

ALASKA LEGISLATURE COMMITTEE FILES

1985-1986

86/2

3456

HLAB

HB 6

-

HB 12

330

STATE OF ALASKA
DEPARTMENT OF LABOR
WORKERS' COMPENSATION DIVISION
P.O. BOX 1149
JUNEAU, ALASKA 99802
(907) 465 2790

DATE 2-2-84

Scott Wetzel
741 Sesame St., Suite 1A
Anchorage, AK 99503

Dear Insurer:

AS 23.30.155(c) requires you to notify the Board within 14 days after making first payment or increasing, reducing, terminating, suspending, resuming or changing compensation rates or types.

A review of our records shows your compensation report was filed 117 days late. An affidavit stating this fact is attached. If you timely mailed your report, please return a copy of the report together with your affidavit of mailing. If you do not submit an affidavit, you must pay a late reporting penalty of \$2,500.00.

If I do not receive your check or affidavit within 30 days, the Fund will petition the Board for an order requiring payment.

Employee: Gunter, Bob

Employer: Anglo Alaskan Construction

Injury Date: 7-21-83
AWCB Case No: 314907
Your Case No.: 425

Very truly yours,

Paul House
D. Paul House, Administrator
Second Injury Fund

State of Alaska
Department of Labor
Workers' Compensation Division
P.O. Box 1149, Juneau, AK 99802

Bob Gunter,
Employee,

vs.

Anglo Alaskan Construction,
Employer,

and

Self-Insured,

Scott Wetzel, Adjuster
Defendants.

AFFIDAVIT
Case No. 314907

State of Alaska
First Judicial District } ss.

J. Paul House, being first duly sworn, says:

1. I am an employee of the State of Alaska, Division of Workers' Compensation.
2. I have reviewed our records for the above captioned case and find the compensation report for the payment made 07-29-83 was postmarked 12-7-83 and received 12-12-83 in Juneau, Alaska.

J. Paul House

Subscribed and sworn to before me this 2nd day of February, 1984, in Juneau, Alaska.

Elaine Vandenberg

Notary Public for Alaska

My commission expires 6/24/87.



Scott Wetzel Services Incorporated

An Affiliate of The Home Group, Inc

741 Sesame Street • Suite 1A • Anchorage, Alaska 99503

Phone (907) 561-1725

Bob Gunter, Employee

vs.

Anglo Alaska Construction Co.,

Employer

vs.

Scott Wetzel, Adjusters

Defendants

AFFIDAVIT

Case No. 314907

State of Alaska

Third Judicial District

Renee Murray, being first duly sworn, says:

1. I am an employee of Scott Wetzel Services, Inc.
2. I have reviewed our records for the above captioned case and find the Compensation Report for the payment made 7/29/83 was completed and mailed from our office to the State of Alaska Worker's Compensation Division on 7/29/83.
3. I swear under threat of perjury that this statement is true, but this affidavit is filed under protest and is an insult to the integrity of this firm, our employees and our industry as a whole.

Renee Murray

/

Subscribed and sworn to before me this 11th day of Feb.

1984, in Anchorage, Alaska.

Supplement to Affidavit on Bob Gunter vs. Scott Wetzel Services

On 9/7/83 you sent us a letter stating you had not received our initial report. In checking our file, our copy clearly indicated that it had been completed and mailed to you on 7/29/83. We send a bulk mailing to your office every day and since you obviously received the rest of the mail (or we would have received innumerable notices that you had not received the reports for that date, and we did not); then we must presume that you did, in fact, receive our initial report dated 7/29/83 and lost it somewhere in the bowels of your system.

Upon receipt of your request, a note was given to our clerical department to photocopy the report and send you another copy.

You obviously received our copy and date stamped it into your office on 12/7/83 and for sending you the copy, you have now indicated we owe you \$2500.00 because you received our second copy and date stamped it in 117 days after you should have stamped in the first copy. THIS IS YOUR ERROR - NOT OURS. Maybe you should pay us the \$2500.00 for all the stress, harassment and extra work you have caused us.

However, we are willing to forgive you for an occasional error, even though you are not willing to offer us the same courtesy.

Renee Murray

EMPLOYEE:

KEEP THIS REPORT FOR YOUR RECORDS. FOR INFORMATION ONLY. READ IMPORTANT INFORMATION ABOUT YOUR RIGHTS ON BACK

ALASKA DEPARTMENT OF LABOR
Alaska Workers' Compensation Board
Box 1149, Juneau, Alaska 99811

COMPENSATION REPORT

AWCB Case Number

1. Employee's Name (Last, First, Middle Initial) GUNTER, BOB				2. Insurer Claim Number 425		3. Injury Date 7 / 21 / 83	
4. Address 1503 CARR ST						5. Social Security Number 432 - 66 - 2129	
City	State	Zip	Telephone			6. Birthdate 2 / 20 / 38	
FAIRBANKS	AK	99701	456-8270				
7. Employer ANGLO				8. Insurer/Adjusting Company SELF INSURED			
9. Address 4300 B ST, SUITE 400				10. Address SCOTT WETZEL SERVICES, INC.			
City	State	Zip	Telephone	City	State	Zip	Telephone
ANCHORAGE	AK	99503	561-2231				

COMPENSATION RATE (Complete for initial payment or rate change)

METHODS	<input type="checkbox"/> 1. Awaiting gross wages documents	12. If method 3, 4, or 5, how did you figure gross wages?
	<input checked="" type="checkbox"/> 2. Highest of three years ⁸² Documents received: <u>8 / 8 / 83</u> Date	
	<input type="checkbox"/> 3. Same or similar wages	<input type="checkbox"/> 13. Tips, board, rent, housing or similar advantage included. Explain how figured.
	<input type="checkbox"/> 4. Minor or apprentice	
	<input type="checkbox"/> 5. Volunteer policeman, etc.	

14. RATE \$ 674.48	15. HOW RATE WAS FIGURED			
<input checked="" type="checkbox"/> a. Alaska TTD, PTD, death or scheduled PPD	a. Gross Wages	Employee Avg. Wk. Wage	Alaska Weekly Rate	Alaska Max. or Min.
	\$ 52,608.69	÷ 52 weeks = \$ 1011.71	x 66 2/3% = \$ 674.48	\$ -----
<input type="checkbox"/> b. Alaska unscheduled PPD or TPD	b. Employee Avg. Wk. Wage	Earning Capacity	Difference	Alaska Weekly Rate
	\$	-\$	=\$	x 66 2/3% = \$
<input type="checkbox"/> c. Out-of-state TTD, TPO, PPD, PTD or death	c. State Avg. Wk. Wage	Alaska Avg. Wk. Wage	State Ratio	Alaska Weekly Rate
	\$	÷ \$	= %	x \$ = \$
(1) State or Country		(2) Date Left / /		(3) Were gross wages earned in Alaska? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partly

16. <input type="checkbox"/> a. INITIAL PAYMENT	<input type="checkbox"/> b. SIF PAYMENT ONLY	<input type="checkbox"/> c. TERMINATION	<input type="checkbox"/> d. SUSPENSION	<input checked="" type="checkbox"/> e. RATE CHANGE	<input type="checkbox"/> f. TYPE CHANGE
<input type="checkbox"/> g. RESUMPTION	Knowledge Date: / /	<input type="checkbox"/> h. ANNIVERSARY	<input type="checkbox"/> i. OTHER (Explain)		

17. a. Payment Date	b. Type	c. From	d. Through	e. Weeks & Days	f. Weekly Rate	g. Total Amount
8/12/83	TTD	7/25/83			\$ 674.48	\$
					\$	\$
					\$	\$
					\$	\$
					\$	\$
					\$	\$

(If additional space is needed, use chart on reverse.)

