

AK LEGISLATURE FINANCE COMMITTEES FILES 2007-2008 3190

72

"camps" in paragraph (2) and "card" for "record" in paragraph (8) and made a stylistic change.

**Legislative history reports.** — For governor's

transmittal letter on SB 303, which became ch. 111, SLA 1994, and amended (10) [now paragraph (3)] of this section, see 1994 Senate Journal 2793 — 2796.

### NOTES TO DECISIONS

I. General Consideration.

II. Residence Address.

#### I. GENERAL CONSIDERATION.

**Military personnel as a class cannot be deprived of the right to vote, and they cannot be arbitrarily eliminated in a population base used to design an apportionment scheme.** Egan v. Hammond, 502 P.2d 856 (Alaska 1972).

**Therefore, civilian-military distinction in Alaska Const., art. VI, § 3 is unconstitutional.** — See Egan v. Hammond, 502 P.2d 856 (Alaska 1972).

**But some military may be excluded.** — While the clause of Alaska Const., art. VI, § 3 seeking to exclude military as a class is unconstitutional, that is not to say that some military cannot be excluded as a permissible device for limiting the impact of transients and nonresidents on legislative districting. Egan v. Hammond, 502 P.2d 856 (Alaska 1972).

**Exclusive use of census requirement for determining civilian population is void.** — The provision in Alaska Const., art. VI, § 3, requiring exclusive use of the census in determining civilian population for reapportionment would not have been enacted independently of the void reference to "civilian population," and therefore also falls. Egan v. Hammond, 502 P.2d 856 (Alaska 1972).

**Requirement for residency in district.** — Votes for state representative cast by voters in an election district from which they had moved were not counted, where, even though they had failed to reregister in their new district, election officials had written notice of a change in their residency. Cissna v. Stout, 931 P.2d 363 (Alaska 1996).

When election officials have written notice of a change in residency, this notice suffices to rebut the presumption of voter residency at the district where that voter previously registered. Cissna v. Stout, 931 P.2d 363 (Alaska 1996).

#### II. RESIDENCE ADDRESS.

**Paragraph (10) [now renumbered as paragraph (8)] does not apply to municipal elections.** Miller v. North Pole City Council, 532 P.2d 1013 (Alaska 1975).

**Post office box or private mail service address is clearly not a voter's fixed place of habitation and is therefore insufficient to fix a voter's residence within a voting district.** Thus, any voter providing

such an address as his or her residence would be ineligible to vote unless he or she provided additional information regarding that voter's residence. Fischer v. Stout, 741 P.2d 217 (Alaska 1987).

**Elmendorf Air Force Base is a bounded area wholly within Senate District II.** Thus, merely listing "Elmendorf Air Force Base" is sufficient to fix a voter's residence to a specific locale within District II. Fischer v. Stout, 741 P.2d 217 (Alaska 1987).

**Voter ineligibility because of failure to update official voter residence.** — A voter who was originally registered outside the district who later moved within the district and never updated his official voter residence address may not vote within the district. Fischer v. Stout, 741 P.2d 217 (Alaska 1987).

**A voter who moved to a residence outside his existing voting district in 1982 was not entitled to vote in his previous district in 1986.** Fischer v. Stout, 741 P.2d 217 (Alaska 1987).

**Disqualification of absentee ballots on basis of oath.** — Absentee ballots must be returned in a special envelope which contains an oath that the voter is a qualified voter in all respects, which includes a space for the absentee voter to fill in his or her "permanent Alaskan residence." Since the absentee voter oath is a "form prepared by the director" where challenged absentee voters each had indicated on such an envelope oath a residence outside the district, these ballots should not have been counted. Fischer v. Stout, 741 P.2d 217 (Alaska 1987).

**The federal government's absentee ballot application form is not considered an affidavit of change of residence under paragraph (10) [now renumbered as paragraph (8)] of this section.** Willis v. Thomas, 600 P.2d 1079 (Alaska 1979).

There was no error in counting the votes of absentee voters who reported a nonmilitary permanent residence in a different district. Willis v. Thomas, 600 P.2d 1079 (Alaska 1979).

**Where candidate contested a ballot of voter alleged to have registered using a nonexistent address, but no evidence was produced indicating that voter did not reside at her listed address at the time of registering, and the voter did not provide the affidavit required to rebut the presumption of residency provided by paragraph (10) [now renumbered as paragraph (8)], her ballot was properly counted.** Fischer v. Stout, 741 P.2d 217 (Alaska 1987).

**Collateral references.** — State voting rights of residents of military establishments. 34 ALR2d 1193.

Residence of students for voting purposes. 44 ALR3d 797.

Propriety of using census data as basis for governmental regulations or activities. 56 ALR5th 171.

**Sec. 15.05.030. Loss and restoration of voting rights.** (a) A person convicted of a crime that constitutes a felony involving moral turpitude under state or federal law may not vote in a state, federal, or municipal election from the date of the conviction through

the date of the unconditional discharge of the person. Upon the unconditional discharge, the person may register under AS 15.07.

(b) The commissioner of corrections shall establish procedures by which a person unconditionally discharged is advised of the voter registration requirements and procedures. (§ 1.03 ch 83 SLA 1960; am § 4 ch 100 SLA 1980; am § 1 ch 85 SLA 1986; am § 3 ch 111 SLA 1994)

**Revisor's notes.** — Under § 48, E.O. 55, "commissioner of corrections" was substituted for "commissioner of health and social services" in 1984 in subsection (b) of this section.

**Cross references.** — For definition of "felony involving moral turpitude," see AS 15.60.010; for definition of "unconditional discharge," see AS 15.60.010.

**Legislative history reports.** — For governor's transmittal letter on SB 303, which became ch. 111, SLA 1994, and amended (a) of this section, see 1994 Senate Journal 2793 — 2796.

**Opinions of attorney general.** — For a list of crimes which constitute felonies involving moral turpitude, see Nov. 7, 1980 Op. Att'y Gen.

A person under a sentence of imprisonment, whose conviction of a felony involving moral turpitude is the subject of an appeal, may not be a candidate for a seat on the school board of a rural educational attendance area, August 17, 1982 Op. Att'y Gen.

One whose conviction is on appeal may neither vote nor run for public office, June 27, 1983 Op. Att'y Gen.

A member of an REAA school board loses his or her seat upon conviction pending appeal. Upon conviction, the board member loses voter status and is thereby disqualified from holding the seat. The members of

the board should entertain a motion to declare the seat vacant. If the motion passes, the remaining members may then fill the vacancy in accordance with former AS 14.08.041(e) and AS 14.12.070, June 27, 1983 Op. Att'y Gen.

The law currently prohibits the following classes of felons from voting or seeking elective office: (1) Persons convicted of crimes involving moral turpitude who are currently imprisoned; (2) Persons convicted of crimes involving moral turpitude who are on probation or parole; and (3) Persons convicted of crimes involving moral turpitude who received suspended sentences or suspended impositions of sentences that have not expired, January 29, 1985 Op. Att'y Gen.

**Collateral references.** — What constitutes "conviction" within constitutional or statutory provision disqualifying one convicted of crime. 36 ALR2d 1238.

Effect of conviction under federal law, or law of another state or country, on right to vote or hold public office. 39 ALR3d 303.

What constitutes conviction within statutory or constitutional provision making conviction of crime ground of disqualification for, removal from, or vacancy in, public office. 10 ALR5th 139.

*Sec. 15.05.040. Voter disqualification for unsound mind. [Repealed, § 49 ch 86 SLA 1996.]*

## Chapter 07. Registration of Voters.

### Section

- 10. Who may vote
- 30. Who may register
- 40. Time for registration
- 50. Manner of registration; party affiliation
- 55. Voter registration agencies
- 60. Required registration information
- 64. Information required for voter registration
- 70. Procedure for registration
- 75. Voters unaffiliated with a political party
- 81. Registration officers
- 90. Voting after change of name; reregistration; amendment or transfer of registration
- 100. Registration officials
- 120. Custody of registers

### Section

- 125. Official registration list
- 127. Preparation of master register
- 130. Voter registration list maintenance
- 135. Cancellation of registration of convicted persons
- 137. Voting information from municipalities
- 140. General administrative supervision by director
- 150. Appeals from denial of registration
- 160. Unlawful action
- 180. Fees prohibited
- 190. Violation of AS 15.07.180
- 195. Certain information in voter registration records confidential
- 200. Registration supervision

**Collateral references.** — 25 Am. Jur. 2d, Elections, § 1 et seq.

29 C.J.S., Elections, §§ 36-52.

**Sec. 15.07.010. Who may vote.** The precinct election officials at any election shall allow a person to vote whose name is on the official registration list for that precinct and who is qualified under AS 15.05. A person whose name is not on the official registration list shall be allowed to vote a questioned ballot. (§ 2 ch 211 SLA 1968; am § 5 ch 116 SLA 1972; am § 5 ch 100 SLA 1980; am § 3 ch 82 SLA 2000)

**Sec. 15.60.005. Readability of certain election materials.** (a) The policy of the state is to prepare a ballot proposition that is clear, concise, and easily readable. The form of each ballot proposition shall be scored under (c) of this section. The policy of the state is to prepare a ballot proposition that is scored at approximately 60.

(b) Each neutral summary prepared for the voter's pamphlet shall be scored under (c) of this section. The policy of the state is to prepare a neutral summary that is scored at approximately 60.

(c) A ballot proposition or neutral summary shall be scored using the following procedures:

- (1) disregard numbers;
- (2) multiply the average sentence length in words by 1.015;
- (3) multiply the average number of syllables for each 100 words by .846;
- (4) subtract the total of (2) and (3) from 206.835.

(d) A court may not enjoin the conduct or results of an election for a failure to comply with (a) or (b) of this section. (§ 4 ch 104 SLA 1988)

**Sec. 15.60.007. Sale of voter registration and election management software.** The director may sell voter registration and election management system data processing software. (§ 18 ch 36 SLA 1990)

**Sec. 15.60.008. Recognized political party status.** (a) A political group that the director has not recognized as a political party may obtain recognized political party status if, on or before May 31 of the election year for which the political group seeks recognition, the political group

- (1) files an application with the director;
- (2) submits bylaws to the director and the United States Department of Justice as required of political parties in AS 15.25.014; and
- (3) meets the definition of a political party in AS 15.60.010.

(b) The director shall verify that each political group seeking recognized political party status under (a) of this section and each recognized political party meets the definition of a political party in AS 15.60.010.

(c) The director shall perform a verification described in (b) of this section at least once a month after the date of certification of the preceding general election, except that the director may suspend the monthly verifications on and after June 1 and before November 30 of a general election year. For purposes of (b) of this section, the director shall verify that the voters who have submitted registration forms to the division of elections are qualified under AS 15.05.010 and have declared affiliation with the political group or recognized political party for which the verification is performed.

(d) Within 10 days after a verification under (c) of this section, the director shall provide to a political group seeking recognized political party status under (a) of this section written notification when the political group has obtained recognized political party status.

(e) The director may not withdraw recognized political party status from a political group that no longer qualifies as a political party until after the first verification after a general election at which a governor was elected. The director shall notify the political group in writing of the withdrawal of recognition. (§ 56 ch 2 FSSLA 2005)

*Effective dates.* — Section 56, ch. 2, FSSLA 2005, which enacted this section, took effect on September 22, 2005.

\* **Sec. 15.60.010. Definitions.** In this title, unless the context otherwise requires, \*

(1) "absentee voting official" means a person appointed to serve as an absentee voting official in accordance with AS 15.20.045;

(2) "ballot" means any document provided by the director on which votes may be cast for candidates, propositions, or questions;

(3) "director" means the director of elections who is the chief elections officer of the state appointed in accordance with AS 15.10.105(a);

(4) "division" means the division of elections created under AS 15.10.105;

(5) "election board" means the board appointed in accordance with AS 15.10.120;

(6) "election official" means election board members, members of counting or review boards, employees of the division of elections, and absentee voting officials;

(7) "electronically generated ballot" means any ballot other than a paper ballot that is physically marked by the voter using a writing instrument or a mechanical device;

(8) "federal election" means a general, special, or primary election held solely or in part for the purpose of selecting, nominating or electing a candidate for the office of President, Vice-President, presidential elector, United States senator, or United States representative;

\* (9) "felony involving moral turpitude" includes those crimes that are immoral or wrong in themselves such as murder, manslaughter, assault, sexual assault, sexual abuse of a minor, unlawful exploitation of a minor, robbery, extortion, coercion, kidnapping, incest, arson, burglary, theft, forgery, criminal possession of a forgery device, offering a false instrument for recording, scheme to defraud, falsifying business records, commercial bribe receiving, commercial bribery, bribery, receiving a bribe, perjury, perjury by inconsistent statements, endangering the welfare of a minor, escape, promoting contraband, interference with official proceedings, receiving a bribe by a witness or a juror, jury tampering, misconduct by a juror, tampering with physical evidence, hindering prosecution, terroristic threatening, riot, criminal possession of explosives, unlawful furnishing of explosives, promoting prostitution, criminal mischief, misconduct involving a controlled substance or an imitation controlled substance, permitting an escape, promoting gambling, possession of gambling records, distribution of child pornography, and possession of child pornography;

(10) "general election" means the election held on the Tuesday after the first Monday in November of even-numbered years;

(11) "hand-counted ballot" means a ballot designated to be counted by hand in precincts where precinct tabulators are not available;

(12) "house district" means one of the districts described in art. VI, sec. 1, Constitution of the State of Alaska;

(13) "judicial district" means one of the districts defined in AS 22.10.010;

(14) "lieutenant governor" includes an appointed lieutenant governor, governor, or acting governor if a vacancy has occurred in the office of lieutenant governor or governor;

(15) "limited political party" means a political group which organizes for the purpose of selecting candidates for electors for President and Vice-President;

(16) "local election" means a regular or special election held by a borough, city, school district, or regional educational attendance area;

(17) "master register" means the list of all registered voters in the state which is maintained by the director of elections;

(18) "member of a political party" means a person who supports the political program of a party;

(19) "numerical identifier" means a voter's date of birth, the last four digits of a voter's social security number, a voter's Alaska driver's license number, or a voter's Alaska identification card number or voter identification number;

(20) "oath" includes affirmation;

(21) "official registration list" means the list of all voters qualified to vote at a particular election compiled in accordance with AS 15.07.125;

(22) "optically scanned ballot" means a paper ballot designed to be read by an optical scanning machine;

(23) "party district committee" means the political party committee that performs the executive function for a region representing an area larger than a precinct and smaller than the state;

(24) "political group" means a group of organized voters which represents a political program and which does not qualify as a political party;

(25) "political party" means an organized group of voters that represents a political program and

