30 TRANSITION: REGULATIONS. Notwithstanding sec. 9 of this Act, the
31 Department of Health and Social Services may proceed to develop and adopt regulations

1 required to implement this Act. The regulations take effect under AS 44.62 (Administrative
2 Procedure Act), but not before the effective date of the relevant provision of this Act.

3 * Sec. 8. The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 INSTRUCTION TO REVISOR. In AS 47.20.060 - 47.20.290, the revisor shall delete
6 "this chapter" and insert "AS 47.20.060 - 47.20.290."

7 * Sec. 9. AS 47.20.300, enacted by sec. 6 of this Act, and secs. 7 and 8 of this Act take
8 effect immediately under AS 01.10.070(c).

9 * Sec. 10. Except as provided in sec. 9 of this Act, this Act takes effect January 1, 2006.

ALASKA STATE LEGISLATURE HOUSE FINANCE COMMITTEE

Representative Mike Chenault
Co-Chairman
(907) 465-3779

Fax: (907) 465-2833

Representative_Mike_Chenault@legis.state.ak.us

145 Main St. Loop #223
Kenai, Alaska 99611



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Co-Chairman
(907) 465-4945

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716 W. 4th Avenue
Anchorage, Alaska 99501

State Capitol, Juneau, Alaska 99801-1182

Changes Incorporated Into House Finance Committee Substitute House Bill 130

Deleted

Page 6, lines 12-18

(o) Notwithstanding (a) of this section, each of the following parcels described in this document entitled, "University of Alaska Land Grant List 2005," dated January 12, 2005, may not be conveyed to the University of Alaska under this section until all Native allotment applications applicable to that parcel have been denied and adjudicated to a final decision:

- (1) Parcel Number PA. 1002, Biorka Island;
- (2) Parcel Number NS.NS. 1001, Lisianski Peninsula

Deleted

Page 6, lines 25-26

- (1) Parcel Number SD. 1001, Beecher Pass
- (2) Parcel Number CS. EW. 1001, Earl West Cove

Page 7, line 5

Delete: "Shall"

Page 7, line 6

After: (1)

Insert: "shall"

Page 7, line 7

After: (2)

Insert: "may"