TOTAL

\$

18. Impairment Rating: _____ % of _____; _____ % of _____		
19. <input type="checkbox"/> Permanent disability compensation was paid in a lump sum. (Enter amount in No. 17.) How did you figure it?		
20. a. Date Disability Began <u>7 / 22 / 83</u>	22. a. Employee Attorney Fees \$ _____	b. Late Report Penalty \$ _____
b. First Payment Date <u>7 / 29 / 83</u>	c. Employer Attorney Fees \$ _____	d. Medical \$ 605.20
21. Date Disability Ended _____	e. Second Injury Fund \$ _____	f. Rehabilitation \$ _____
	<input type="checkbox"/> s Check to SIF Attached	g. Other \$ _____

REASON FOR SUSPENSION, TERMINATION, RATE CHANGE, TYPE CHANGE, OR NON-PAYMENT

23. <input type="checkbox"/> Returned to Work _____ / _____ / _____ <input type="checkbox"/> At New Job <input type="checkbox"/> At Same Job Occupation _____ Weekly Pay Rate \$ _____	24. <input type="checkbox"/> Released for Work Date _____ / _____ / _____ <input type="checkbox"/> Regular Work <input type="checkbox"/> Modified Work	25. <input type="checkbox"/> Moved from Alaska	26. <input type="checkbox"/> Compromise and Release
		27. <input type="checkbox"/> Returned to Alaska	28. <input type="checkbox"/> Controversy (Attach 07-6105)
		29. <input type="checkbox"/> Recomputation	30. <input type="checkbox"/> Board Order
		31. <input type="checkbox"/> Other	32. <input type="checkbox"/> Lack Recent Medical Report

33. Remarks:
CC: ANCB
CC: ANGLO
CC: FILE

I certify that I have mailed the original of this report to the employee at the address above and a copy to the Alaska Workers' Compensation Board.

34. Name and Title of Person Submitting Report (Type or Print) MARION C. BERRY/CLAIMS EXAMINER	35. Signature <i>Marion C. Berry</i>	36. Date 8 / 12 / 83
37. Address (if different from No. 10)	City	State
		Zip Telephone

EMPLOYEE:

KEEP THIS REPORT FOR YOUR RECORDS. FOR INFORMATION ONLY.
READ IMPORTANT INFORMATION ABOUT YOUR RIGHTS ON BACK.

ALASKA DEPARTMENT OF LABOR
Alaska Workers' Compensation Board
Box 1149, Juneau, Alaska 99811

COMPENSATION REPORT

AWCB Case Number

1. Employee's Name (Last, First, Middle Initial) GUNTER, BOB		2. Insurer Claim Number 425	3. Injury Date 7 / 21 / 83
4. Address 1503 CARR ST		5. Social Security Number 432- 66 - 2129	
City FAIRBANKS,	State AK	Zip 99701	Telephone 456-8270
7. Employer ANGLO		8. Insurer/Adjusting Company SELF INSURED	
9. Address 4300 B ST, SUITE 400		10. Address SCOTT WETZEL SERVICES, INC.	
City ANCHORAGE	State AK	Zip 99503	Telephone 561-2231

COMPENSATION RATE (Complete for initial payment or rate change)

METHODS	<input type="checkbox"/> 1. Awaiting gross wages documents	12. If method 3, 4, or 5, how did you figure gross wages? _____
	<input type="checkbox"/> 2. Highest of three years, 19 _____ Documents received: <u> / / </u> Date	
	<input type="checkbox"/> 3. Same or similar wages	<input type="checkbox"/> 13. Tips, board, rent, housing or similar advantage included. Explain how figured. _____
	<input type="checkbox"/> 4. Minor or apprentice	
	<input type="checkbox"/> 5. Volunteer policeman, etc.	

14. RATE \$	15. HOW RATE WAS FIGURED
<input type="checkbox"/> a. Alaska TTD, PTD, death or scheduled PPD	a. Gross Wages Employee Avg. Wk. Wage Alaska Weekly Rate Alaska Max. or Min. \$ <u> </u> \div 52 weeks = \$ <u> </u> X 66 2/3% = \$ <u> </u> \$ <u> </u>
<input type="checkbox"/> b. Alaska unscheduled PPD or TPD	b. Employee Avg. Wk. Wage Earning Capacity Difference Alaska Weekly Rate Alaska Max. or Min. \$ <u> </u> - \$ <u> </u> = \$ <u> </u> X 66 2/3% = \$ <u> </u> \$ <u> </u>
<input type="checkbox"/> c. Out-of-state TTD, TPD, PPD, PTD or death	c. State Avg. Wk. Wage Alaska Avg. Wk. Wage State Ratio Alaska Weekly Rate State Weekly Rate \$ <u> </u> \div \$ <u> </u> = % X \$ <u> </u> = \$ <u> </u>
(1) State or Country	(2) Date Left / / (3) Were gross wages earned in Alaska? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partly

16. a. INITIAL PAYMENT b. SIF PAYMENT ONLY c. TERMINATION d. SUSPENSION e. RATE CHANGE f. TYPE CHANGE
 g. RESUMPTION Knowledge Date: / / h. ANNIVERSARY i. OTHER (Explain)

17. a. Payment Date	b. Type	c. From	d. Through	e. Weeks & Days	f. Weekly Rate	g. Total Amount
8/29/83	TTD	7/22/83	8/25/83	4 5	\$ 674.48	\$ 3178.67
					\$	\$
					\$	\$
					\$	\$
					\$	\$
					\$	\$

(If additional space is needed, use chart on reverse.)

TOTAL \$ 3178.67

18. Impairment Rating: _____ % of _____ % of _____ % of _____

19. Permanent disability compensation was paid in a lump sum. (Enter amount in No. 17.) How did you figure it? _____

20. a. Date Disability Began <u>7 / 22 / 83</u>	22. a. Employee Attorney Fees \$ _____	b. Late Report Penalties \$ _____
b. First Payment Date <u>7 / 29 / 83</u>	c. Employer Attorney Fees \$ _____	d. Medical \$ <u>680.20</u>
21. Date Disability Ended <u>8 / 23 / 83</u>	e. Second Injury Fund \$ <u>190.78</u>	f. Rehabilitation \$ _____
	<input checked="" type="checkbox"/> \$ 190.78 Check to SIF Attached	g. Other \$ _____

REASON FOR SUSPENSION, TERMINATION, RATE CHANGE, TYPE CHANGE, OR NON-PAYMENT

23. <input checked="" type="checkbox"/> Returned to Work <u>8 / 24 / 83</u>	24. <input type="checkbox"/> Released for Work Date / /	25. <input type="checkbox"/> Moved from Alaska	26. <input type="checkbox"/> Compromise and Release
<input checked="" type="checkbox"/> At New Job <input type="checkbox"/> At Same Job	Occupation _____	27. <input type="checkbox"/> Returned to Alaska	28. <input type="checkbox"/> Controversy (Attach O7G105)
Weekly Pay Rate \$ _____	<input type="checkbox"/> Regular Work <input type="checkbox"/> Modified Work	29. <input type="checkbox"/> Recomputation	30. <input type="checkbox"/> Board Order
		31. <input type="checkbox"/> Other	32. <input type="checkbox"/> Lack Recent Medical Report

33. Remarks:
CC: AWCB
CC: ANGLO
CC: FILE

I certify that I have mailed the original of this report to the employee at the address above and a copy to the Alaska Workers' Compensation Board.