(A) that nominated a candidate for governor who received at least three percent of the total votes cast for governor at the preceding general election or has registered voters in the state equal in number to at least three percent of the total votes cast for governor at the preceding general election;

(B) if the office of governor was not on the ballot at the preceding general election but the office of United States senator was on that ballot, that nominated a candidate for United States senator who received at least three percent of the total votes cast for United States senator at that general election or has registered voters in the state equal in number to at least three percent of the total votes cast for United States senator at that general election; or

(C) if neither the office of governor nor the office of United States senator was on the ballot at the preceding general election, that nominated a candidate for United States representative who received at least three percent of the total votes cast for United States representative at that general election or has registered voters in the state equal in number to at least three percent of the total votes cast for United States representative at that general election;

(26) "precinct" means the territory within which resident voters may cast votes at one polling place;

(27) "precinct tabulators" means an electronic optical scanning ballot tabulation system or other tabulator designated by the director to electronically count ballots;

(28) "presidential election year" means a year in which the presidential electors are elected;

(29) "proposition" means an initiative, referendum, or constitutional amendment submitted at an election to the public for vote;

(30) "qualified voter" means a person who has the qualification of a voter and is not disqualified as provided by art. V, § 2, of the state constitution and AS 15.05.030;

(31) "question" means an issue placed on the ballot to determine whether a judge or justice shall be accepted or rejected, whether a constitutional convention shall be called, whether a state debt shall be contracted, or whether a state official shall be recalled;

(32) "registration official" includes an employee of the division of elections when performing the task of voter registration and a person appointed to serve as a registration official in accordance with AS 15.07.081 or 15.07.100;

(33) "reregistration" means the submission of a registration form by a voter whose registration was inactivated on the master register maintained under AS 15.07 and the director's reactivation of that registration in accordance with that chapter; in this paragraph, "a voter whose registration was inactivated" does not include a voter whose registration was inactivated under AS 15.07.130 and whose ballot may be counted under AS 15.15.198;

(34) "senate district" means one of the districts described in art. VI, sec. 2, Constitution of the State of Alaska;

(35) "signature" or "subscription" includes a mark intended as a signature or subscription;

(36) "special election" means an election held at a time other than when the general or primary election is held and an election called to be held with, and at the time of, the general or primary election;

(37) "state chairperson" or "state party chairperson" means the political party official elected as the highest ranking statewide party executive;

(38) "sworn" includes affirmed;

(39) "unconditional discharge" means that a person is released from all disability arising under a conviction and sentence, including probation and parole;

(40) "vacancy" exists in an office when the person elected or appointed to the office resigns, retires, dies, is recalled, is rejected by majority vote on the question at an election, is convicted of a corrupt practice, is removed by impeachment, or is expelled;

(41) "voter" means a person who presents oneself for the purpose of voting either in person or by absentee ballot;

(42) "voter registration agency" means an agency designated in or under AS 15.07.055. (§ 12.01 ch 83 SLA 1960; am § 11 ch 71 SLA 1972; am § 13 ch 38 SLA 1974; am § 29 ch 197 SLA 1975; am § 9 ch 208 SLA 1975; am § 207 ch 100 SLA 1980; am § 64 ch 6 SLA 1984; am § 44 ch 85 SLA 1986; am § 14 ch 111 SLA 1994; am § 1 ch 31 SLA 1997; am §§ 66, 67, 102 ch 21 SLA 2000; am §§ 76 — 83, 92 ch 82 SLA 2000; am § 9 ch 50 SLA 2004; am § 6 ch 154 SLA 2004; am § 57 ch 2 FSSLA 2005; am § 15 ch 12 SLA 2006)

**Revisor's notes.** — Reorganized in 1988, 2000, 2004, 2005, and 2006.

The amendment made by sec. 66, ch. 21, SLA 2000 was not given effect because the amendment made by sec. 81, ch. 82, SLA 2000, substantially incorporated the changes made by the earlier enactment.

**Effect of amendments.** — The first 2000 amendment, effective April 28, 2000, repealed former paragraph (5); rewrote paragraph (33) [formerly (29) and (31)], which read: "senate district" means the territory included in the election districts as designated in art. XIV, sec. 2, of the state constitution, as may be modified under art. VI of the state constitution"; and added paragraph (10).

The second 2000 amendment, effective July 1, 2000, rewrote paragraph (2), which read: "ballot" means a hand-marked ballot and a punch-card ballot" and paragraph (4), which read: "election board" means the local precinct board composed of the three election judges"; repealed paragraphs (5) and former (24); substituted "election board members" for "election

judges, clerks, counters" in paragraph (7) [formerly (6)]; rewrote paragraphs (9), (11), (33), and (35) [formerly paragraphs (8), (10), (31) and (33)]; and added paragraphs (11), (12), and (26) [formerly paragraphs (10), (11), (23) and (25)].

The first 2004 amendment, effective November 3, 2004, in paragraph (24) [formerly (23)], added the subparagraph (A) designation, deleted "either" preceding "nominated a candidate" in subparagraph (A), and added subparagraphs (B) and (C).

The second 2004 amendment, effective July 4, 2004, added paragraphs (6) and (21) [formerly (20)].

The 2005 amendment, effective September 22, 2005, added paragraphs (40) and (41) [now (19) and (33)].

The 2006 amendment, effective April 4, 2006, added paragraph (42) [now paragraph (4)].

**Opinions of attorney general.** — For a list of crimes which constitute felonies involving moral turpitude, see Nov. 7, 1980 Op. Att'y Gen.

#### NOTES TO DECISIONS

**Annotator's notes.** — The definition of "political party," as amended by § 44, ch. 85, SLA 1986, includes as an element receipt of three percent of the votes cast in the preceding gubernatorial election. A ten percent polling requirement was in effect when *Vogler v. Miller*, Sup. Ct. Op. No. 2639 (File No. 6959), 660 P.2d 1192 (1983), annotated below, was decided.

**Ten percent polling requirement for defining "political party" unconstitutional.** — The eligibility of a party to nominate a candidate for governor through a primary election may not constitutionally be conditioned on that party's receipt of 10 percent of the votes cast in the preceding gubernatorial election. *Vogler v. Miller*, 660 P.2d 1192 (Alaska 1983).

The 10 percent polling requirement for defining "political party" may not be justified by the asserted state interests in promoting a two-party system in order to encourage compromise and political stability in ensuring that public officials are elected by a majority of the voters. *Vogler v. Miller*, 660 P.2d 1192 (Alaska 1983).

**Constitutionality of three percent requirement.** — Third-party candidate failed to show that the legislature acted unreasonably in setting a three percent requirement for political party status under

this section; preliminary injunction was improper where he did not establish a clear probability of success on the merits of his claim that state ballot access laws were unconstitutional. *State v. Metcalfe*, 110 P.3d 976 (Alaska 2005).

**"Unconditional discharge" construed.** — The definition of "unconditional discharge" in subsection (33) is functionally identical to the definition of the same term set out in AS 12.55.185(12). *Singleton v. State*, 921 P.2d 636 (Alaska Ct. App. 1996).

The 10 percent polling requirement for defining "political party" may not be justified by the state interest in requiring some preliminary showing of a significant modicum of support before printing the name of a political organization's candidate on the ballot since the state has not established that this interest could not have been served by a requirement substantially smaller than 10 percent. *Vogler v. Miller*, 660 P.2d 1192 (Alaska 1983).

Applied in *Vogler v. Miller*, 651 P.2d 1 (Alaska 1982).

Quoted in *Turkington v. City of Kachemak*, 380 P.2d 593 (Alaska 1963); *Meiners v. Bering Strait Sch. Dist.*, 687 P.2d 287 (Alaska 1984).

Stated in *Barry v. State*, 925 P.2d 255 (Alaska Ct. App. 1996).

# SENATE COMMITTEE REPORT

DATE: 4/25/07

FURTHER: Finance

DATE TURNED IN TO OFFICE: 5/8/07

Judiciary Committee considered CS FOR HOUSE BILL NO. 109(JUD) am

## HB 109 DISCLOSURES & ETHICS/BRIBERY/RETIREMENT

"An Act relating to bribery, receiving unlawful gratuities, and campaign contributions; denying public employee retirement pension benefits to certain legislators, legislative directors, and public officers who commit certain offenses, and adding to the duties of the Alaska Retirement Management Board and to the list of matters governed by the Administrative Procedure Act concerning that denial; relating to campaign financing and ethics, including disclosures, in state and municipal government, to lobbying, and to employment, service on boards, and disclosures by certain public officers and employees who leave state or municipal service or leave certain positions in state or municipal government; restricting representation of others by legislators and legislative employees; relating to blind trusts approved by the Alaska Public Offices Commission; and providing for an effective date."

and recommends:

- be replaced with  SCS or  CS CS HB 109 (JUD)
- adopt previous  SCS or  CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt \_\_\_\_\_ Letter of Intent
- further referral to \_\_\_\_\_ Committee

<b>SENATE BILL:</b>	
<input type="checkbox"/> Same Title	<input type="checkbox"/> New Title
<hr/>	
<b>HOUSE BILL:</b>	
<input type="checkbox"/> Same Title	<input type="checkbox"/> Technical Title Change
<input checked="" type="checkbox"/> New Title w/ SCR # <u>pending</u>	

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
ADMIN	1/23			✓	1
LAW	1/24			✓	2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Therriault	✓			
	Wielechowski	✓			
	Huggins	✓			
	McIntyre	✓			
CHAIR:	French	✓			

# SENATE COMMITTEE REPORT

DATE: 4/4/07

FURTHER: Judiciary  
Finance

DATE TURNED IN TO OFFICE: 4/24/07

State Affairs Committee considered CS FOR HOUSE BILL NO. 109(JUD) am

## HB 109 DISCLOSURES & ETHICS

"An Act relating to bribery, receiving unlawful gratuities, and campaign contributions; denying public employee retirement pension benefits to certain legislators, legislative directors, and public officers who commit certain offenses, and adding to the duties of the Alaska Retirement Management Board and to the list of matters governed by the Administrative Procedure Act concerning that denial; relating to campaign financing and ethics, including disclosures, in state and municipal government, to lobbying, and to employment, service on boards, and disclosures by certain public officers and employees who leave state or municipal service or leave certain positions in state or municipal government; restricting representation of others by legislators and legislative employees; relating to blind trusts approved by the Alaska Public Offices Commission; and providing for an effective date."

and recommends:

- be replaced with  SCS or  CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous  SCS or  CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt \_\_\_\_\_ Letter of Intent
- further referral to \_\_\_\_\_ Committee

**SENATE BILL:**  
 Same Title  
 New Title

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**HOUSE BILL:**  
 Same Title  
 Technical Title Change  
 New Title w/ SCR # \_\_\_\_\_

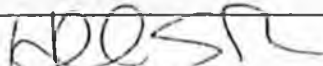

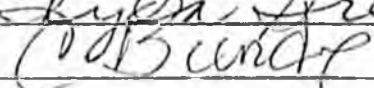
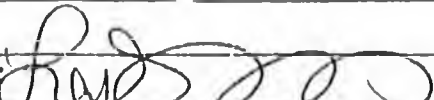
**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
ADMIN.	01/23			✓	
LAW	01/24			✓	

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
ADM	1/23			✓	1
LAW	1/24			✓	2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	Do NOT PASS	No REC	AMEND
	French			✓	
	Green			✓	
	Burde	✓			✓
CHAIR: 	Moore			✓	

**НВ**

**110**

**HFIN**

**FILE**



# FISCAL NOTE

STATE OF ALASKA  
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB110CS(L&C)-COM-RCA-05-05-07  
Bill Version: CSHB 110(L&C)  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_

Dept. Affected: Commerce

Title Extend Regulatory Commission of Alaska

RDU Regulatory Commission of Alaska (399)

Component Regulatory Commission of Alaska

Sponsor Labor & Commerce

Requester House Finance

Component No. 2417

**Expenditures/Revenues**

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services		5,364.6	5,364.6	5,364.6	5,364.6	
Travel		55.0	55.0	55.0	55.0	
Contractual		1,530.9	1,530.9	1,530.9	1,530.9	
Supplies		56.9	56.9	56.9	56.9	
Equipment		12.6	12.6	12.6	12.6	
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>7,020.0</b>	<b>7,020.0</b>	<b>7,020.0</b>	<b>7,020.0</b>	

**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		7,020.0	7,020.0	7,020.0	7,020.0	
<b>TOTAL</b>	<b>0.0</b>	<b>7,020.0</b>	<b>7,020.0</b>	<b>7,020.0</b>	<b>7,020.0</b>	

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

x

**POSITIONS**

Full-time	57	57	57	57	57
Part-time					
Temporary					

**ANALYSIS:** (Attach a separate page if necessary)

This legislation extends the Regulatory Commission of Alaska (RCA) to June 30, 2011. In accordance with AS 44.66.010(b), funding is extended one year following the termination date allowing the commission to conclude its affairs. This legislation also makes changes to the due date and content of a required report. These changes would not result in the need for additional resources to implement these provisions.

The RCA is funded through the Regulatory Cost Charge (RCC) mechanism and direct charges. 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 regulated industry.

Prepared by: Kate Giard, Chairman  
Division: Regulatory Commission of Alaska

Phone 907-276-6222  
Date/Time 5/5/07 5:01 PM

Approved by: Emil Notti, Commissioner  
Agency: Commerce, Community, and Economic Development

Date 5/5/2007



DEPARTMENT OF  
**COMMERCE**  
COMMUNITY AND  
ECONOMIC DEVELOPMENT

Regulatory Commission of Alaska

*Sarah Palin, Governor*  
*William C. Noll, Commissioner*  
*Kate Giard, Chairman*

December 6, 2006

Ms. Pat Davidson, Legislative Auditor  
Division of Legislative Audit  
PO Box 113300  
Juneau, AK 99811

Dear Ms. Davidson,

The Regulatory Commission of Alaska (RCA) received your Confidential Preliminary Audit Report on November 14, 2006. The Commissioners met in Executive Session on November 22, 2006, for the purposes of discussing the report and have formulated this response.

We believe a governmental agency must never stop trying to improve. It must never rest on its laurels or forget that just beyond the horizon lies a better way to do business, one that's more efficient, promotes greater accountability or enhanced transparency.

After three years of concentrated efforts, the RCA is a better, more efficient and responsive regulatory agency. Yet, our mission is not complete. We must strive to continually deliver an improved and balanced regulatory environment that achieves our statutory mandate of protecting the public interest. We are wholly committed to that goal.

This audit report delivers a straight-forward and comprehensive evaluation of the Agency. We appreciate the work of the legislative auditors who spent four months immersed in Alaska's complex regulatory environment. The resulting management letter includes three recommendations that are germane and timely. We will implement them without question.