34. Name and Title of Person Submitting Report (Type or Print) MARION C. BERRY/CLAIMS EXAMINER	35. Signature <i>[Signature]</i>	36. Date 8 / 29 / 83
37. Address (if different from No. 10) City _____		



SCOTT WETZEL SERVICES, INC.
AN AFFILIATE OF THE FIDARE GROUP, INC.

SPEED MEMO

TO	OFFICE	FILE NO.
Randy Weddle - Faulkner, Banfield, Doogan & Holmes -- Denali Tower, 2550 Denali, Anchorage		
FROM	OFFICE	FILE NO.
Renee Murray		
SUBJECT	DATE	
Ruth Adams vs. State of Alaska	7/6/74	

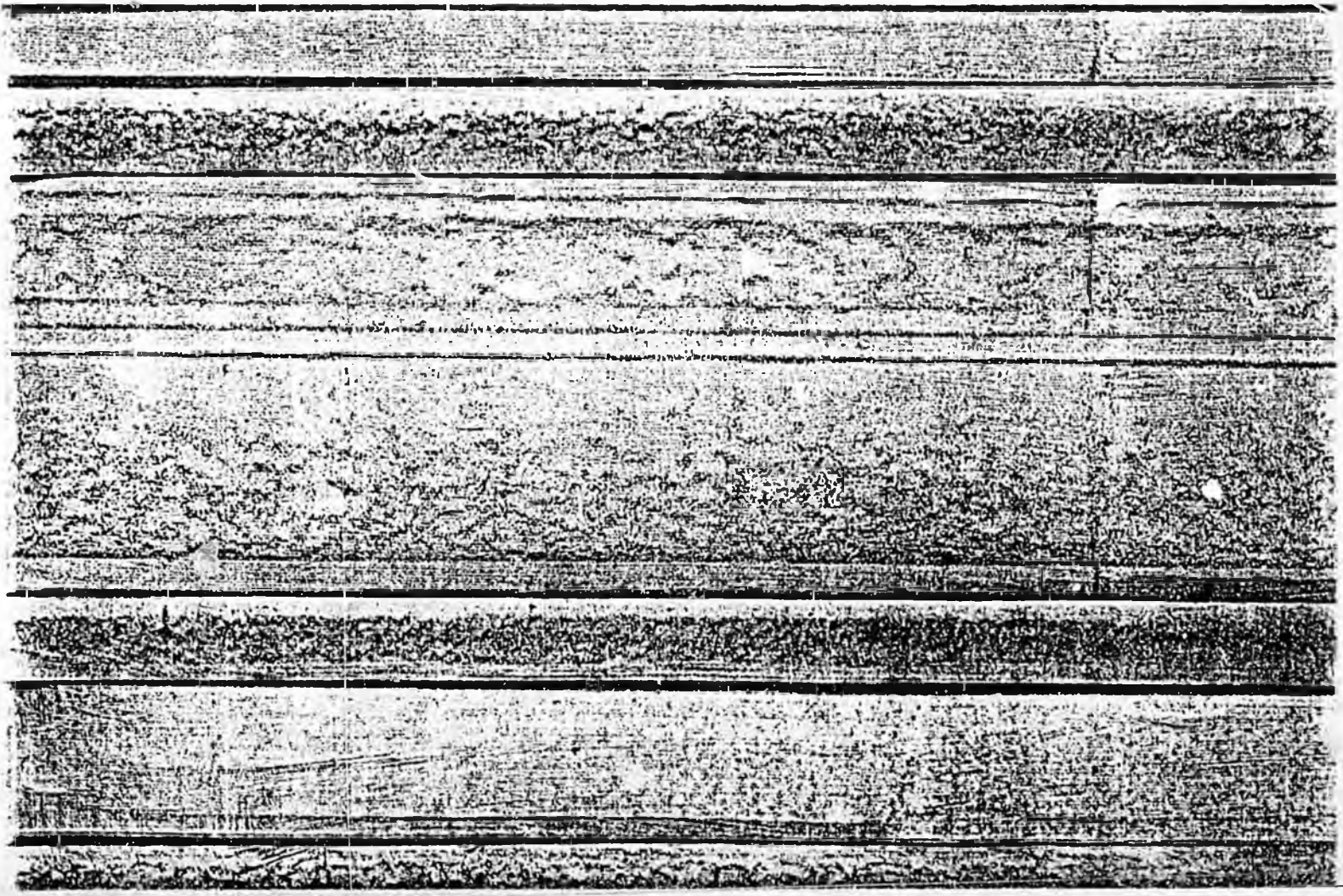
..... Randy - I told you that we now send all of our reports to the State in a certified envelope and we attach a list of the enclosed reports and make the Board sign and return a copy to us. I also told you we now have a case wherein this procedure was followed, the Board acknowledged receipt of the initial report and we subsequently received a letter stating they had not received it.

..... When we called the Board, they acknowledged their error and admitted it they had the report. THIS IS THE VERY FIRST TIME THEY HAVE EVER ADMITTED AN ERROR. They have always insisted their system was fool proof and error free and if they said they had not received a report - then they had not received it. We should be able to use this proof to throw out most of the penalties wherein they say we did not file and we insist that we did.

..... We recently had a case (prior to the use of the certified mail) wherein they said they had not received an initial report. We contacted the clmt and she said she had received the report along with the initial payment and within 14 days. We had her complete an affidavit and the W. C. Toward still said that wasn't good enough because it didn't prove they had received their copy and that was all that mattered. IF you want this file too, I will send it over.

ADM-107 Because we wish to serve you more quickly, we use this speed memo.

Renee Murray





Scott Wetzel Services Incorporated

An Affiliate of The Home Group Inc

741 Sesame Street • Suite 1A • Anchorage, Alaska 99503

Phone: (907) 561-1725

June 6, 1984

State of Alaska
Department of Labor
Box 1149
Juneau, Alaska 99811

Attn: Pat Shira
Worker's Compensation Division

Re: Ruth Adams vs State of Alaska
Date of Loss: 2/19/84
Claim # 1540
AWCB # 403900

Dear Pat:

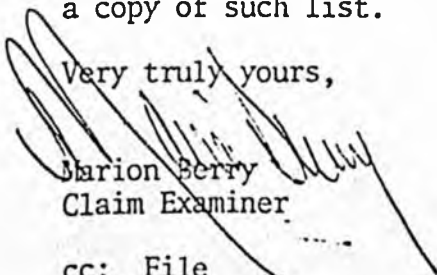
This letter is only to confirm my conversation with you of 6/6/84 on the above claim.

As you are aware you sent a form letter stating that an Initial Report was not received by your office, your letter was dated 5/23/84. When we spoke you advised me that your office did indeed receive our initial report and it was post-marked 5/2/84 according to the information on your computer.

I also advised you that along with the initial report a controversion notice on the same claim was sent, which you stated you did receive and it also was post-marked 5/2/84.

As you are aware we send all correspondence (Compensation Reports, Controversion, etc) to AWCB certified now and according to our records that report along with other were received on your office 5/7/85 and signed by Laila Clarke, attached is a copy of such list.