We again thank Legislative Audit for a fair and honest evaluation and seek support of the Alaska Legislature for the recommendations contained therein.

Sincerely,

Kate Giard, Chairman



# UTILITY SERVICES OF ALASKA, INC.

PROVIDING ADMINISTRATIVE SERVICES TO  
COLLEGE UTILITIES CORP. AND GOLDEN HEART UTILITIES, INC.

January 26, 2007

Governor Sarah Palin  
State of Alaska  
Box 110001  
Juneau, AK 99811

RE: REGULATORY COMMISSION OF ALASKA SUNSET REVIEW

Dear Governor Palin:

Changes are needed to the Alaska Statutes regarding the Regulatory Commission of Alaska (RCA). I believe the following, at a minimum, is needed:

1. Reduce the statutory time allowed for rate cases from 15 months to 9 months, which is the time line for many other commissions (see Legislative Budget and Audit Report data for support).
2. Limit discovery by all parties in RCA matters. There is currently no limit.
3. Place Regulatory Affairs and Public Advocacy (RAPA) under the control of the RCA. It is now an independent agency with little or no oversight.
4. Raise both the qualifications and salary of the RCA Commissioners. Pay should be equal to that of Superior Court judges. The appropriate pay will attract qualified candidates.
5. Create within the RCA the position of Chief of Staff or Executive Director to exercise staff control and to act as a liaison with utility personnel.

## BACKGROUND

Our water and wastewater utilities serve more than 8,500 customers in the greater Fairbanks area which represents a population of over 50,000.

Our utilities are regulated by the Regulatory Commission of Alaska as to rates, regulations and service. We believe the level of service our utilities provide is of the highest quality. To bear this out, the RCA has received an average of less than six complaints per year from our customers for the past seven years. (This includes those related to rising rates).

Letter to Governor Palin  
January 26, 2007  
Page 2

As result of a rate filing stipulated March 19, 2003, our utilities were required by the RCA to file for, among other things, new rates that would levelize both water and wastewater rates between the two utilities, GHU and CUC, i.e., postage stamp rates, by August 1, 2005, based on a 2004 test year.

Our utilities made attempts to file early and to make the expected difficult process simpler, but did not succeed. With permission from the RCA, our complete filing was filed August 22, 2005. The filing was rejected for what we believed to be minor deficiencies. Commission staff informed us that they were directed to reject filings if at all possible to diminish work load and extend timelines.

The initial filing was split into three parts and the rate portion of the filing was finally accepted by the RCA on October 7, 2005. The statutory timeline of 15 months then started. A final decision was issued January 8, 2007, the last day of the statutory timeline, all based on a test year of 2004 for rates that should have been in effect for late 2005 and 2006.

At the point the filing was accepted, the real difficulties began. There were four intervening parties, including RAPA. Discovery took months with huge costs. The hearing was finally held in Fairbanks the last week of August 2006. In the meantime, as sales were sharply declining and costs sharply rising, our utilities attempted in January 2006 to supplement the October 7, 2005 filing to update it for new increased costs, and to correct some errors that had been made in the original filing. That supplemental filing was rejected so our utilities filed for additional rate relief June 5, 2006 based on a 2005 test year. Interim relief was granted in August 2006.

We received the final decision in the first case on January 8, 2007, more than four months after completion of the hearing in the matter. In the interim, the June 5, 2006 filing, with many of the same issues expected to be resolved by the January 8, 2007 decision, is now in the throes of discovery over many of the same issues.

Costs to our utilities alone in the 2004 test year case are more than \$1 million. These costs are for legal, consulting, rate of return experts, cost of service study contractors and other direct outside expenses. Utility staff time, which is substantial, is not included, nor are the costs of the interveners, including RAPA. The added revenue requirement being requested in the 2004 case is about \$2.3 million. Additionally, our 2005 test year case is now stacking up new costs. Discovery in the 2004 case consisted of several hundred requests resulting in approximately 15,000 pages being produced. The January 8, 2007 decision allowed recovery of only \$118,094/year for three years, of the \$1 million required to be spent.

We do not believe the regulatory process, as outlined above, serves our ratepayers, employees or shareholders. From our perspective, we believe the process is broken and in dire need of repair.

1. The statutory timeline is far too long. The process simply expands to fill the available time. In 2006, during RAPA discovery, items produced in early discovery, one to two months before reply testimony was due, were not examined until the same week reply testimony was due. We know this because our production of same was inadvertently incomplete! Upon discovering this omission and calling it to our attention (the week reply testimony was due), we produced correct documents within hours. To require four and half months to adjudicate case matters after hearing is too long. Many other jurisdictions have statutory or voluntarily utilize timelines of 9 or 10 months. The statute needs to be changed to 9 months. If a mistake is made either in favor of or against the utility, a prompt refiling can be made by the utility or required by the RCA. (See the results of the Legislative Budget and Audit review of the RCA for Sunset Review for supporting documents for reduced statutory timelines.) Rates need to be in effect during the computed time frame, not one to two years later.
2. Discovery is totally out of hand. The volumes of data requested by various parties, mostly RAPA and other interveners, is beyond analysis, with costs out of sight. There are basically no discovery rules in what has become a near court like affair. At the least, rules of discovery ought to be adopted similar to other legal venues, with an eye to limits on discovery both in time and amount.
3. RAPA was created by our late governor from the RCA's Public Advocacy Section, so the governor could exercise control over pipeline regulation. This change was ill conceived at best. RAPA is now responsible to no one. It appears to be run by the Attorney General even though control ought to in part be exerted by the RAPA staff section head. This appears not to be the case. RAPA contributes to large costs, case delays, and huge difficulties for the RCA. The RAPA group needs to be brought back under the control of the RCA so someone can exercise oversight.

Informal discussion and discovery during RCA proceedings is almost non-existent. The process is controlled by attorneys and a utility almost never really gets to "tell its story". This lack of dialog between the utilities and the RCA must change. Dialog must be required by statute, especially during the time between initial filing and suspension. Settlement discussions need to be mandated by statute.

4. Commissioner's current pay levels are about \$85,000/year and are set by the legislature. Qualifications are not set at a high bar. This is wrong. Pay should be set at a higher level and automatically adjusted when other state salaries are adjusted. Superior Court judge levels are an appropriate place to start. Qualifications ought to be at the level of

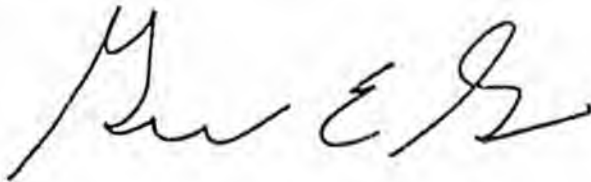
Letter to Governor Palin  
January 26, 2007  
Page 4

Masters in Business Administration, professional engineers, a senior attorney, or similar high qualifications.

5. The RCA staff does not really have a leader. The Commission Chair, which rotates, tries to do this but considering adjudicative and hearing duties, this is very difficult. Consequently, staff memo/analysis/decisions reached during the 45 day timeframe before statutory suspension are often times not properly reviewed, analyzed or thought out. The RCA needs a chief of staff or an executive director through which this control can be exercised. This should be spelled out by statute. This could alleviate the ex parte issue.

The continuing health of the state's utilities along with a balance to protect ratepayers demands that these issues be addressed.

Sincerely,



George Gordon  
Director of Regulatory Affairs

cc: Senator Gene Therriault  
Senator Joe Thomas  
Senator Gary Wilken  
Representative David Guttenberg  
Representative Scott Kawasaki  
Representative Michael "Mike" Kelly  
Representative Jay Ramras  
Representative John Coghill Jr.

# ALASKA STATE LEGISLATURE

## LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P.O. Box 113300  
Juneau, AK 9811-3300  
(907) 465-3830  
FAX (907) 465-2347  
legaudit@legis.state.ak.us

November 8, 2006

Members of the Legislative Budget  
and Audit Committee:

In accordance with the provisions of Title 24 and Title 44 of the Alaska Statutes (sunset legislation), the attached report is submitted for your review.

DEPARTMENT OF COMMERCE, COMMUNITY, AND  
ECONOMIC DEVELOPMENT  
REGULATORY COMMISSION OF ALASKA  
SUNSET REVIEW

October 20, 2006

Audit Control Number

08-20048-06

This audit was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). Alaska Statute 44.66.050(c) lists criteria to be used to assess the demonstrated public need for a given board, commission, agency, or program subject to the sunset review process. Currently, under AS 44.66.010(a)(3), the Regulatory Commission of Alaska is scheduled to terminate on June 30, 2007.

In our opinion, the termination date for this commission should be extended. We recommend the legislature extend the termination date to June 30, 2015.

The audit was conducted in accordance with generally accepted government audit standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are discussed in the Objectives, Scope, and Methodology.

Handwritten signature of Pat Davidson.

Pat Davidson, CPA  
Legislative Auditor

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## OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Title 24 and Title 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Regulatory Commission of Alaska (RCA or commission). Under AS 44.66.050(a), the legislative committees of reference are to consider this report during the legislative oversight process to determine whether the commission's termination date should be extended. Currently, AS 44.66.010(a)(3) requires the commission to terminate on June 30, 2007. If the legislature takes no action to extend the termination date, the commission will have one year from that date to conclude its operations.

### Objectives

The following are the three central, interrelated objectives of our report:

1. To determine if the termination date of the commission should be extended.
2. To determine if the commission is operating in the public's interest.
3. To determine if the commission has exercised appropriate oversight of certificated utilities and pipeline companies.

The assessment of operations and performance of the commission was based on the 11 factors set out at AS 44.66.050. Under the State's "sunset" law, these factors are to be used in assessing if an agency, subject to the law, has demonstrated a valid public policy need for continuing operations.

### Scope and Methodology

The major areas of our review included:

- assessment of management controls,
- compliance with statutory deadlines for certain formal proceedings,
- compliance with statutory notice periods for tariff filings,
- compliance with public notice requirements,
- evaluation of the regulation adoption process, and
- review of the consumer protection activities.

Our audit reviewed operations and activities of the commission from July 2002 through June 2006 (FY 03 – FY 06).

Our review of the major areas was supplemented with information obtained from individuals employed by, or representing, the regulated utilities and pipeline companies. Two surveys were conducted. The surveys consisted of various questions soliciting the opinions of these groups about the operations and decision making processes of RCA.

One survey was sent to a sample of individuals who were involved in docket<sup>1</sup> proceedings. Topics in this survey included: statutory timelines, communication of the statutory deadline for docket proceedings, timeliness of dockets without statutory timelines, the hearing process, statutes, regulations, RCA's overall operations, and usability of the commission's website. A sample of 77 individuals<sup>2</sup> was selected from the service list attached to each docket's final or last order. Twenty-six of the 77 (34%) individuals surveyed responded.

Another survey was sent to a sample of individuals from the regulated entities that had interactions with RCA's consumer protection section. Topics in this survey included: RCA's informal complaint process, regulations, RCA's overall operations, and the usefulness of the commission's website. A non-probability sample of 29 individuals was selected from a list<sup>3</sup> of contacts provided by the consumer protection section staff. Fifteen of the 29 (52%) individuals surveyed responded.

We evaluated dockets and tariff filings to determine that: 1) dockets were processed within the applicable, if any, statutory timelines or within tariff statutory notice periods; 2) certain data maintained in RCA's database systems is reliable; and 3) RCA provides adequate public notice of commission meetings, docket proceedings, and tariff filings.

Our evaluation covered dockets opened on or after July 1, 2002 through May 10, 2006. We excluded pipeline dockets since those proceedings have no statutory timelines. The total number of dockets in our population was 465. We tested a randomly-selected statistical sample of 35 dockets. We also reviewed all final decisions of rule-making<sup>4</sup> dockets closed during the period to ensure the closure was within statutory timelines.

In addition, RCA had 367 pending dockets at the end of FY 02. During our audit period, there were 796 dockets closed, including those pending at the end of June 2002. Of the 796, 211 were dockets on utility matters that had an associated statutory timeline.<sup>5</sup> We sampled 25 of these utility dockets to confirm closures were based on decisions on substantive issues.

Our scope for tariff filings included those filed on or after July 1, 2002 through June 8, 2006. We excluded tariff filings that were withdrawn or suspended and those that were related to

<sup>1</sup> The term docket is used by RCA to refer to a formal proceeding before the commission.

<sup>2</sup> Forty-nine individuals were involved in utility dockets, 20 were involved in pipeline dockets, 7 were involved in both utility and pipeline dockets, and the remaining one was the public advocate in the Department of Law.

<sup>3</sup> Although, the list did not consist of all the utilities and pipelines regulated by RCA, they included companies that the consumer protection section had regular contact with during the audit period.

<sup>4</sup> A rule-making docket is a matter in which RCA considers certain additions, deletions, or amendments to its regulations.

<sup>5</sup> We excluded dockets already reviewed in our statistical sample.

quarterly or annual adjustments.<sup>6</sup> The total number of tariff filings in our population was 915. We tested a non-probability sample of 35 tariff filings.

During our field work, we also:

- Assessed the adequacy of management controls over the docket and tariff filing processes
- Reviewed RCA's mandated quarterly reports to the legislature
- Evaluated the reliability of certain data maintained in the commission's databases
- Analyzed consumer complaints against utilities filed with the commission
- Reviewed applicable statutes and regulations
- Contacted the state ombudsman, the office of victims' rights, the Alaska State Human Rights Commission, the U.S. Equal Employment Opportunity Commission, the Alaska Labor Relations Agency, and the equal employment opportunity staff within the Department of Administration
- Reviewed proposed legislation and related testimony
- Interviewed commissioners, RCA staff, and management of regulated entities
- Researched other states' regulatory commission websites, statutes, and regulations
- Reviewed RCA's annual reports and operational performance measures
- Analyzed the expenditures of the commission and appropriations of the regulatory cost charges paid by the regulated entities
- Read RCA's transcripts of certain public meetings and hearings as well as related commission decisions

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<sup>6</sup> These tariff filings included adjustments due to power cost equalization allocations and RCA's regulatory rate charges.

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## ORGANIZATION AND FUNCTION

The Regulatory Commission of Alaska (RCA or commission) was created July 1, 1999, upon reorganization of the Alaska Public Utilities Commission by Chapter 25, SLA 1999. Under state law, RCA is responsible for ensuring safe, adequate, and fair public utility and pipeline services. This is to be done by allowing regulated entities to charge users rates and provide service in a manner consistent with the interests of both the public and regulated entity. The commission has the authority to adopt regulations and to hold formal, quasi-judicial hearings to accomplish these purposes.