Very truly yours,


Marion Berry
Claim Examiner

cc: File

Encl.

mcb



AWC
FORM 07 1984

Scott Wetzel Services Incorporated

An Affiliate of The Home Group Inc

741 Sesame Street • Suite 1A • Anchorage, Alaska 99503

Phone: (907) 561-1725

TO: ALASKA WORKER'S COMPENSATION DIVISION RETURN RECEIPT REQUESTED
 PO BOX 1149 # P 666 652 766
 JUNEAU AK 99802

THE FOLLOWING COMPENSATION REPORTS AND CONTROVERSIONS ARE ENCLOSED HERewith:

<u>NAME</u>	<u>DATE OF INJURY</u>	<u>DATED</u>
✓ HORVATH, W (CONT)	08-21-82	05-02-84
✓ RAUER, C	07-06-83	05-02-84
✓ ADAMS, R	02-19-84	05-01-84
✓ ADAMS, R (CONT)	02-19-84	05-01-84
✓ NOUWENS, S	03-02-84	05-01-84
✓ MINNELLER, T	06-18-82	05-02-84
✓ BILLINGTON, T	04-04-84	05-02-84
✓ SULLIVAN, M	04-11-84	05-02-84
✓ JOSEY, D	04-17-84	05-02-84
✓ MEYER, T	03-27-84	05-02-84
✓ RUSHER, R	07-04-84	05-02-84
✓ HUFFMAN, G	01-04-84	05-02-84
✓ HOWELL, F.	6-7-83	5-2-84
✓ Forest, D.	12-29-83	5-2-84
✓ Adams, T.	2-6-82	5-2-84
✓ Constantino, M.	1-13-83	5-2-84

WE HEREBY ACKNOWLEDGE RECEIPT OF THE ABOVE REPORTS.

PLEASE SIGN AND RETURN THIS FORM TO THE ABOVE ADDRESS.

DATE

APR 5-9-84

Saila Clarke 5-7-84
 ALASKA WORKER'S COMPENSATION DIVISION

STATE OF ALASKA

DEPARTMENT OF LABOR

BILL SHEFFIELD, GOVERNOR

BOX 1149
JUNEAU, ALASKA 99811
PHONE: 465-2790

TO: Marion C. Berry
1122 1/2
anch, AK

Date 5-23-84

Dear Insurer:

- I. _____ According to AS 23.30.155(a),(c), and (e), compensation payments must be made within 14 days after payment is due unless timely controverted or late payment resulted from conditions beyond your control. Your recent Compensation Report for the case captioned below indicates the payment you made _____, 1982 was later than 14 days after due.

If you dispute this determination, please advise the reasons why the penalty should be excused. If you do not dispute it, please pay the injured worker 20% of each late installment of compensation and file a compensation report showing that payment.

- II. The compensation report for the payment you made _____, 1982 contained the following error(s) or omission(s):

_____ Items 1 - 10	_____ Items 18 - 19
_____ Items 11 - 13	_____ Items 20 - 21
_____ Item 14 - 15	_____ Items 23 - 32
_____ Item 17	_____ Items 33 - 35

Please correct the(se) error(s) or omission(s) and attach this letter to your corrected report when it is resubmitted.

Employee Adams, Ruth Insurer No. 1540

Employer State of AK ANCB No. 403900

Date of Injury 2-19-84

Very truly yours,

[Signature]

Workers' Compensation Division

*We have a rate change suspension
rept to correct of that report
dated 5-10-84 & 5-11-84 no entry*

AN INITIAL REPORT HAS NOT BEEN RECEIVED ON THIS CLAIM. PLEASE PROVIDE THE INITIAL REPORT. IF YOU PREVIOUSLY MAILED THE REPORT REQUESTED, PLEASE FILE AN AFFIDAVIT WITH THE REPORT TO PREVENT A LATE REPORTING PENALTY.

Thank You



SCOTT WETZEL SERVICES, INC.
AN AFFILIATE OF THE HOME GROUP INC.

SPEED MEMO

AWOL BUREAU NOV 01 1982

ATTN: RENEE

TO Jan Hansen OFFICE -W.C. Div - Juneau

FROM Renee Murray OFFICE FILE NO.

SUBJECT Mail Service

DATE 10/28/82

AWOL BUREAU NOV 01 1982

Jan -
Here is a classic example of why we don't trust the U.S. Mail. As you can see, the attached envelope was mailed from Fairbanks on 10/8/82 & received here 10/27/82. If this was one of our Comp reports, would you believe us?

Because we wish to serve you more quickly, we use this speed memo.

11/12/82 Yes, we would accept your affidavit. Jan
Renee Murray

State of Alaska
Department of Labor
Workmen's Compensation Division
675 - 7th Avenue, Station J
Fairbanks, Alaska 99701

ORIGINAL BUSINESS
STATE OF ALASKA
FAIRBANKS, ALASKA
8 OCT 1982
AIRMAIL
FAIRBANKS, ALASKA
OCT 1982

CLAIM CHECK NO.
295006

HOLD

DATE

1ST NOTICE

2ND NOTICE

RETURN

Detached from
PS Form 3849-A
May 1979

RETURN RECEIPT REQUEST

CERTIFIED
P 316 145 723
MAIL

Scott Wetzel Services
741 Sesame Street, Suite 1A
Anchorage, Alaska 99503

RECEIVED
OCT 1 1982

ANCHORAGE, AK
OCT 27 1982
SCOTT WETZEL
SERVICES, INC.

SCOTT WEITZEL
SERVICES, INC.

NOV 22 1982

ANCHORAGE, AK



Official Business

Alaska State Legislature

House

Pouch V
State Capitol
Juneau, Alaska 99811

MEMO

DATE: 2/26/85
TO: LABOR AND COMMERCE COMMITTEE
FROM: REPRESENTATIVE VIRGINIA COLLINS
RE: DEPARTMENT OF LABOR POSITION PAPER

The issues raised in the Department of Labor position paper are no longer relevant. House Bill 6, Sponsor Substitute, provides for a (21) day grace period for the employer or insurer to correct "human errors" after the first \$100.00 penalty is assessed.

Provisions contained in the original bill, which may have required substantial time and cost, have been eliminated. Therefore House Bill 6, Sponsor Substitute, will carry a zero dollar fiscal note.

Bill No. House Bill 6

Date February 7, 1985

Title "An Act relating to Workers' Compensation;
and providing for an effective date."

Contact *JM* L. McClintock
465-2790

The Department of Labor is opposed to the passage of HB 6, which provides for the discretionary, instead of mandatory, payment of late reporting penalties assessed under AS 23.30.155(c), and requires the board to review all civil penalties imposed since July 11, 1981.

Under AS 23.30.155, the employer/insurer independently decides when to begin, change or stop the payment of compensation benefits to an injured worker. When the employer/insurer initiates action that affects the payment of compensation, the insurance adjuster must notify the board and injured worker of the action taken by filing a compensation report with the board within 28 days and mailing a copy of it to the injured worker. Failure to timely file a report subjects the employer/insurer to a civil penalty of \$100 for the first day plus \$10 for each day thereafter until the report is filed, up to a maximum of \$1,000. The term "notify" or "file with the board" means the date the report was placed in the mail, i.e. postmark date.

This bill allows the board to waive the penalty if it finds that failure to timely file was due to conditions over which the employer/insurer had no control. Since any action to begin, change or stop payment of compensation is initiated by the employer/insurer and the insurer has 28 days to file a report, it is difficult to imagine any circumstance which would be beyond the employer's/insurer's control other than nondelivery of mail. The board has provided for this contingency by allowing the employer/insurer to file an affidavit affirming that a report was mailed to the board. The bill further provides that the requirement to pay a late reporting penalty would be a discretionary decision by the board.

Although the bill is not clear on how the board would proceed in its review of employer/insurer penalties, the only workable procedure is through an appeal process. This means that following the assessment of a penalty by the Second Injury Fund the insurer would have to petition the board for waiver of a disputed penalty, which would then initiate the full board adjudication process.

Statistics show that 133 penalties were paid during CY84, 89 penalties are still pending action by the insurer and 42 penalty cases were referred to the board for order or payment. While it is conceivable that an equal number of cases per year could be appealed to the board as a result of this bill, the fiscal note is based on an assumption that no more than half of all penalties assessed annually will be appealed. Although the issues are much less complex to adjudicate, there would be substantial time and cost involved for the Alaska Workers' Compensation Board to hold hearings, decide the case, and issue its findings of fact, conclusions of law and

POSITION PAPER/Department of Labor

order. From this level, of course, the insurer or Second Injury Fund could appeal the board's decisions to the Superior Court. The increased hearing load will require on-going additional board hearing officer and clerical resources, as well as legal representation for the Second Injury Fund. Additional resources would also be required for one year to conduct hearings on penalties imposed and paid since January 1, 1982.

APPROVED:

A handwritten signature in cursive script that reads "Jim Robison". The signature is written in dark ink and is positioned above a horizontal line.

Jim Robison
Commissioner

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: H36
 Title: "An Act relating to
 Workers' Compensation"
 Sponsor: Collins & Martin
 Requestor: House Labor and Commerce
 Date of Request: 2/7/85

FISCAL DETAIL

Agency Affected: Labor
 Program Category Affected: Public Protection
 BRU, Program or Subprogram(s) Affected: Workers' Compensation

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		85.7	88.7	91.7	94.9	98.2
200 TRAVEL		34.9	19.1	20.2	21.4	22.7
300 CONTRACTUAL		219.0	30.7	32.6	34.5	36.6
400 SUPPLIES		1.5	1.6	1.7	1.8	1.9
500 EQUIPMENT		3.2	0	0	0	0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	344.3	140.1	146.2	152.6	159.4

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		344.3	140.1	146.2	152.6	159.4
FEDERAL FUNDS						
OTHER						
TOTAL	0	344.3	140.1	146.2	152.6	159.4

POSITIONS:

FULL-TIME	0	2	2	2	2	2
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Analysis attached

Prepared By: ^{MB} Jacque McClintock
 Division: Workers' Compensation

Phone: 465-2790

Date: 2/7/85

Approved by Commissioner: ^{MB} Jim Robinson
 Agency: Department of Labor

Date: 2/8/85

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

FISCAL NOTE

The Legislature of the State of Alaska
 Fourteenth Legislature
 Bill/Resolution No.: HB6
 Title: "An Act relating to Workers' Compensation"
 Agency Affected: Department of Labor

As a result of this bill we estimate a minimum of 125 workers' compensation hearings would have to be held each year. Also, since the bill is retroactive to July 11, 1981, we estimate that at least half of the 327 penalties assessed since January 1, 1982 would have to be heard the first year the bill is effective.

In order to hold the estimated number of hearings each year the following costs would be incurred:

	<u>FY 86 Costs</u>
A. One full time Workers' Compensation hearing officer and associated costs*	\$ 77.1
B. Clerk typist III and associated costs*	42.3
C. Attorney general's fees	5.0
D. Workers' Compensation Board per diem expenses (2 people x 50 days x \$130 per day)	<u>13.0</u>
Total for normal hearing load	\$137.4

In order to hear the retroactive claims during the first year the following additional resources would be required in FY 86:

A. Contractual hearing officer services	\$150.0
B. Contractual secretary services for hearings	35.0
C. Attorney general's fees	5.0
D. Workers' Compensation Board per diem expenses (2 people x 65 days x \$130/day)	<u>16.9</u>
Total for retroactive hearings	\$206.9

We have assumed an effective date of July 1, 1986 for this bill. Also, in fiscal years 87-90 we assumed an inflation rate of 6% on non personal services costs, and 3.5% on personal services costs.

* See attached New Position Requests for associated costs.

1.	POSITION TITLE Clerk Typist III			RANGE/STEP 8A	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anch.	ELECTION DISTRICT	LEG.	
3.	CONTINUATION LEVEL			ADDITION	JUSTIFICATION				
4.	TYPE OF EXPENDITURE			AMOUNT	<p>The services of a clerk typist III are needed to process the legal filings and board orders resulting from enactment of HB6.</p> <p>At least 125 penalty cases per year, will be brought before the board for adjudication. This will result in an additional workload for the board's clerks in processing legal documents and issuing the board's decisions and orders that are an integral part of the board's adjudication procedure.</p> <p>Failure to provide the additional clerical resources would adversely affect timely scheduling of disputed claims and issuing the board's decisions.</p> <p>Contractual services costs associated with this position would include rent, \$3,600; indirect, \$2,300; and other average expenses of \$7,049 for a clerical position.</p> <p>Normal commodities of \$1,000 and a one-time expense for equipment of \$1,600 are also included.</p>				
	1	2	3						
	PERSONAL SERVICES								
5.	Salary		19,572						
6.	Benefits		3,261						
7.	Supplemental Benefits		1,200						
8.	Fixed Benefits		2,732						
9.	TOTAL PERSONAL SERVICES	01		26,765					
10.	Travel	02		0					
11.	Contractual	03		12,949					
12.	Commodities	04		1,000					
13.	Equipment	05		1,600					
14.	Other								
15.	TOTAL COST			42,314					
	RECEIPT CODE	FUNDING SOURCE							
16.		Federal Receipts	1002						
17.		G.F. Match	1003						
18.		General Funds	1004	42,314					
19.		I-A Receipts	1005						
20.		Program Receipts	1028						
21.		Other							
FOR B&M USE ONLY									
4A KEY NUMBER									

13 REQUEST FOR
NEW POSITION

AGENCY Department of Labor

PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Workers' Compensation

FY 86

Page of

Revised Date

LEG:F:36

1.	POSITION TITLE Workers' Compensation Hearing Officer			RANGE/STEP 21A	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anch.	ELECTION DISTRICT	LEG.	
3.	CONTINUATION LEVEL			ADDITION		JUSTIFICATION			
4.	TYPE OF EXPENDITURE			AMOUNT					
	1	2	3						
	PERSONAL SERVICES								
5.	Salary		45,744						
6.	Benefits		7,621						
7.	Supplemental Benefits		2,804						
8.	Fixed Benefits		2,732						
9.	TOTAL PERSONAL SERVICES	01	58,901						
10.	Travel	02	5,000						
11.	Contractual	03	11,090						
12.	Commodities	04	500						
13.	Equipment	05	1,600						
14.	Other								
15.	TOTAL COST		77,091						
	RECEIPT CODE	FUNDING SOURCE							
16.		Federal Receipts 1002							
17.		G.F. Match 1003							
15.		General Funds 1004		77,091					
19.		I-A Receipts 1005							
20.		Program Receipts 1028							
21.		Other							

The services of a board hearing officer are needed to chair hearings on disputed employer/insurer penalty cases resulting from enactment of HB6.