RCA regulates pipeline, telephone, electric, natural gas, water, sewer, refuse, cable TV, and steam services. All pipelines, and all other public utilities with ten or more customers, are regulated by the certification process. A public utility or pipeline company must obtain a certificate of public convenience and necessity, which describes the authorized service area and scope of operations. A certificate is issued upon the commission formally finding the applicant to be fit, willing, and able to provide the service requested.

Besides the certification process, RCA also may economically regulate the rates, classifications, rules, regulations, practices, services, and facilities of public utilities and pipeline companies covered by statute. Utilities are subject to the RCA certification process but many are exempt from more extensive economic regulation. As of August 2006, there were 630 active certificated entities. Of these 149 were economically regulated. Exhibit 1 is a summary, by service type, of the economically regulated entities.

The commission consists of five commissioners appointed by the governor and confirmed by the legislature. The commissioners must either be a member of the Alaska Bar Association or have a degree in engineering, finance, economics, accounting, business administration, or public administration from an accredited college or university. The commissioners serve six-year terms. (See Exhibit 2 for the current commissioners and their terms.)

### Exhibit 1

#### RCA Economically Regulated Certificates by Service Type

Telecommunications	63
Electric	32
Pipeline	19
Refuse	13
Water	11
Gas	6
Sewer	3
Cable TV	2

### Exhibit 2

#### Regulatory Commission of Alaska Members

Kate Giard, Chair Term Expires March 2007
Anthony Price Term Expires June 2010
Mark Johnson Term Expires March 2009
Dave Harbour Term Expires March 2008
Jan Wilson Term Expires March 2012

The staff of RCA is organized around six major functions: administration, finance, tariff, engineering, common carriers, and consumer protection. RCA had 60 funded positions<sup>7</sup> in its \$6 million FY 06 operating budget. A brief description of the services provided by each function is as follows.

- Administration: This function is responsible for fiscal and personnel administration, budget preparation, and records management - including the case management system. The commission chair is responsible for this function and is aided by an administrative manager, a commission section manager, an advisory section manager, documents processing and accounting personnel, and other clerical support staff.
- Finance: This function examines, analyzes, and evaluates financial statements submitted for rate cases. The finance staff audits financial records of utilities and pipeline companies and examines historical operating year data and pro forma adjustments. These analyses are presented at proceedings before the commission.
- Tariff: This function examines, analyzes, and investigates tariff filings and presents recommendations to the commission at biweekly tariff action meetings. Administrative duties include organizing those meetings, ensuring that public notice requirements on tariff filings are met, and maintaining current master tariffs for all utilities.
- Engineering: This function is responsible for certification proceedings and the investigation of utility and pipeline company procedures and practices affecting service quality. The engineering staff also reviews legal descriptions for service areas, plans for plant expansion, and plant-in-service and depreciation schedules. These analyses are presented in proceedings before the commission.
- Common Carriers: This function develops, recommends, and administers policies and programs with respect to the regulation of rates, services, accounting, and facilities of communications common carriers within the State involving the use of wire, cables, radio, and space satellites.
- Consumer Protection: This function investigates and resolves informal consumer complaints, and is responsible for public affairs and media relations as well as responding to information requests.

As of July 2003, the responsibility of public advocacy for regulatory affairs was transferred to the Department of Law. The regulatory affairs and public advocacy section advocates on behalf of the public in utility matters that come before RCA. Regulatory cost charges from the regulated entities continue to fund the public advocate function.

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<sup>7</sup> This total does not include the assistant attorney general that the Department of Law furnishes to RCA through a reimbursable services agreement.

Exhibit 3 below, summarizes RCA's expenditures for the past four fiscal years. The funding source for almost all of these expenditures was the regulatory cost charges paid by the regulated entities. Beginning with FY 04, the expenditures for the public advocacy function, relocated to the Department of Law, are excluded from the amounts shown.<sup>8</sup>

Exhibit 3				
Regulatory Commission of Alaska				
Summary of Expenditures				
FY 03 - FY 06				
Expenditures	FY 03	FY 04	FY 05	FY 06
Personal Services	\$3,896,539	\$4,005,622	\$3,764,473	\$3,582,676
Travel	53,081	55,359	50,747	89,370
Contractual	1,756,621	2,001,549	1,377,995	1,657,384
Supplies	50,501	54,555	81,610	129,847
Equipment	134,579	85,536	-0-	74,764
Total	<u>\$5,891,321</u>	<u>\$6,202,621</u>	<u>\$5,274,825</u>	<u>\$5,534,041</u>

Source: RCA's FY 03 annual report and the State's accounting system.

<sup>8</sup> The regulatory affairs and public advocacy section within the Department of Law received \$1 million in FY 04 from RCA and then was appropriated, from fees paid by regulated entities, \$1.3 million and \$1.4 million, respectively in FY 05 and FY 06.

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## BACKGROUND INFORMATION

The Regulatory Commission of Alaska (RCA or commission) is currently working on two significant projects: the 2005 improvement initiative project and the development of a regulatory program for small hydropower projects within the State. The following is a brief summary of each of these projects.

### 2005 Improvement Initiative Project

In March 2005, the commission began what it termed, the 2005 improvement initiative project. The three primary goals of the project were to improve RCA's transparency, accountability, and operational efficiency. In order to achieve these goals, the commission identified four primary objectives:

1. To improve the regulatory environment for pipeline companies by partnering with them to jointly identify areas where RCA processes could be improved.
2. To improve the regulatory environment for utilities by meeting with key regulated industries to understand their view of RCA's oversight processes. Part of this effort would be to involve the utilities in setting priorities for regulation and statute changes, identifying the needs for a case management information system, and modifying RCA business practices.
3. To improve the internal operating and management structure of the commission.
4. To implement an integrated case management system with a web portal to allow access by the regulated entities.

RCA's actions under the first three objectives are discussed throughout the Findings and Recommendation and Analysis of Public Needs sections. The following discussion relates to the progress in the implementation of a case management information system.

### *Internet Integrated Case Management System*

In late 2004, RCA began a series of meetings and workshops asking the public and the regulated entities what information technology improvements they believed were needed for the commission. A working group was formed of individuals from the regulated entities to better define RCA's system needs.

As a result of this process, in 2005 RCA began several information technology projects. In 2006 the commission issued a request for proposals to obtain an integrated case management system. The star system, proprietary software of an information technology company known as ACO, was selected. In response to inquiries from the various entities regulated by RCA,

the commission established a user committee of volunteers. The user committee members also solicited feedback from other utilities, pipeline companies, and organizations that interact with RCA.

The user committee's objective was to develop the conceptual framework that would allow each regulated entity access to a web-based portal, secured by a password, through which all business interactions with RCA could be transacted electronically. The budget for the new case management system and the web-based portal is approximately \$2.25 million. It is anticipated that these projects will be completed by the end of 2006.

#### Regulation of smaller scale hydropower projects

RCA is in the process of establishing a regulatory program for small hydropower projects that are currently regulated by the Federal Energy Regulatory Commission (FERC). In 1999, federal legislation was adopted that provided for the phasing out of FERC's role in Alaska involved with licensing and regulating hydropower projects of less than 5,000 kilowatts.

The main reason for transfer of such authority from FERC to state regulation was that "*Alaska presents special circumstances that favor local control over projects.*"<sup>9</sup> In the view of congress, state regulation would be timelier and less costly for both the current operators of the small hydropower projects and entities seeking initial approval for project construction. Transfer of this authority was contingent on the State developing a regulatory process that met certain requirements and was approved by FERC.

In 2002, the state legislature adopted legislation<sup>10</sup> giving RCA authority to develop regulations as part of establishing a regulatory program for small hydropower projects within the State.<sup>11</sup> RCA opened a rule-making docket in December 2003 to begin the process of developing a regulatory program. A stakeholder advisory committee was formed and numerous committee meetings, workshops, and public meetings were held.

Proposed regulations were issued for public comment in April 2005. Although rule-making dockets are to be closed by a final order within 24 months, RCA exercised its discretion to extend the deadline by 90 days. In March 2006 the commission was still not prepared to adopt the regulations. At the commission's public meeting, RCA's assigned assistant attorney general advised that

*... [state law]... says [the commission] shall issue a final order in a rule-making proceeding... not later than 24 months after a petition of the regulation has been filed. ...my advice to [the commission is] that you have to follow that provision and*

<sup>9</sup> Calendar No. 65, 106<sup>th</sup> Congress, Committee on Energy and Natural Resources report to the Senate on S. 422.

<sup>10</sup> Chapter 107, Session Law 2002

<sup>11</sup> Not included for state regulation are certain projects licensed or exempted under federal law before November 9, 2000.

*issue a final order.... That is not obligating you to adopt the regulations, it's simply issuing a final order that would terminate the proceedings.*

Accordingly, at the end of March 2006, RCA ordered the rule-making docket closed. In the final order the commission stated a new rule-making docket would be opened and the entire record of the closed docket would be incorporated into the new docket. As of the date of this report a new docket has not been opened. Due to the size and complexity of this regulation project, RCA is contracting for an attorney to assist in revising the proposed regulations.

Once the regulations have been edited, and a new docket opened, RCA intends to hold public meetings on the revised proposed regulations. The regulations would then be further revised as necessary, adopted, and submitted to the governor for eventual transmittal to FERC. The federal agency then has a year for its review. Only after FERC has approved RCA's regulatory program can the State take over regulatory responsibilities. The RCA chair anticipates this process will take approximately two more years from the date of the order for the additional public hearings.

In FY 07, RCA received a \$150,000 appropriation from the State's general fund to continue the process of developing the small hydropower regulatory program. The costs associated with the project prior to FY 07, approximately \$207,000 have been funded through RCA's regulatory cost charges from the current regulated entities.

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## REPORT CONCLUSIONS

In developing our conclusion whether the termination date of the Regulatory Commission of Alaska (RCA or commission) should be extended, we evaluated commission operations using the 11 factors set out at AS 44.66.050. Under the State's "sunset" law, these factors are to be used in assessing if an agency, subject to the law, has demonstrated a valid public policy need for continuing operations. As discussed in the Findings and Recommendation section, we identified areas where regulation changes could improve RCA's efficiency and accountability. Given the quasi-judicial nature of how RCA operates, we recognize making these proposed regulation changes may be time consuming and attract extensive scrutiny and challenge by various parties that interact with RCA.

In our opinion RCA meets a valid public policy need and is serving Alaskans by: (1) assessing the capabilities of utility and pipeline companies to safely and capably serve the public; (2) evaluating tariffs and charges made by regulated entities; (3) verifying the pass-through charges to consumers from electric and natural gas utilities; (4) adjudicating disputes between ratepayers and regulated entities; (5) providing consumer protection services; and, (6) performing financial reviews of utilities for the State's power cost equalization program. RCA has demonstrated the commission serves a public need. Under AS 44.66.010(a)(3), RCA is scheduled to terminate June 30, 2007. We recommend the legislature adopt legislation extending RCA's termination date to June 30, 2015.

(Intentionally left blank)

## FINDINGS AND RECOMMENDATIONS

In our previous sunset audit,<sup>12</sup> we made three recommendations. The first recommendation was for the Regulatory Commission of Alaska (RCA or commission) to propose legislation to clarify statutes imposing statutory timelines on certain proceedings. In 2002 legislation extending the termination date for RCA, the legislature adopted statutes setting specified timelines for the commission to follow in making certain kinds of decisions. The statutory timelines apply to about half of the regulatory decisions made by the commission. In Recommendation No. 1, of this review, we recommend the commission consider adopting further timelines for other actions not covered in statute.

A second recommendation stated RCA's chair should ensure that publication of notices of formal proceedings is monitored. While there are still some operational deficiencies with ensuring all discretionary public notices have appropriately been made, RCA consistently meets basic public notice requirements related to its decision making process. The concerns related to this prior audit recommendation have substantially been addressed.

The third prior recommendation suggested RCA either require smaller water and sewer utilities to be certificated or establish a meaningful exemption system by regulation. RCA adopted the necessary regulations in February 2004.<sup>13</sup>

The following recommendation is based on the current sunset review.

### Recommendation No. 1

RCA should proceed with the development of regulations that would enhance the transparency, accountability, and efficiency of the commission's decision making process.

In late 2004, RCA held public meetings inviting comments on possible regulation changes that would improve the way in which the commission operated. In the early part of 2005, based on comments from staff in addition to those received from regulated utilities and pipeline companies at the 2004 meetings, RCA adopted a regulation projects plan. This work plan is reviewed on a regular basis. Many of the projects would establish more accountability standards for RCA operations.

In the course of our review, we identified three areas where adoption of regulations would promote improved efficiency, accountability, and transparency of RCA's decisions. All areas

<sup>12</sup> Department of Community and Economic Development, Regulatory Commission of Alaska, *Sunset Review*, November 26, 2002, Audit Control No. 08-20021-03.

<sup>13</sup> These regulations became effective June 19, 2004.

#### Exhibit 4

#### Statutory Timelines

In a special session in June 2002, legislative committees conducted extensive oversight hearings that focused on RCA's workload and the regulated utilities' complaints of slow processing of their requests. The legislature responded to these complaints by enacting statutory timelines for RCA decisions in several categories of utility regulatory matters. The addition of AS 42.05.175 provided, in part, the following:

- (a) *The commission shall issue a final order not later than **six months** after a **complete application** is filed for an application...*
- (b) *... the commission shall issue a final order not later than **nine months** after a **complete tariff filing** is made for a tariff filing that does not change the utility's revenue requirement or rate design.*
- (c) *... the commission shall issue a final order not later than **15 months** after a **complete tariff filing** is made for a tariff filing that changes the utility's revenue requirement or rate design.*
- (d) *The commission shall issue a final order not later than **12 months** after a **complete formal complaint** is filed against a utility or, when the commission initiates a formal investigation of a utility without the filing of a **complete formal complaint**, not later than **12 months** after the order initiating the formal investigation is issued.*
- (e) *The commission shall issue a final order in a rule-making proceeding not later than **24 months** after a **complete petition** for adoption, amendment, or repeal of a regulation...*
- (f) *The commission may extend a timeline required under (a) - (e)... if all parties of record consent to the extension or if, for one time only, before the timeline expires, the*
  - (1) *commission reasonably finds that good cause exists to extend...*
  - (2) *commission issues a written order extending the timeline and setting out its finding regarding good cause; and*
  - (3) *extension of time is 90 days or less.*
- (g) *The commission shall file quarterly reports with the Legislative Budget and Audit Committee identifying all extensions ordered under (f)(2)...*  
**[emphasis added]**

we identified for improvement were included in the commission's 2005 regulation projects plan – although as of the date of this report, the commission has not started the process of developing the necessary regulations. Our identified improvement areas include: (1) establishment of additional timelines; (2) adoption of rules related to discovery; and (3) defining when a record is considered complete and the given timeline starts. Further discussion of these issues is as follows:

1. Establishing timelines for matters not covered by statute. In 2002, legislation was passed imposing statutory timelines on certain matters that come before the commission. (Refer to Exhibit 4.) However, these timelines apply to about half of the matters decided by RCA, leaving many filings and applications submitted to the commission without any formal, widely recognized timelines. This ongoing concern about timeliness was also reflected in almost half of survey responses received from representatives of regulated entities.