At least 125 penalty cases per year will be brought before the board for adjudication. Although the issues are much less complex to adjudicate, there will be substantial time involved for the hearing officer to chair the hearings and write the board's findings of fact, conclusions of law, and order.

Failure to provide the additional board resources would adversely affect the board's ability to promptly hear and decide disputed claims between injured workers and employers.

Contractual services expenses associated with this position would include rent, \$3,600; indirect, \$5,490; and other average costs of \$2,000.

Normal commodities of \$500 and one-time equipment charges of \$1,600 are also included.

FOR B&M USE ONLY
4A KEY NUMBER _____

13 REQUEST FOR
NEW POSITION

AGENCY Department of Labor
PROGRAM Worker Protection
BRU Workers' Compensation
COMPONENT Workers' Compensation

FY 86

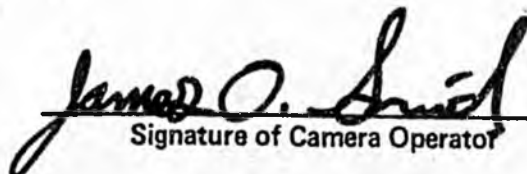
Page of
Revised Date



RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.


Signature of Camera Operator


Date

H B

I R

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

HLC	4/4/85	1:25 pm
	3/13/85	1:25 pm
	1/23/85	3 pm
	1/28/85	3 pm

HB 12 File Contents

March 13, 1985 Meeting

HB 12--C & RA Committee

- i) Bill Summary -- Legislative Reporting Service
- 2) Position Paper -- Rep. Mike Davis
- 3) Fiscal Note -- DCRA
- 4) Fiscal Notes plus Fiscal Analysis -- APUC
- 5) Alaska Statutes 42.05.221-281 & 691-712
- 6) Legislative Analysis -- House Research Agency
- 7) Memorandum -- Rep. Davis to Rep. Goll, C & RA
- 8) Public Response:
 - a. City of Fairbanks (opposed) & Response by Rep. Davis
 - b. Alaska Municipal League (opposed)
 - c. POM from Don Thrapp (pro)
 - d. Written testimony -- Gary Newman (pro)
 - e. City of Seward (opposed) and Rep. Gruenberg's response
 - f. Response of Rep. Davis to City of Seward

CSHB 12 -- C & RA Committee

- 9) CSHB 12 Bill Summary -- Legislative Reporting Service
- 10) CSHB 12 (C&RA)
- 11) Sectional Analysis CSHB 12 -- Rep. Davis
- 12) Revised FN -- CSHB 12 -- APUC
- 13) Committee Report for CSHB 122- C&RA
- 14) Additional proposed amendments -- Marrou and Furnace Feb. 12,85
- 15) Committee Minutes C & RA -- January 23 and 28, 1985
- 16) Comparison of Electrical Rates for Regulated and Unregulated Utilities -- House Research Agency at request of John Sund

April 4 Meeting

- 17) Proposed CS HB 12 (L & C), by Rep. Davis -- April 4, 1985
- 18) Letter from Alaska Municipal League to Rep. Navarre -- April 4
- 19) Letter from City of Wrangell City Manager to Comm. -- March 14
- 20) Letter from City Attorney of Fairbanks to Rep. Ringstad -- March 14

April 22, 1985 Monday Meeting

- 21) House L & C Committee Minutes -- March 13 and April 4, 1985

HB 12 File Contents

March 13, 1985 Meeting

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CSHB 12(L & C) SECTIONAL ANALYSIS

* Section 1 (line 9 page 1) amends AS 29.23.100 Limitation of Home Rule Powers to include AS 29.23.340 Utility Boards as amended below.

* Section 2 (line 11 page 1) amends AS 29.23.340(b) Utility Boards so that residents of any area served by the utility board may vote on the election of members of the board. This applies only to a utility, that has chosen, under AS 29.23.340(a), to provide by ordinance for a managing board. It does not require municipally owned utilities, currently managed by a city council or municipal assembly, to form a board.

* Section 3 (line 22 page 1) amends AS 29.23.340 Utility Boards by adding a new subsections (e) and (f). Subsection (e) (line 23 page 1) simply makes eligible to serve on the board, any resident of the area served by a municipally owned utility that serves customers outside its boundaries. Again, this applies only to utilities choosing to have a board and applies to residents whether appointed or elected, whichever method the council or assembly chooses.

Subsection (f) (line 26 page 1) does not require appointment or election of local utility board members by district, but if a municipality chooses to appoint or elect by district, then each district then they must to so by the "one person, one vote" principle to ensure equal representation.

* Section 4 (line 4 page 2) amends AS 42.05.711(b) Exemptions, by including the proposed AS 42.05.713 to the provisions that an exempt utility must follow.

* Section 5 (line 11 page 2) amends AS.42.05 to include a new Section 42.05.713 Petition and Election for Regulation of Municipally Owned Utilities. This section is patterned after existing AS 42.05 712 Deregulation Ballot which sets out how a deregulation ballot would be held. The essential features are:

- * 15% of the customers may petition for an election to decide whether or not the utility should be regulated by APUC.
- * an election can only be held every two years.
- * regulation by APUC sunsets after three years.

Original sponsor: Davis

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 12 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to municipally owned public utility
7 regulation and managing board representation."

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

9 * Section 1. AS 29.13.100 is amended by adding a new paragraph to read:

10 (48) AS 29.23.340.

11 * Sec. 2. AS 29.23.340(b) is amended to read:

12 (b) As determined by ordinance, members of the board are ap-
13 pointed by the municipal executive and confirmed by the assembly or
14 council or are elected at the regular election held annually on the
15 first Tuesday of October, unless a different election date or interval
16 of years is provided by ordinance. A resident of any area served by
17 the utility may vote on the election of members of the board. The
18 term of a utility board member is two years and until a successor is
19 selected and has qualified. However, the assembly or council may by
20 ordinance provide for a different term not to exceed four years and
21 not altering the current term of an elected incumbent.

22 * Sec. 3. AS 29.23.340 is amended by adding new subsections to read:

23 (e) If the utility provides services outside the municipality, a
24 resident of any area served by the utility is eligible to serve as a
25 member of the board.

26 (f) Nothing in (b) or (e) of this section requires an assembly
27 or council of a municipality operating a public utility to provide by
28 ordinance for the election or appointment of members of a managing
29 board by district. However, if an ordinance requires members of a

1 managing board to be elected or appointed by district, each district
2 shall have as nearly as practicable an equal number of residents
3 served by the utility and equal representation on the managing board.

4 * Sec. 4. AS 42.05.711(b) is amended to read:

5 (b) Public utilities owned and operated by a political subdivi-
6 sion of the state and none of whose utilities is in competition with
7 any other utility, are exempt from the provisions of this chapter,
8 other than the provisions of AS 42.05.221 - 42.05.281, unless the
9 owner and operator elects to be subject to all provisions of this
10 chapter, or if regulation is required under AS 42.05.713.

11 * Sec. 5. AS 42.05 is amended by adding a new section to read:

12 Sec. 42.05.713. PETITION AND ELECTION FOR REGULATION OF MUNIC-
13 IPALLY OWNED UTILITIES. (a) A municipally owned and operated utility
14 that provides services outside the boundary of the municipality is
15 subject to regulation under this chapter if 15 percent of the
16 customers of the utility petition the commission for regulation and if
17 the customers of the utility approve regulation by a majority vote in
18 an election under this section. A vote for regulation of a utility by
19 the commission does not apply to other utilities owned and operated by
20 the same municipality.