Our review of RCA's decisions indicated the commission is consistently meeting the timelines set out in statute. This demonstrates RCA is committed to being as timely as possible. We urge the commission to take the additional step of putting timelines, for the actions not covered by statute, into regulation.

2. Establishing standards for certain aspects of discovery. Part of the prehearing process, during which each party requests relevant information and documents from opposing parties, is termed discovery. Each side is attempting to discover pertinent facts. Generally, discovery devices include depositions,<sup>14</sup> requests for admissions,<sup>15</sup> interrogatories,<sup>16</sup> document production requests, and requests for inspection. Excessive discovery requests during the course of a proceeding can be used as a tactic to drive up the legal costs for the opposing party. Additionally, extended discovery may contribute to longer proceedings, which runs counter to the central intent behind statutory timelines adopted in recent years.

In past years, the merits and possibility of placing some limits on discovery has been raised in public meetings between RCA commissioners, utility managers, and attorneys that specialize in regulation law. In comments received from respondents to our survey, the need for discovery guidelines and the use of what is termed "informal" discovery were listed as current suggestions for improvement. Under current regulations RCA does have the authority, on a case-by-case basis, to adopt procedural rules limiting the nature and extent of discovery.<sup>17</sup>

<sup>14</sup>Depositions are proceedings in which a witness or party is asked to answer questions under oath before a court reporter.

<sup>15</sup>A request for admission is a request to a party that they admit certain facts. One party sends the other a request for admission so that issues, the parties agree upon, can be resolved and not have to be proven at hearing.

<sup>16</sup>Interrogatories are written questions sent by one party to the other for the latter to answer in writing under oath.

<sup>17</sup> See 3 AAC 48.091(d). Rulings that specifically limit certain aspects of discovery are typically set out in an order during the early part of a proceeding. RCA occasionally issues orders limiting discovery, typically doing so only if one of the parties make a request to do so, and can make a persuasive argument.

State court rules limit the number of interrogatories in civil matters to 30. Federal civil procedure rules limit interrogatories to 25. Many regulatory authorities in other states have adopted rules related to discovery. In such situations where limits are imposed, provisions are typically made to allow parties to seek additional discovery. To do so, however, a party wanting more discovery must convince the adjudicative authority (judge, commissioner, hearing officer, etc.) to suspend or expand the established limits. If similar rules were in place at RCA, a party making an extensive discovery request would first have to justify the need for a larger request.<sup>18</sup>

There is a need to balance due process against efficiency. There may be times when exceptions to an established standard may have to be made. However, there is merit in RCA's consideration of limiting some aspects of the discovery process in the interest of promoting more efficient proceedings. Adoption of such rules by RCA would shift the burden of justifying broad discovery requests to the requesting party.

3. Clarifying terms used in statute that relate to established timelines for certain formal proceedings. State law, in setting timelines for various RCA proceedings, refers to various matters as being "complete" before the related, specified time period begins. Terms such as "*complete application*," or "*complete tariff filing*" serve as reference points that trigger the deadline for a given decision. (See Exhibit 4.) The statute states that a request from the regulated entity is complete when all requirements are complied with under RCA's statutes, regulations, and adopted forms.

However, the determination of completeness is made informally by the advisory section staff rather than by a written decision of the commission. A more formal process performed by the commissioners or administrative law judges, rather than the current delegation to staff, would provide greater clarity to the regulated entities as to the completeness of their requests.

Over a quarter of the respondents to our survey said they were not informed by RCA as to what the deadline date was for their particular matter of interest. Although the date a matter is first opened may be clear, it is often some time before the filing is considered complete. Determining when the initial filing is complete involves subjective judgment on the part of RCA staff. In evaluating RCA's compliance with the timeline provisions, we occasionally saw where the date—when a filing was considered complete—was sometimes changed upon further review of the file.

RCA's determination of the trigger date of the statutory timeline, the date of completeness, is a point on appeal in several cases in front of the Superior Court initiated during the audit period. Legal filings and responses in the RCA hearing process and

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<sup>18</sup> A current proceeding provides an example of where discovery appears to be unreasonable. A regulated utility received five requests from an opposing party that involved developing responses to between 1,800 and 2,200 interrogatories (the count varying depending on how one chose to count various question sub-parts).

appeals of RCA decisions may be limited by adoption of such regulations. Clarification of what determines completeness, and the process to document and communicate the completeness date, could limit this as a point of contention.

If RCA adopted regulations to define when an initial application, filing, complaint, and petition are complete such action would enhance the transparency and accountability of the commission's deliberative process. Alternatively, the commission could develop the practice of issuing an order to memorialize the date of when the initial record is considered complete. Such an order date could be integrated into the commission's interactive internet web portal and all parties to a given matter would be on notice as to the deadline date for a given matter's final decisional order.

The commission has been very proactive in soliciting feedback from the public, and the utility and pipeline companies, which are involved with RCA on an ongoing basis. While this process has identified key areas where RCA could improve its operations, the priority for implementation has to date been given to other matters. For the three issues discussed—directly related to promoting efficiency, accountability, and transparency of RCA's decision making—we recommend that the commission take the next step and schedule the necessary hearing dockets.

(Intentionally left blank)

## ANALYSIS OF PUBLIC NEED

The following analyses of commission activities relate to the public need factors defined in AS 44.66.050(c). These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

*Determine the extent to which the board, commission, or program has operated in the public interest.*

The Regulatory Commission of Alaska (RCA or commission) operates in the public interest in a wide variety of ways. The commission identifies its core services as including:

1. certification and economic regulation of utilities and pipeline companies;
2. assisting in the administration of the State's power cost equalization program;
3. review of tariffs;
4. resolution of disputes among service providers in various regulated industries;
5. consumer protection;
6. refinement of the State's utility regulatory framework; and,
7. serving as a technical resource for legislative and administrative decision makers.

In carrying out its responsibilities, RCA acts much of the time in a quasi-judicial manner. Accordingly, decisions must be supported by findings of fact, and the findings of fact must be based solely upon the evidence as it appears in the record of a given proceeding. RCA continues to be very concerned about affording all parties to a given decision appropriate due process, while at the same time being responsive to concerns about the timeliness of its decision making process.

RCA's efforts at resolving consumer complaints with regulated utilities also serve the public interest. The commission resolves most informal complaints within 30 days. Most of the regulated entities responding to our survey reported they were satisfied with the complaint resolution process.

RCA has responded well to legislative concerns about timeliness. In 2002, after extensive oversight hearings, the legislature put into statute specific time periods for RCA to follow in making various decisions. We reviewed 35 tariff filings and 35 formal proceedings. In no instance did RCA take longer than permitted, by statute, to make a given decision.

As discussed in Background Information, RCA did issue a final order to close a rule-making docket prior to completing the development of regulations related to hydropower projects.

While such action allowed the commission to technically comply with the established timeline, the central intent of the statute was circumvented. The commission continues to work on developing the regulations and does intend to reopen a formal docket in the future to adopt the necessary regulations.

*Determine the extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices that it has adopted, and any other matter, including budgetary, resource, and personnel matters.*

RCA's system, used to monitor progress of various hearing dockets and ensure impending deadlines are met, is adequate in promoting the issuance of timely decisions.<sup>19</sup> Such a system serves to prevent the triggering of default actions as provided for under the statutes for late decisions.

There is a lack of clarity about when timelines for certain decisions, as provided for in statute, actually begin. The time period for a decision begins when the initial record related to a proceeding is complete. However, there is no formally established definition in policy or regulation about when the initial record is complete. Determination of completeness is critical to designating when a given time period starts. Additionally, from a survey of selected parties involved with RCA proceedings, over a quarter of the respondents reported they had not been informed of any established deadline date related to their matter that fell under the statutory timelines.

Almost half of the survey respondents involved with proceedings not covered by a statutory deadline believed the length of time it took to resolve their matters was unreasonable. For survey respondents involved in pipeline proceedings, which are not covered by any statutory deadline, 60 percent believed the length of time for such proceedings was unreasonable. As discussed in Recommendation No. 1, we encourage the commission to develop regulations that establish timelines for matters not covered by state law.

*Determine the extent to which the board, commission, or agency has recommended statutory changes that are generally of benefit to the public interest.*

RCA commissioners provided testimony regarding the impact that 2003 legislation would have on commission operations. The legislation clarified state law related to the regulation of pipelines. The legislation expanded RCA's authority to regulate rates charged to customers for natural gas transported through any pipeline in the State, where previously such authority had been limited to a designated natural gas pipeline.

<sup>19</sup> There are three components of RCA's system. First, each matter filed with RCA is assigned to a responsible "docket manager" who monitors subordinates' progress in preparing the matter for decision. Second, the RCA commission section manager maintains a database to monitor workflow and to continually advise the commissioners and staff as to the needed allocation of resources. Thirdly, weekly meetings with the RCA chair, administrative law judges, and staff are held to review the status of all open dockets.

According to testimony, RCA worked with the Department of Law to assist in developing 2004 legislation that provided for assessments to fund the public-advocacy function related to utility and pipeline regulation. This function was transferred from RCA to the Department of Law by Executive Order #111. The legislation clarified RCA's authority under the Executive Order and provided for independence between the commission and the public-advocate function.

RCA testified about the impact proposed 2005 legislation would have on commission operations. The legislation would have permitted privately owned utilities to be eligible for certain state water and sewer infrastructure grants. Grant eligibility under the legislation would have been contingent on the recipient utilities remaining under RCA's regulatory oversight. The legislation was adopted by the House but not the Senate.

RCA testified in hearings related to proposed 2005 legislation exempting certain water and sewer utilities from regulation. More specifically, the proposed legislation exempted such utilities owned by local governments, if the utility did not compete with a regulated utility. RCA's chair testified the commission could support the legislation if certain safeguards were in place to protect the affected consumers of the utility. Under the final draft of the legislation, RCA's chair would have been charged with reviewing the existence and appropriateness of such safeguards. If the chair determined the measures were adequate, the commission would notify the administration that the utility was exempt from RCA's regulation. The legislation was adopted by the House but not the Senate.

*Determine the extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service that it has provided.*

RCA affords the public the opportunity to speak at publicly noticed meetings of the commission. The quasi-judicial manner in which RCA operates provides extensive opportunity for all interested and affected parties to informally and formally respond to proposed regulations and decisions.

In addition, as part of its operating mission, RCA has an active consumer protection function which provides utility customers an avenue to seek resolution of complaints. RCA generally tries to resolve disputes between customers and utilities informally, before opening a formal complaint.

**Exhibit 5**

**Consumer Complaints  
Filed with RCA during FY 06**

	Number Filed	Percentage Of Total Complaints
Telecommunications	247	60%
Electric	91	22%
Water / Sewer	34	8%
Natural Gas	20	5%
Refuse Collection	18	4%
Cable Television	5	1%
Totals	415	100%

As reflected in Exhibit 5 on the previous page, RCA opened 415 formal complaints in FY 06. RCA resolved almost 90 percent of these complaints within 30 days. Additionally, almost 90 percent of the respondents to our survey, who were involved with the informal complaint resolution process, reported they were satisfied or very satisfied with the process.

RCA uses a variety of methods of notifying the public of formal proceedings. All notices appear on the commission's and the State's website. Notices are also placed in newspapers in the affected regions of the State, posted at the local post office, or included with utility customer billings.

*Determine the extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.*

RCA's internet website is another tool that is instrumental for communicating with the public. Besides notices of upcoming meetings, formal actions are posted along with the commission's annual reports, discussions of major regulatory issues, and a forum is provided for public comment. The process for filing a consumer complaint is explained and visitors to the website can subscribe to direct e-mail notices related to specific topics of interest.

Survey respondents report that RCA's internet website is easy to use for finding sought after information and the site provides sufficient information regarding dockets and filings. RCA makes a computer terminal available at its office for the public to use for researching commission records. As discussed in Background Information, the commission sought and facilitated the formation of stakeholder groups to assist in the process of developing regulations for smaller hydropower projects. The commission has often used this consensus-building approach in developing regulations and making certain operational decisions.

In December 2004, in response to frustrations voiced by pipeline companies, the commission began holding informal meetings with certificated companies. The meetings developed a listing of suggestions about how the oversight process for pipelines could be improved. In March 2005, a follow-up meeting was held that documented the steps RCA had already taken and the commission's strategy to further address the concerns of the companies. These efforts should be continued to improve the commission's regulation of pipelines.

RCA has used a public process to identify priorities for possible changes in regulations. Beginning in late 2004, commissioners solicited suggestions from staff, the public, and regulated entities about what regulations should be amended or adopted. At a January 2005 public meeting, RCA adopted a list of 11 proposed regulation projects. (See Recommendation No. 1.)

*Determine the efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of victims' rights or the office of the ombudsman have been processed and resolved.*

The state ombudsman and the office of victims' rights report receiving no complaints about RCA since our previous sunset review four years ago.

RCA orders and decisions are subject to appeal to the state courts. Since the prior sunset review, 26 of the commission's final orders reflecting docket decisions have been appealed to the State's Superior Court. The Superior Court has remanded three of the decisions back to RCA for further proceedings.

Additionally, the State's Supreme Court has issued decisions related to four RCA docket decisions, resulting in one decision being remanded back to RCA for further proceedings.

*Determine the extent to which a board or commission that regulates entry into an occupation or profession has presented qualified applicants to serve the public.*

As discussed in Organization and Function, "entry" into the provision of public utility services or the operation of a pipeline is regulated through the issuance of a certificate of public convenience and necessity. A public utility or pipeline carrier must obtain from RCA a certificate of public convenience and necessity, which describes the authorized service area and scope of operations. A certificate is issued upon the commission formally finding the applicant to be fit, willing, and able to provide the service requested. The commission generally regulates the rates, services, and practices of these entities.

To that end, RCA employs utility financial analysts and utility engineers to perform the appropriate analyses to make a determination of an applicant's capabilities before granting a certificate. Since 2002, RCA has issued 53 certificates of public convenience and necessity.

*Determine the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area of activity or interest.*

We found no evidence of RCA's hiring practices or appointments that were contrary to state personnel practices. Since our sunset review during 2002, no complaints have been filed with any of the following: (1) Alaska State Commission on Human Rights in the Office of the Governor; (2) U.S. Equal Employment Opportunity Commission; (3) Alaska Labor Relations Agency with the Department of Labor and Workforce Development; or (4) staff specializing in equal employment opportunity issues in the Division of Personnel within the Department of Administration.

*Determine the extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.*

Half of the respondents, to our survey of parties to formal proceedings, reported they do not believe the existing statutes meet the needs of the regulated entities and protect the public interests. Some of the areas that the respondents believe should be addressed by statutory changes were:

- protection of rural exemptions,
- provision of business incentive to encourage investment in Alaska,
- amendment of the Pipeline Act (AS 42.06) to provide RCA a greater degree of discretion in deciding pipeline-related issues,
- clarification of statutory timelines due to recent RCA decisions,
- establishment of varying degrees of regulation based on complexity and financial impacts,
- shortening of the statutory timeline for decisions in rate proceedings, and
- amendment of AS 42.05.175 to segregate the timeframes between adjudicative proceedings and the time given for the commission to issue its final order at the close of such proceedings.

In addition, the results of our surveys showed that 43 percent of the respondents do not believe the existing regulations meet the needs of the regulated entities and protect the public interests. Some of the areas that the respondents believe should be addressed by regulation changes were:

- deregulation of competitive markets,
- revision of ex parte communication rules,
- clarification of what constitutes a complete application/filing and when RCA must determine and document such completeness,
- addition of discovery limitations, and provision for use of more informal discovery.

As discussed in Background Information, RCA began in March 2006, what it termed, the 2005 improvement initiative project. This project included setting priorities for statute and regulation changes with input from the regulated entities through the public meeting process.

***Determine the extent to which the board, commission, or agency has effectively attained its objectives and purposes and the efficiency with which the board, commission, or agency has operated.***

According to 55 percent of the survey respondents, RCA's overall operations have improved somewhat or significantly during the past four years. Eighty-eight percent (88%) of survey respondents reported the efficiency of the commission's hearing process has stayed the same or improved with 46 percent of the respondents reporting the hearing process over the past four years has become more efficient.

Since FY 03, RCA's operational performance measures have evolved. The current chair of RCA is planning to implement a review of the performance measures and in the process obtain input from the regulated entities. The current performance measurements include:

- issuing all orders within statutory deadlines;
- closing as many cases as the number received each year; and,
- limiting the number of its decisions that are appealed to the Superior Court.

RCA has substantially accomplished the above operational performance measures. See Recommendation No. 1 which identified regulations that could improve RCA's efficiency and effectiveness.

***Determine the extent to which the board, commission, or agency duplicates the activities of another governmental agency or the private sector.***

Under state law,<sup>20</sup> utilities owned and operated by local governments are exempted from regulation. The exemption of utilities owned and operated by governmental units is a common feature of utility regulation statutes across the country. The main reason for such a law is the accountability to the public for utility rates and services thought to be more efficiently accomplished through the local government electoral process. Accordingly, regulating rates and service through a quasi-judicial adjudicatory process such as RCA could be considered duplicative in instances where a local government utility is not exempted.

This issue of possible duplication is reflected in recent efforts of the Municipality of Anchorage (MOA) to have the city's water and sewer utility exempted from RCA oversight. In both the 2003-04 and 2005-06 legislatures, bills have been considered that would amend the statutes related to such exemptions. The central purpose of the proposed legislation was to further specify that water and sewer utilities owned by a local government, such as MOA,

<sup>20</sup> AS 42.05.711 (b) states in part "...public utilities owned and operated by a political subdivision of the state ... are exempt from [RCA oversight]." The statute does allow such utilities to opt for regulation upon the election of the political subdivision's governing body. More significantly though, if such a utility "*directly competes with another utility or electric operating entity* [subject to RCA regulation]." then the exemption does not apply. In such a situation the political subdivision utility remains subject to RCA regulation.

would be exempt from regulation. The exemption would continue to be contingent on the utility not competing with other regulated water and sewer utilities.<sup>21</sup>

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<sup>21</sup> An earlier attempt in the early 1990s by MOA to be exempted from RCA failed largely because of concern over the city's ownership of both a water and sewer utility along with an electrical utility. Since the commission determined MOA's electrical utility did compete with other regulated utilities, this precluded exemption of the water and sewer utility. The commissioners at the time were concerned joint ownership of an exempted water and sewer utility and nonexempt electrical utility could lead to a shifting of costs between the two entities. It was determined that such possible cost-shifting could be unfair to competing electrical utilities.



May 8, 2007

The Honorable Mike Chenault, Co-Chair  
House Finance Committee  
Alaska State Capitol, Room 505  
Juneau, AK 99801-1182

The Honorable Kevin Meyer, Co-Chair  
House Finance Committee  
Alaska State Capitol, Room 515  
Juneau, AK 99801-1182

HB 110 (House Labor and Commerce Committee)—Support

Dear Co-Chairs Chenault and Meyer:

On behalf of the AARP members in Alaska, we encourage you and your colleagues on the House Finance Committee to support HB 110, sponsored by the House Labor and Commerce Committee. HB 110 would extend the authorization for the Regulatory Commission of Alaska to 2011.

AARP relies on the RCA because it offers our members and all Alaskans the best opportunity to achieve basic consumer protections:

- The ability to make informed choices about utility services
- The security of safe and reliable energy and telecommunications services
- The assurance that sales practices and advertisements are fair, so they do not confuse, mislead, or frighten the public
- The reassurance that consumers receive accurate information, communicated clearly and in plain language, so we understand our rights and remedies

The RCA assures consumers the right to affordable rates and access to such basic necessary services as utilities and communications. We rely on the Attorney General to

represent consumers on cases before the RCA. AARP has also represented consumers before the RCA and, especially in these days of increasing utility costs, we rely on the RCA to protect our rights as consumers. AARP families need HB 110; all Alaskans need this bill.

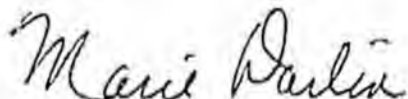
We would suggest the Committee consider extending the RCA authorization beyond 2008. The RCA is doing a very effective job and it seems to make sense to do more than a one year extension.

AARP recommends an "AYE" vote on HB 110.

Should you have any questions about our position, please feel free to contact me (586-3637) or Patrick Luby, AARP Advocacy Director (907-762-3314).

Thank you for your consideration.

Sincerely,



Marie Darlin, Coordinator  
AARP Capital City Task Force  
415 Willoughby Avenue, Apt. 506  
Juneau, AK 99801  
586-3637 (voice)  
463-3580 (fax)

CC: Vice-Chair Bill Stoltze  
Representative Richard Foster  
Representative Mike Hawker  
Representative Bill Thomas  
Representative Harry Crawford  
Representative Les Gara  
Representative Reggie Joule  
Representative Mike Kelly  
Representative Mary Nelson  
Representative Kurt Olson

**HB**

**110**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

REPORTED OUT  
 MAY 11 2007  
 SENATE FINANCE COMMITTEE

DATE: 5/10/07

FURTHER:

 DATE TURNED IN TO OFFICE: 11 May 2007

Finance Committee considered CS FOR HOUSE BILL NO. 110(L&C)

## HB 110 EXTEND REGULATORY COMMISSION OF ALASKA

"An Act amending the powers and duties of the legislative audit division regarding the Regulatory Commission of Alaska; amending annual report requirements for the Regulatory Commission of Alaska; extending the termination date for the Regulatory Commission of Alaska; and providing for an effective date."

and recommends:

- be replaced with  SCS or  CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous  SCS or  CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt \_\_\_\_\_ Letter of Intent
- further referral to \_\_\_\_\_ Committee

**SENATE BILL:**  
 Same Title  
 New Title

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**HOUSE BILL:**  
 Same Title  
 Technical Title Change  
 New Title w/ SCR # \_\_\_\_\_

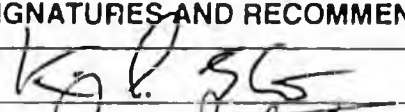

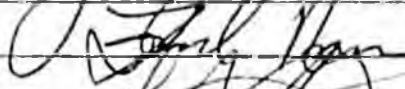
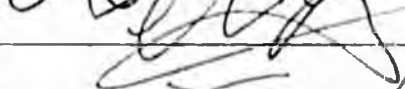


**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
Commerce	5/5/07	✓		✓	#2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Elton	✓			
	Thomas	✓			
	Dusan	✓			
	Huggins	✓			
CO-CHAIR: 	Hoffman	✓			
CO-CHAIR: 	Stedman	✓			

# FISCAL NOTE

REPORTED OUT  
 MAY 11 2007  
 SENATE FINANCE COMMITTEE

STATE OF ALASKA  
 2007 LEGISLATIVE SESSION

Fiscal Note Number: 2  
 Bill Version: CSHB 110(L&C)  
 (H) Publish Date: 5/9/07

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
 Title Extend Regulatory Commission of Alaska RDU Regulatory Commission of Alaska (399)  
 Component Regulatory Commission of Alaska  
 Sponsor Labor & Commerce  
 Requester House Finance Component No. 2417

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services		5,364.6	5,364.6	5,364.6	5,364.6	
Travel		55.0	55.0	55.0	55.0	
Contractual		1,530.9	1,530.9	1,530.9	1,530.9	
Supplies		56.9	56.9	56.9	56.9	
Equipment		12.6	12.6	12.6	12.6	
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>7,020.0</b>	<b>7,020.0</b>	<b>7,020.0</b>	<b>7,020.0</b>	

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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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		7,020.0	7,020.0	7,020.0	7,020.0	
<b>TOTAL</b>	<b>0.0</b>	<b>7,020.0</b>	<b>7,020.0</b>	<b>7,020.0</b>	<b>7,020.0</b>	

Estimate of any current year (FY2007) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

**POSITIONS**

Full-time	57	57	57	57	57
Part-time					
Temporary					

**ANALYSIS:** (Attach a separate page if necessary)

This legislation extends the Regulatory Commission of Alaska (RCA) to June 30, 2011. In accordance with AS 44.66.010(b), funding is extended one year following the termination date allowing the commission to conclude its affairs. This legislation also makes changes to the due date and content of a required report. These changes would not result in the need for additional resources to implement these provisions.

The RCA is funded through the Regulatory Cost Charge (RCC) mechanism and direct charges. 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 regulated industry.

Prepared by: Kate Giard, Chairman Phone 907-276-6222  
 Division: Regulatory Commission of Alaska Date/Time 5/5/07 5:01 PM  
 Approved by: Emil Notli, Commissioner Date 5/5/2007  
 Agency: Commerce, Community, and Economic Development

**HB**

**1 1 1**

**HFIN**

**FILE**



# FISCAL NOTE

**STATE OF ALASKA**  
**2007 LEGISLATIVE SESSION**

Fiscal Note Number: CSHB111-OOG-EO-5-3-07  
 Bill Version: CSHB 111(FIN)  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: OOG  
 Title "An Act decreasing the fee for a business license; and providing for an effective date." RDU Executive Operations  
 Component Executive Office  
 Sponsor Rules Committee  
 Requester House Labor and Commerce Committee Component No. 6

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		644.7	644.7	644.7	644.7	644.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (1175-Business License Receipts)		(644.7)	(644.7)	(644.7)	(644.7)	(644.7)
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

For FY2009, this fiscal note assumes the loss of Business License Receipts funding for International Trade operations. This note assumes that the loss of Business License Receipts will be replaced by General Funds to support personal services, foreign office contracts and travel relating to International Trade activities.

Prepared by: Gail Fenumai, Asst. Admin. Director  
 Division: Division of Administrative Services  
 Approved by: Linda J. Perez, Administrative Director  
 Agency: Office of the Governor

Phone 465-3885  
 Date/Time 5/3/2007, 10:40am  
 Date 5.3.2007

# FISCAL NOTE

**STATE OF ALASKA**  
**2007 LEGISLATIVE SESSION**

Fiscal Note Number: Draft: HB111CS(FIN)-OL-05-03-07  
 Bill Version: Draft: CSHB 111(FIN)  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
 Title Business License Fee Decrease RDU Corp, Bus & Prof Licensing (117)  
 Component Corp, Bus & Prof Licensing  
 Sponsor Rules by Request of Governor  
 Requester House Finance Component No. 2360

**Expenditures/Revenues (Thousands of Dollars)**

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( 1175 )</b>	<b>0.0</b>	<b>(2,475.0)</b>	<b>(2,970.0)</b>	<b>(2,970.0)</b>	<b>(2,970.0)</b>	<b>(2,970.0)</b>
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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						
Business License & Corp (1175)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2007) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This legislation reduces the Business License fee to a cost of \$50 per year (\$100 per biennium) with an effective date of 1 October 2008.

Revenue Impact: The department estimates a loss of revenue of \$2,475.0 in FY2009 and a loss of revenue of \$2,970.0 in the remaining fiscal years. The estimated loss of revenue in FY2009 reflects the decrease in the present \$100 fee to \$50 in the last nine months of the year.

Prepared by: Rick Union, Director Phone: (907) 465-2538  
 Division: Corporations and Licensing Date/Time: 5/3/07 9:38 AM  
 Approved by: Emil Notti, Commissioner Date: 5/3/07  
 Agency: Commerce, Community, and Economic Development



# FISCAL NOTE

**STATE OF ALASKA**  
**2007 LEGISLATIVE SESSION**

Fiscal Note Number: Draft: HB111CS(FIN)-DCA-05-02-07  
 Bill Version: CSHB 111(FIN)  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
 Title Business License Fee Decrease RDU Comm Assist & Ec Dev (405)  
 Component Community Advocacy  
 Sponsor Rules by Request of Governor  
 Requester House Finance Component No. 2703

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	1,830.3	2,325.3	2,325.3	2,325.3	2,325.3
1005 GF/Program Receipts						
1037 GF/Mental Health						
Business License & Corp (1175)	0.0	(1,830.3)	(2,325.3)	(2,325.3)	(2,325.3)	(2,325.3)
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This legislation reduces the Business License fee to a cost of \$50 per year (\$100 per biennium) with an effective date of 1 October 2008.

The Division of Community Advocacy operating expenses are partially funded with business license fees of \$3,659.7. After funding the Division of Corporations, Business and Professional Licensing and the Office of Economic Development in FY 2009, revenues are not sufficient to fully fund the division's operating expenses. If a budget of \$1,830.3 will be funded by general funds. Starting in FY 2010, the department estimates a loss of approximately \$2,325.3 in revenue of \$2,325.3 which results in the need for funding the division with \$2,325.3 of general funds.