21 (b) Upon receipt of a valid petition for regulation under (a) of
22 this section, the commission shall notify the utility of the petition
23 for regulation. The utility board, assembly, or council shall call an
24 election after notification from the commission and send to each
25 customer of the utility with the customer's regular bill for service a
26 notice of election at least 60 days before the date of election.

27 (c) The notice of election under (b) of this section must con-
28 tain impartial language informing the customer of the utility that an
29 election on the question of regulation by the Alaska Public Utilities

1 Commission will be held within 60 days and that a ballot to partici-
2 pate in that election will be mailed or delivered to each customer of
3 the utility. The notice of election shall also state that a customer
4 of the utility is entitled to vote in the election without regard to
5 whether the customer's account with the utility is current and that
6 the ballot must be postmarked or returned to the commission within 30
7 days after it was mailed or otherwise delivered to the customer. The
8 notice shall also announce the schedule for one or more public meet-
9 ings that shall provide an opportunity for the customers to discuss
10 this election. The public meeting or meetings shall be held not more
11 than 30 days before the ballots are mailed or distributed to those
12 eligible to vote.

13 (d) The utility board, assembly, or council shall mail or de-
14 liver a ballot with a return postage paid envelope addressed to the
15 commission to each customer of the utility with the customer's bill
16 for service. The ballot shall contain only the following language:

17 "Shall (name of utility) be subject to
18 regulation by the Alaska Public Utilities Commission?

19 [] YES [] NO"

20 (e) The commission shall certify the results of an election
21 under this section within 60 days after the ballots are mailed or
22 delivered to the customers.

23 (f) The utility shall make available during the 60 days immedi-
24 ately preceding an election under this section a list of customers of
25 the utility at cost to any customer of the utility who requests one.
26 The list shall be in the same form that is available to the utility.

27 (g) An election under this section may be held only once every
28 two years.

29 (h) The regulation of a utility approved in an election under


1 this section terminates three years after the date the results of the
2 election are certified under (e) of this section. Nothing in this
3 subsection prevents a subsequent petition and election for regulation
4 of the utility under this section following termination of regulation
5 of the utility.
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Alaska MUNICIPAL League

TELEPHONES
(907) 586-1325
(907) 586-6526

105 MUNICIPAL WAY, SUITE 301
JUNEAU, ALASKA 99801

TO: Mike Navarre, Chair
Members of House Labor and Commerce Committee

FROM: Scott A. Burgess 
Executive Director

DATE: April 4, 1985

SUBJECT: HB 12 - Municipally-owned Public Utility Regulations

The League opposes any legislation which would limit or repeal any of the current exemptions of municipally-owned public utilities from regulation by the Alaska Public Utilities Commission (APUC). Therefore, the League opposes HB 12. Repealing the current exemptions of public utilities from regulation by the APUC [AS 42.05.711(b)], even by the petition provision in CSHB 12 (C&RA), is not necessary and would not be in the best interest of the public, the municipalities or the level of service they provide. I hope the following points will summarize why the legislation is not needed and why the League is opposed to it.

APUC Regulation

1. Municipal utilities are exempt from rate regulation by APUC. Municipal utilities are still regulated by APUC in that they must receive a Certificate of Public Convenience by which APUC determines the municipality is best able to provide the best service in an area outside of its municipal limits.
2. The testimony to date has addressed service and customer representation, not rates.
3. The local city council or assembly is more accessible and more responsive to customers than APUC.
4. APUC regulation will increase costs/rates and may not improve service.
5. Under AS 29.48.060 a borough assembly may also act to regulate, fix, establish and change rates for the area outside cities.
6. Dual regulation by the municipality and APUC would be costly and confusing.

Testimony from Fairbanks

1. The City of Fairbanks has a public utility board (PUD), two of the members of which live in the area served outside the city limits.
2. The PUD and the City Council have been responsive to customer complaints.
3. The City has responded to problems by:
 - a. hiring a new utility general manager,
 - b. hiring a new telephone manager,
 - c. spending \$10+ million in system improvements,
 - d. developing a five year utility plan,
 - e. selling bonds for additional improvements.
4. Fairbanks and other municipalities operate more than one utility.
5. A petition election would be costly.

Regulation by Petition

1. The CSHB 12 (C&RA) would allow 25% of the customers, or a minority, to automatically bring about regulation by APUC. No election would be required.
2. Such an election would be expensive.
3. It is not clear if the 25% is of all customers or of just those outside the city; presumably of all customers. . . .
4. The CS is not clear if the regulation would apply to one or all utilities operated by the municipality.

Again, the League is opposed to HB 12 or CSHB 12 (C&RA) and further regulation of municipally-owned public utilities by the APUC, directly or by petition.

Original sponsor: Davis

1 IN THE HOUSE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 12 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to municipally owned public utility
7 regulation and managing board representation."

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

9 * Section 1. AS 29.13.100 is amended by adding a new paragraph to read:

10 (48) AS 29.23.340.

11 * Sec. 2. AS 29.23.340(b) is amended to read:

12 (b) As determined by ordinance, members of the board are appoint
13 ed by the municipal executive and confirmed by the assembly or council
14 or are elected at the regular election held annually on the first
15 Tuesday of October, unless a different election date or interval of
16 years is provided by ordinance. A resident of any area served by the
17 utility may vote on the election of members of the board. The term of
18 a utility board member is two years and until a successor is selected
19 and has qualified. However, the assembly or council may by ordinance
20 provide for a different term not to exceed four years and not altering
21 the current term of an elected incumbent.

22 * Sec. 3. AS 29.23.340 is amended by adding a new subsection to read:

23 (e) If the utility provides services outside the municipality, a
24 resident of any area served by the utility is eligible to serve as a
25 member of the board. The membership of the board must reflect the
26 composition of the user group to the extent possible, with at least
27 one member of the board from outside the municipality.

28 * Sec. 4. AS 42.05.711(b) is amended to read:

29 (b) Public utilities owned and operated by a political

1 subdivision of the state and none of whose utilities is in competition
2 with any other utility, are exempt from the provisions of this chap-
3 ter, other than the provisions of AS 42.05.221 - 42.05.281, unless the
4 owner and operator elects to be subject to all provisions of this
5 chapter. However, if the public utility provides services outside the
6 boundaries of the municipality, the utility is subject to regulation
7 if 25 percent of the customers of the utility petition the commission
8 for regulation.
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Official Business

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Juneau, Alaska 99811

MEMORANDUM

TO: Representative Mike Navarre
Chairman, House Labor & Commerce Committee

FROM: Representative Andre Marrou *Andre Marrou*
Representative Max Gruenberg *Max Gruenberg*
Representative Peter Goll *Peter Goll*

DATE: February 26, 1985

RE: CSHB 12 (C&RA)

During the rush to pass this bill out of the Community & Regional Affairs Committee, we were not able to accommodate some concerns of Representative Marrou. Since then, the three of us have been working to resolve those concerns, which we have done in the form of the attached amendment.

We would like the Labor & Commerce Committee to consider this amendment when the bill is heard. If you would like Representative Gruenberg to testify on the amendment, please contact his secretary, Kathy Ellis.

AMENDMENT

Offered in the HOUSE

TO: CSHB 12 (C&RA)

Page 1, line 22:

Delete "a new subsection" and insert "new subsections" in its place.