Prepared by: Mike Black, Director Phone (907) 269-4578  
 Division Community Advocacy Date/Time 5/2/07 1:19 PM  
 Approved by: Emil Notti, Commissioner Date 5/2/2007  
 Agency Commerce, Community, and Economic Development

# FISCAL NOTE

**STATE OF ALASKA**  
**2007 LEGISLATIVE SESSION**

Fiscal Note Number: Draft: HB111CS(FIN)-OED-05-02-07  
 Bill Version: Draft: CSHB 111(FIN)  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
 Title: Business License Fee Decrease RDU: Comm Assist & Ec Dev (405)  
 Component: Office of Economic Development  
 Sponsor: Rules by Request of Governor  
 Requester: House Finance Component No.: 2743

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( 1175 )</b>						
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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						
Business License & Corp (1175)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2007) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This legislation reduces the Business License fee to a cost of \$50 per year (\$100 per biennium) with an effective date of 1 October 2008.

The Office of Economic Development operating expenses are partially funded with business license fees of \$1.7 million. No fund activity is anticipated as business license fees will not be collected until after the effective date of this legislation.

Prepared by: Bill Allen, Development Manager Phone: (907) 269-8112  
 Division: Office of Economic Development Date/Time: 5/2/07 1:17 PM  
 Approved by: Ernie Notti, Commissioner Date: 5/2/07  
 Agency: Commerce, Community, and Economic Development

*adopted*  
*5/5/07*

25 GH1065M  
Bannister  
5/4/07

**CS FOR HOUSE BILL NO. 111( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FIFTH LEGISLATURE - FIRST SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act decreasing the fee for a business license; relating to a civil fine for not having a**  
2 **current business license, to business license penalties under certain laws relating to**  
3 **financial institutions, occupational licensing, employment agencies, and taxation, and to**  
4 **the duration of certain business licenses; and providing for an effective date."**

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

6 **\* Section 1. AS 06.01.035 is amended by adding a new subsection to read:**

7 (j) Notwithstanding the other provisions of this section, the failure to have a  
8 business license (issued under AS 43.70.020 as required by AS 06.50.020(a)) is not a  
9 violation for its purposes if it is added to (c) of this section.

10 **Sec. 2. AS 08.01.102 is amended to read:**

11 **Sec. 08.01.102. Citation for unlicensed practice or activity.** The department  
12 may issue a citation for a violation of a license requirement under this chapter, except  
13 a requirement to have a license under [OR] AS 43.70, if there is probable cause to  
14 believe a person has practiced a profession or engaged in business for which a license

1 is required without holding the license. Each day a violation continues after a citation  
2 for the violation has been issued constitutes a separate violation.

3 \* Sec. 3. AS 16.40.290(a) is amended to read:

4 (a) Except as provided in (b) and (c) of this section, a person who knowingly  
5 violates AS 16.40.260 - 16.40.299 or a regulation adopted under AS 16.40.260 -  
6 16.40.299 is guilty of a class A misdemeanor. However, this subsection does not  
7 apply to the failure to hold a current business license under AS 16.40.260(a)(1) as  
8 required under AS 43.70.

9 \* Sec. 4. AS 23.15.510 is amended to read:

10 Sec. 23.15.510. Violations. A person who wilfully violates any provision of  
11 AS 23.15.330 - 23.15.520 is guilty of a misdemeanor, and upon conviction is  
12 punishable by a fine of not more than \$1,000, or by imprisonment for not more than  
13 six months, or by both. However, this section does not apply to the violation of the  
14 requirement under AS 23.15.390 to comply with AS 43.70.

15 \* Sec. 5. AS 43.05.290(h) is amended to read:

16 (h) A person engaging in or attempting to engage in a business, trade,  
17 profession, or occupation for which a license is required under this title, who wilfully  
18 fails to obtain the license, is guilty of a misdemeanor [,] and, upon conviction, is  
19 punishable by a fine of not more than \$2,000, or by imprisonment for not more than  
20 six months, or by both. This subsection does not apply to a violation of  
21 AS 43.70.020.

22 \* Sec. 6. AS 43.70.020(d) is amended to read:

23 (d) A person engaging in a business subject to licensing provisions of a  
24 regulatory nature (for example, the requirement of posting a bond before beginning  
25 business as a collection agency) must, in addition to filing the regular application  
26 required by this section, comply with those regulatory provisions before being eligible  
27 for a license under this chapter. The department may establish that a license that is  
28 issued under this section expires at the same time as a license, certificate, permit,  
29 registration, or similar document issued under AS 08.

30 \* Sec. 7. AS 43.70.020 is amended by adding a new subsection to read:

31 (e) If a person knowingly engages in a business in the state without having a

1 current license issued under (a) of this section, the department may impose a civil fine  
2 of up to \$300. In this subsection, "knowingly" has the meaning given in AS 11.81.900.

3 \* Sec. 8. AS 43.70.030(a) is amended to read:

4 (a) The fee for each business license is \$50 a [\$100 PER] year [, EXCEPT  
5 THAT THE FEE IS \$50 IF

6 (1) THE BUSINESS IS A SOLE PROPRIETORSHIP; AND

7 (2) THE SOLE PROPRIETOR IS 65 YEARS OF AGE OR OLDER  
8 WHEN THE SOLE PROPRIETOR APPLIES FOR THE LICENSE OR WILL  
9 REACH 65 YEARS OF AGE AT ANY TIME DURING THE YEAR FOR WHICH  
10 THE LICENSE IS ISSUED].

11 \* Sec. 9. The uncodified law of the State of Alaska is amended by adding a new section to  
12 read:

13 TRANSITION: FEE. If a license issued under AS 43.70.020(a) is scheduled to expire  
14 on January 1, 2008, and if the person to whom the license was issued wants to obtain a license  
15 under AS 43.70.020(a) that lasts for the two years of 2008 and 2009, a person who is required  
16 under AS 43.70.030, as that section exists before October 1, 2008, to pay \$100 a year for the  
17 license may pay \$150 for a two-year license instead of \$200.

18 \* Sec. 10. This Act takes effect October 1, 2008.

5/5/07

withdrawn

AMENDMENT 1

OFFERED IN THE HOUSE

BY: REPRESENTATIVE GARA

TO: CSHB 111 (FIN)

Page 3, line 17 insert:

AS43.70.105 shall be amended by inserting a new subsection:

“(c) The Department shall adopt rules or regulations permitting a person to ascertain from the department whether they qualify for the exemption under (a) (6) of this section. There shall be no charge by the department for this determination.”

**Sec. 43.70.090. Regulations.** The department may adopt regulations necessary to implement this chapter. (§ 12 ch 43 SLA 1949; am § 11 ch 75 SLA 1982; am § 73 ch 14 SLA 1987; am § 1 ch 66 SLA 1998)

**Effect of amendments.** — The 1998 amendment, effective September 1, 1998, substituted "to implement this chapter" for "to determine and collect the fees imposed by this chapter."

*Sec. 43.70.100. Penal provisions. [Repealed, § 46 ch 113 SLA 1980. For current provisions, see AS 43.05.290.]*

**Sec. 43.70.105. Exemptions.** (a) This chapter does not apply to

- (1) a fisheries business;
- (2) the sale of liquor under a license issued under AS 04.11;
- (3) an insurance business;
- (4) a mining business;
- (5) supplying services as an employee;
- (6) furnishing goods or services by a person who does not represent to be regularly engaged in furnishing goods or services;
- (7) the activities of an investment club; in this paragraph,

(A) "investment club" means a group of individuals, incorporated or otherwise organized, that engages primarily in investing in securities, that does not sell investment services to another person, that does not advertise, and the primary purpose of which is educational;

(B) "security" has the meaning given in AS 45.55.990.

(b) Notwithstanding an exemption provided by (a) of this section, a person who sells cigarettes, cigars, tobacco, or other products containing tobacco as a retailer must have a business license under AS 43.70.020 and a business license endorsement required under AS 43.70.075. (§ 2 ch 66 SLA 1998; am § 9 ch 88 SLA 2001)

**Effect of amendments.** — The 2001 amendment, effective January 1, 2002, added subsection (b)

**Editor's notes.** — Before enactment of this section,

exemptions from this chapter were contained in the definition of "business" in AS 43.70.110.

#### NOTES TO DECISIONS

**Definitions found in AS 21 are not controlling** as to former provisions of AS 43.70.110(1), because of the different purposes of each. *Northern Adjusters, Inc. v. Department of Revenue*, 627 P.2d 205 (Alaska 1981) (decided under the former provisions of AS 43.70.110(1)).

The purpose of excluding "insurance businesses" from the coverage of AS 43.70.030(a) by virtue of the definition in former provisions of AS 43.70.110(1) is apparently to avoid taxing these businesses twice, since insurers are subject to a premiums tax imposed by AS 21.09.210. *Northern Adjusters, Inc. v. Department of Revenue*, 627 P.2d 205 (Alaska 1981)

decided under the former provisions of AS 43.70.110(1).

The term "insurance businesses" does not include adjusters. *Northern Adjusters, Inc. v. Department of Revenue*, 627 P.2d 205 (Alaska 1981) (decided under the former provisions of AS 43.70.110(1)).

Because adjusters are not "insurers" subject to the premiums tax, they should not be viewed as "insurance businesses" exempt from the general license tax. *Northern Adjusters, Inc. v. Department of Revenue*, 627 P.2d 205 (Alaska 1981) (decided under the former provisions of AS 43.70.110(1)).

**Sec. 43.70.110. Definitions.** In this chapter, unless the context otherwise requires,

(1) "business" means a for profit or nonprofit entity engaging or offering to engage in a trade, a service, a profession, or an activity with the goal of receiving a financial benefit in exchange for the provision of services, or goods or other property;

(2) "commissioner" means the commissioner of commerce, community, and economic development;

(3) "department" means the Department of Commerce, Community, and Economic Development;

# FISCAL NOTE

STATE OF ALASKA  
2007 LEGISLATIVE SESSION

Fiscal Note Number: FIN111CS(L&C)COM.DCA 07-22 07  
 Bill Version: CSHB 111 (L&C)  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction):  
 Title Business License Fee

Dept. Affected: Commerce  
 RDU Comm Assist & Ec Dev (405)  
 Component Community Advocacy

Sponsor Rules by Request of the Governor  
 Requester House Finance

Component No. 2703

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	603.1	3,089.7	3,089.7	3,089.7	3,089.7
1005 GF /Program Receipts						
1037 GF/Mental Health						
Business License & Corp (1175)		(603.1)	(3,089.7)	(3,089.7)	(3,089.7)	(3,089.7)
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This legislation reduces the Business License fees back to FY 2003 cost of \$25 per year with an effective date of 1 October 2008, and provides that the department may impose a civil fine if a person knowingly engages in business in the state without having a current license.

The Division of Community Advocacy operating expenses are partially funded with business license fees of \$3,089.7. After funding the Division of Corporations, Business and Professional Licensing and the Office of Economic Development in FY 2009, revenues are not sufficient to fully fund the division's operating expenses. It is assumed \$603.1 will be funded by general funds. Starting in FY 2010, the department estimates a loss of business license revenue of \$4,455.0 which results in the need for funding the division with \$3,089.7 of general funds. The amount of revenue that may be generated from the imposition of civil fines is indeterminate.

Prepared by: Miko Black, Director  
 Division: Community Advocacy

Phone: (907) 269-4578  
 Date/Time: 2/22/07 12:18 PM

Approved by: Emil Notti, Commissioner  
 Agency: Commerce, Community, and Economic Development

Date: 2/22/2007

# FISCAL NOTE

STATE OF ALASKA  
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB111CS(L&C)COM-OED 02 22 07  
 Bill Version: CSHB 111 (L&C)  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_  
 Title Business License Fee

Dept. Affected: Commerce  
 RDU Comm Assist & Ec Dev (405)  
 Component Office of Economic Development

Sponsor Rules by Request of the Governor  
 Requester House Finance

Component No. 2743

## Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( 1175 )</b>						
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## FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	404.8	404.8	404.8	404.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Business License & Corp (1175)	0.0	0.0	(404.8)	(404.8)	(404.8)	(404.8)
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

## POSITIONS

Full-time						
Part-time						
Temporary						

## ANALYSIS: (Attach a separate page if necessary)

This legislation reduces the Business License fees back to FY03 cost of \$25 per year with an effective date of 1 October 2008, and provides that the department may impose a civil fine if a person knowingly engages in business in the state with out having a current license.

The Office of Economic Development operating expenses are partially funded with business license fees of \$1,173.8. No fund source change is anticipated in FY 2009 since business license fees will continue to cover operating expenditures to manage this function. Starting in FY 2010, the department estimates a loss of business licenses revenue of \$4,455.0. As a result of this legislation, revenues are not sufficient to fully fund the Office of Economic Development's operating expenses. The additional \$404.8 needed for operating costs is assumed to be funded with general funds.

Prepared by: Bill Allen, Development Manager  
 Division: Office of Economic Development

Phone: (907) 269-8112  
 Date/Time: 2/22/07 12:04 PM

Approved by: Emil Notti, Commissioner  
 Agency: Commerce, Community, and Economic Development

Date: 2/22/07 12:04 PM

# FISCAL NOTE

**STATE OF ALASKA**  
**2007 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: CSHB 111(L&C)  
 (H) Publish Date: 2/14/07

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
 Title: Business License Fee Decrease RDU: Comm Assist & Ec Dev (405)  
 Component: Office of Economic Development  
 Sponsor: Rules Committee  
 Requester: Governor Component No.: 2743

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( 1175 )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	404.8	404.8	404.8	404.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Business License & Corp (1175)	0.0	0.0	(404.8)	(404.8)	(404.8)	(404.8)
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This legislation reduces the Business License fees back to FY03 cost of \$25 per year with an effective date of 1 October 2008.

The Office of Economic Development operating expenses are partially funded with business license fees of \$1,173.8. No fund source change is anticipated in FY 2009 since business license fees will continue to cover operating expenditures to manage this function. Starting in FY 2010, the department estimates a loss of business licenses revenue of \$4,455.0. As a result of this legislation, revenues are not sufficient to fully fund the Office of Economic Development's operating expenses. The additional \$404.8 needed for operating costs is assumed to be funded with general funds.

Prepared by: Bill Allen, Development Manager Phone: (907) 269-8112  
 Division: Office of Economic Development Date/Time: 1/30/07 4:33 PM  
 Approved by: Emil Notti, Commissioner Date: 1/30/07 4:33 PM  
 Agency: Commerce, Community, and Economic Development



STATE OF ALASKA  
2007 LEGISLATIVE SESSION

Fiscal Note No. 3  
BILL NO. CSHB 111(L&C)

ANALYSIS CONTINUATION

Fund Source Impact: The Division of Corporations, Business and Professional Licensing funds business license operating expenses of \$716.3 with business license fees. Revenue collected is expected to cover Business License operating expenses.

# FISCAL NOTE

STATE OF ALASKA  
2007 LEGISLATIVE SESSION

Fiscal Note Number: 4  
Bill Version: CSHB 111(L&C)  
(H) Publish Date: 2/14/07

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
Title Business License Fee Decrease RDU Comm Assist & Ec Dev (405)  
Component Community Advocacy  
Sponsor Rules Committee  
Requester Governor Component No. 2703

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	1,822.2	3,089.7	3,089.7	3,089.7	3,089.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
Business License & Corp (1175)	0.0	(1,822.2)	(3,089.7)	(3,089.7)	(3,089.7)	(3,089.7)
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This legislation reduces the Business License fees back to FY 2003 cost of \$25 per year with an effective date of 1 October 2008.

The Division of Community Advocacy operating expenses are partially funded with business license fees of \$3,089.7. After funding the Division of Corporations, Business and Professional Licensing and the Office of Economic Development in FY 2009, revenues are not sufficient to fully fund the division's operating expenses. It is assumed \$1,822.2 will be funded by general funds. Starting in FY 2010, the department estimates a loss of business licenses revenue of \$1,455.0 which results in the need for funding the division with \$3,089.7 of general funds.

Prepared by: Mike Black, Director Phone (907) 269-4578  
Division Community Advocacy Date/Time 1/30/07 4:32 PM  
Approved by: Emil Notti, Commissioner Date 1/30/2007  
Agency Commerce, Community, and Economic Development

# FISCAL NOTE

STATE OF ALASKA  
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB111CS(L&C) COM OED 03-14-07  
 Bill Version: CSHB 111 (L&C)  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): 3/14/2007  
 Title Business License Fee  
 Sponsor Rules by Request of the Governor  
 Requester House Finance

Dept. Affected: Commerce  
 RDU Comm Assist & Ec Dev (405)  
 Component Office of Economic Development  
 Component No. 2743

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( 1175 )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	720.6	720.6	720.6	720.6
1005 GF/Program Receipts						
1037 GF/Mental Health						
Business License & Cr (1175)	0.0	0.0	(720.6)	(720.6)	(720.6)	(720.6)
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2007) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*  
 This legislation reduces the Business License fees back to FY03 cost of \$25 per year with an effective date of 1 October 2008, and provides that the department may impose a civil fine if a person knowingly engages in business in the state with out having a current license.  
  
 The Office of Economic Development operating expenses are partially funded with business license fees of \$1,173.8. No fund source change is anticipated in FY 2009 since business license fees will continue to cover operating expenditures to manage this function. Starting in FY 2010, the department estimates a loss of business licenses revenue of \$4,455.0. As a result of this legislation, revenues are not sufficient to fully fund the Office of Economic Development's operating expenses. The additional \$720.6 needed for operating costs is assumed to be funded with general funds.

Prepared by: Bill Allen, Development Manager  
 Division: Office of Economic Development  
 Approved by: Emil Rotti, Commissioner  
 Agency: Commerce, Community, and Economic Development

Phone: (907) 269-8112  
 Date/Time: 3/14/07 6:49 PM  
 Date: 3/14/07 6:49 PM

# FISCAL NOTE

STATE OF ALASKA  
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB111CS(L&C) COM-OL-03-14-07  
Bill Version: CSHB 111 (L&C)  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): 3/14/2007

Dept. Affected: Commerce  
RDU: Corp, Bus & Prof Licensing (117)  
Component: Corp, Bus & Prof Licensing

Title: Business License Fee

Sponsor: Rules by Request of the Governor  
Requester: House Finance

Component No.: 2360

**Expenditures/Revenues**

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( 1175 )</b>	<b>0.0</b>	<b>(2,228.0)</b>	<b>(4,455.0)</b>	<b>(4,455.0)</b>	<b>(4,455.0)</b>	<b>(4,455.0)</b>
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**FUND SOURCE**

(Thousands of Dollars)

FUND SOURCE	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Business License & Corp (1175)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

**POSITIONS**

POSITION TYPE	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This legislation reduces the Business License fees back to FY03 cost of \$25 per year with an effective date of 1 October 2008, and provides that the department may impose a civil fine if a person knowingly engages in business in the state without having a current license.

**Revenue Impact:** The department estimates a loss of revenue of \$2,228.0 in FY2009 and a loss of revenue of \$4,455.0 in the remaining fiscal years. The estimated loss of revenue in FY2009 reflects the decrease in the present \$100 fee to \$25 in the last half of the year. The estimated revenue loss in subsequent years is calculated by averaging (to account for biennial license renewal) the FY 2006 revenue of \$6,085.0 and the estimated FY 2007 revenue of \$5,795.0, less the amount of business license fee revenues \$1,485.0 (based on a 75% reduction in the annual average amount of revenue estimated to be generated.) The amount of revenue that may be generated from the imposition of civil fines is indeterminate.

Prepared by: Chris Wyatt, Administrative Manager  
Division: Corporations and Licensing  
Approved by: Emil Notli, Commissioner  
Agency: Commerce, Community, and Economic Development

Phone: (907) 465-2538  
Date/Time: 3/14/07 7:00 PM  
Date: 3/14/2007

STATE OF ALASKA  
2007 LEGISLATIVE SESSION

BILL NO. CSHB 111 (L&C)

ANALYSIS CONTINUATION

Fund Source Impact: The Division of Corporations, Business and Professional Licensing funds business license operating expenses of \$1,031.8 with business license fees. Revenue collected is expected to cover Business License operating expenses.

# FISCAL NOTE

STATE OF ALASKA  
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB111CS(L&C) COM DCA-03-14-07  
Bill Version: CSHB 111 (L&C)  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): 3/14/0227  
Title Business License Fee  
Sponsor Rules by Request of the Governor  
Requester House Finance

Dept. Affected: Commerce  
RDU Comm Assist & Ec Dev (405)  
Component Community Advocacy  
Component No. 2703

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	1,583.3	3,089.7	3,089.7	3,089.7	3,089.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
Business License & Corp (1175)		(1,583.3)	(3,089.7)	(3,089.7)	(3,089.7)	(3,089.7)
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This legislation reduces the Business License fees back to FY 2003 cost of \$25 per year with an effective date of 1 October 2008, and provides that the department may impose a civil fine if a person knowingly engages in business in the state without having a current license.

The Division of Community Advocacy operating expenses are partially funded with business license fees of \$3,089.7. After funding the Division of Corporations, Business and Professional Licensing and the Office of Economic Development in FY 2009, revenues are not sufficient to fully fund the division's operating expenses. It is assumed \$1,583.3 will be funded by general funds. Starting in FY 2010, the department estimates a loss of business licenses revenue of \$4,455.0 which results in the need for funding the division with \$3,089.7 of general funds. The amount of revenue that may be generated from the imposition of civil fines is indeterminate.

Prepared by: Miko Black, Director  
Division: Community Advocacy  
Approved by: Emil Notti, Commissioner  
Agency: Commerce, Community, and Economic Development

Phone (907) 269-4578  
Date/Time 3/14/07 6:51 PM  
Date 3/14/2007

# FISCAL NOTE

STATE OF ALASKA  
2007 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: HB 111  
(H) Publish Date: 1/30/07

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: OOG  
Title "An Act decreasing the fee for a business license; and providing for an effective date." RDU Executive Operations  
Sponsor Rules Committee Component Executive Office  
Requester Governor Component No. 6

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	644.7	644.7	644.7	644.7	644.7	644.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (1175-Business License Receipts)	(644.7)	(644.7)	(644.7)	(644.7)	(644.7)	(644.7)
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2007) cost: 0.0  
Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
For FY2008, this fiscal note assumes the loss of Business License Receipts funding for International Trade operations. This note assumes that the loss of Business License Receipts will be replaced by General Funds to support personal services, foreign office contracts and travel relating to International Trade activities.

Prepared by: Gail Fenumiai, Asst. Admin. Director Phone 465-3885  
Division: Division of Administrative Services Date/Time 1/17/2007, 12:56pm  
Approved by: Linda J. Perez, Administrative Director Date 1/17/2007  
Agency: Office of the Governor

*distributed be Request Rep Gara*

**Sec. 43.70.099. Regulations.** The department may adopt regulations necessary to implement this chapter. (§ 12 ch 43 SLA 1949; am § 11 ch 75 SLA 1982; am § 73 ch 14 SLA 1987; am § 1 ch 66 SLA 1998)

**Effect of amendments.** — The 1998 amendment, effective September 1, 1998, substituted "to implement this chapter" for "to determine and collect the fees imposed by this chapter."

**Sec. 43.70.100. Penal provisions.** [Repealed, § 46 ch 113 SLA 1980. For current provisions, see AS 43.05.290.]

**Sec. 43.70.105. Exemptions.** (a) This chapter does not apply to  
(1) a fisheries business;  
(2) the sale of liquor under a license issued under AS 04.11;  
(3) an insurance business;  
(4) a mining business;  
(5) supplying services as an employee;  
(6) furnishing goods or services by a person who does not represent to be regularly engaged in furnishing goods or services;  
(7) the activities of an investment club; in this paragraph,  
(A) "investment club" means a group of individuals, incorporated or otherwise organized, that engages primarily in investing in securities, that does not sell investment services to another person, that does not advertise, and the primary purpose of which is educational;  
(B) "security" has the meaning given in AS 45.55.990.  
(b) Notwithstanding an exemption provided by (a) of this section, a person who sells cigarettes, cigars, tobacco, or other products containing tobacco as a retailer must have a business license under AS 43.70.020 and a business license endorsement required under AS 43.70.075. (§ 2 ch 66 SLA 1998; am § 9 ch 88 SLA 2001)

**Effect of amendments.** — The 2001 amendment, effective January 1, 2002, added subsection (b).  
**Editor's notes.** — Before enactment of this section, exemptions from this chapter were contained in the definition of "business" in AS 43.70.110.

**NOTES TO DECISIONS**

Definitions found in AS 21 are not controlling as to [former provisions of AS 43.70.110(1)], because of the different purposes of each. *Northern Adjusters, Inc. v. Department of Revenue*, 627 P.2d 205 (Alaska 1981) (decided under the former provisions of AS 43.70.110(1)).  
The purpose of excluding "insurance businesses" from the coverage of AS 43.70.030(a) by virtue of the definition in [former provisions of AS 43.70.110(1)] is apparently to avoid taxing these businesses twice, since insurers are subject to a premiums tax imposed by AS 21.09.210. *Northern Adjusters, Inc. v. Department of Revenue*, 627 P.2d 205 (Alaska 1981)

(decided under the former provisions of AS 43.70.110(1)).  
The term "insurance businesses" does not include adjusters. *Northern Adjusters, Inc. v. Department of Revenue*, 627 P.2d 205 (Alaska 1981) (decided under the former provisions of AS 43.70.110(1)).  
Because adjusters are not "insurers" subject to the premiums tax, they should not be viewed as "insurance businesses" exempt from the general license tax. *Northern Adjusters, Inc. v. Department of Revenue*, 627 P.2d 205 (Alaska 1981) (decided under the former provisions of AS 43.70.110(1)).

**Sec. 43.70.110. Definitions.** In this chapter, unless the context otherwise requires,  
(1) "business" means a for profit or nonprofit entity engaging or offering to engage in a trade, a service, a profession, or an activity with the goal of receiving a financial benefit in exchange for the provision of services, or goods or other property;  
(2) "commissioner" means the commissioner of commerce, community, and economic development;  
(3) "department" means the Department of Commerce, Community, and Economic Development;

SARAH PALIN  
GOVERNOR  
GOVERNOR@GOV.STATE.AK.US



P.O. Box 110001  
JUNEAU, ALASKA 99811-0001  
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FAX (907) 465-3532  
WWW.GOV.STATE.AK.US

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 25, 2007

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 decreasing the fee for a business license to the level in place before the increase was enacted in 2003.

Current law imposes a fee of \$100.00 for each new business license, except that the fee is \$50.00 if the business is a sole proprietorship, owned by a sole proprietor, who is 65 years of age or older.

The enclosed bill decreases the fee to \$25.00 for all business licenses, effective October 1, 2008.

The bill is necessary to show that Alaska is open and ready to attract and retain business in this state.

I urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in cursive script that reads "Sarah Palin".

Sarah Palin  
Governor

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101


State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

February 13, 2007

**SUBJECT:** CSHB 111(L&C) relating to business licenses  
(Work Order No. 25-GH1065\C)

**TO:** Representative Kurt Olson  
Attn: Eleanor Wolfe

**FROM:**  Theresa Bannister  
Legislative Counsel

This memo accompanies the bill described above.

Presence of other penalty provisions. This committee substitute adds a civil penalty for a violation of the business license requirement. Please be aware that there are other penalties in the statutes for the failure to obtain a business license. While none of these appears to conflict with the new provision that you added, I thought you might want to be aware of them.

AS 43.05.290(h) establishes a misdemeanor that could be interpreted to apply to the failure to obtain a business license. In the general licensing provisions for occupational licenses, AS 08.01.102 imposes a citation for a violation of a license requirement under AS 43.70. In the provisions dealing with employment agencies, AS 23.15.390 requires compliance with AS 43.70, and, under AS 23.15.390, willfully violating AS 23.15.390 is a misdemeanor. Depending on the interpretation of the provisions of the sport fishing operator license requirements, there may be a penalty (ranging from a violation to a misdemeanor) under AS 16.40.290 for not satisfying the AS 43.70 business license requirements established by AS 16.40.260.

Since this bill has passed out of your committee, please pass this memo along to the next committee of record for the bill so that committee can take any action it decides is appropriate with regard to the information provided above.

If I may be of further assistance, please advise.

TLB:ljw  
07-076.ljw

Enclosure

# DEWITT & DEWITT LLC

PO Box 34761  
Juneau, AK 99803-4761

January 31, 2007

The Honorable Sarah Palin  
Governor of Alaska  
State Capitol Building  
Juneau, Alaska 99801-1182

RE: Support for House Bill 111

Dear Governor Palin:

On behalf of the Alaska Chapter of the National Federation of Independent Business, I wish to express our support for House Bill 111. The Alaska Chapter of the National Federation of Independent Business has 2,500 members, making it the largest small-business advocacy group in the state.

The 2003 increase in the Alaska Business License added an increased cost to the operations of small businesses. In a time when small businesses are facing significant increases in the cost of energy, workers' compensation insurance and many other basic cost of operation, such an increase was an indication that the State of Alaska had little concern for the small business operator.

The proposed reduction of the business license fee to \$25 per year is a small indication that the State of Alaska values small businesses by reducing the cost of doing business in Alaska.

Sincerely yours,

Dennis L. DeWitt  
Alaska State Director  
National Federation of Independent Business

✓Cc: House Labor & Commerce Committee