Page 1, after line 25, insert:

"(f) Nothing in (b) or (e) of this section requires an assembly or council of a municipality operating a public utility to provide by ordinance for the election or appointment of members of a managing board by district. However, if a municipality, by ordinance, requires members of a managing board to be elected or appointed by district, apportionment shall be consistent with the equal representation standards of the Constitution of the United States."

Comment: This amendment makes it clear that municipalities will not be required to appoint or elect utility board members by district, but may appoint or elect members at large. If they do choose to elect or appoint by district, they must do so under "one person one vote" principles of the federal constitution. The language is similar to AS 29.23.021(a), concerning the apportionment of municipal assemblies, copy attached.

Mr. Linnberg
Ande M
Mr. Peter J. ...

ent corporation" means
d City Development Cor-

velopment plan" has the
provided in AS 44.07.360
ndments to the general

velopment plan" has the
provided in AS 44.07.360
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. Short title. AS
4.600 may be cited as the
poration Act. (§ 3 ch 143

Employees.

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I.S., Officers and Public
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ities

Sec. 29.23.010. General power. The legislative power of a borough is vested in the assembly. (§ 2 ch 118 SLA 1972)

Opinions of attorney general. — Under a former, similar provision the establishment of a department and of standards and procedures to be used in the exercise of an areawide power was a task for the borough assembly, in which was vested the general legislative power. 1962 Op. Att'y Gen., No. 9.

Under a former, similar provision the borough assembly might set up a board of health as an advisory board and be substantially guided by such a board of health in its exercise of the public health power, as long as the borough assembly was the body finally expressing the public health power. 1962 Op. Att'y Gen., No. 9.

To have permitted the borough chairman to serve on the borough assembly would have constituted a clear violation of a former similar provision, and would have violated the common law prohibition against holding incompatible offices. 1963 Op. Att'y Gen., No. 27.

Under a former, similar provision a person elected to the positions of borough assemblyman and borough school board could properly exercise the powers, privileges and duties of both offices concurrently. 1963 Op. Att'y Gen., No. 27.

NOTES TO DECISIONS

Lack of a valid legislative body would not prevent the valid incorporation of a municipality. — This conclusion is bolstered by noting that Alaska's newly-enacted Municipal Government Code has completely separated the statutes relating to the incorporation procedure from those relating to the borough's legislative body. *Jefferson v. State,*

Sup. Ct. Op. No. 1084 (File No. 2000), 527 P.2d 37 (1974).

The incorporation of a municipality is a process both conceptually and functionally distinct from that of establishing a legislative body for that corporation. *Jefferson v. State,* Sup. Ct. Op. No. 1084 (File No. 2000), 527 P.2d 37 (1974).

Sec. 29.23.020. Composition, apportionment, and reapportionment. [Repealed, § 24 ch 83 SLA 1979.]

Sec. 29.23.021. Assembly composition and apportionment. (a) Assembly composition and apportionment shall be consistent with the equal representation standards of the Constitution of the United States.

(b) The assembly of a newly incorporated borough is, after incorporation and until the adoption of an ordinance providing for a change in composition or apportionment, composed of the number of members and apportioned as set out in the incorporation petition approved by the voters. If the borough is already incorporated, the assembly shall be composed and apportioned in a manner that is consistent with the requirements of this section and prescribed by charter or ordinance.

(c) An assembly may not provide for weighted voting.

(d) A member of the assembly of a borough may not be elected or appointed by and from the council of a city in the borough. (§ 1 ch 83 SLA 1979; am §§ 3, 4 ch 128 SLA 1980)



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

January 23, 1985

MEMORANDUM

TO: Representative Mike Davis
FROM: Gretchen E. Keiser, Legislative Analyst
RE: Local Utility Services Outside Municipal Boundaries
Research Request 85-113

Tom Moyer of your staff requested that we provide information about municipally owned utilities which provide various services (electric, telephone, water/sewer and refuse) within the state. We were asked to determine whether providing these services to customers who live outside municipal boundaries is a prevalent practice. Also, we were asked to investigate the basis for the municipal utilities' exemption from regulation by the Alaska Public Utility Commission, as granted in the Alaska Public Utilities Commission Act.

Table 1 summarizes the information obtained from nine municipal utilities regarding the public services they provide. According to the most recent Alaska Public Utilities Commission report (August 1984), these municipal utilities are all exempt from regulation by the APUC, as indicated in AS 42.05.711.¹ Of the nine utilities investigated, Fairbanks, Ketchikan, Petersburg and Seward provided some services (telephone or electric) to customers outside the municipal boundaries. However, the majority of the customers appear to be within the city limits.

Both Fairbanks and Ketchikan have public utility advisory boards which assist the city councils in their deliberations regarding the utilities' rates and services. According to Don LaMarca of the Fairbanks Municipal Utility Services, the Public Utility Board includes two non-city residents on its seven-member board appointed by the mayor. The board has the authority to approve expenditures under \$250,000. Larger budget items must be approved by the Fairbanks City Council. On the other hand, the members of the Ketchikan Public Utility Board are all city residents, and that board provides only advisory comments to the Ketchikan City Council. Although they lack formal representation, utility customers served by the municipalities of Ketchikan, Petersburg and Seward have access to the city councils through the public hearing process.

¹These are the major exempt municipal utilities providing electric and telephone services in the state. In addition, these represent a cross-section of exempt municipalities providing water and sewer services.

TABLE 1

SERVICES PROVIDED BY SOME MUNICIPALLY OWNED UTILITIES IN ALASKA¹

MUNICIPAL UTILITY	LOCAL SERVICES PROVIDED BY MUNICIPALITY				UTILITIES PROVIDED OUTSIDE MUNICIPAL BOUNDARIES	% CUSTOMERS OUTSIDE CITY
	Electric	Telephone	Water/Sewer	Refuse		
Fairbanks Municipal Utilities Service	yes	yes	yes	no	telephone	approx 30 %
City of Fairbanks Public Works Dept.	no	no	no	yes	none	0
Ketchikan Public Utilities	yes	yes	yes	no	electric, telephone	NA
Nome Public Utilities	yes	no	yes	no	none	0
City of Palmer	no	no	yes	yes	none	0
City of Petersburg	yes	no	yes	no	electric	2 %
Seward Public Utility	yes	no	yes	no	electric	24 %
Sitka, City and Borough Public Utilities	yes	no	yes	no	none	0
City of Wrangell Utilities	yes	no	yes	yes	none	0

¹These municipal utilities are exempt from regulation by the Alaska Public Utilities Commission, as indicated in AS 42.05.711.

NA = Not Available.

Prepared by House Research Agency January 1985.

Representative Davis
January 23, 1985
Page Three

As indicated in Table 1, water and sewer services were not provided outside the city limits in the eight utilities which provide these services. Furthermore, refuse collection is not a common municipal function; most communities appear to have private refuse companies.

You also requested information regarding the basis for the exemption from Alaska Public Utilities Commission (APUC) regulation provided to municipal utilities. According to Mr. Ray Wipperman of the APUC, public utilities owned and operated by a political subdivision of the state and none of whose utilities is in competition with any other utility [AS 42.05.711(b)] were exempted from APUC regulation in 1970. The so-called "Ketchikan Amendment" arose because municipalities did not want the State's commission involved in the business of their local utilities. According to Mr. Wipperman, Senator Ziegler might be able to provide you with additional history on the municipal exemption.

We hope this information is useful. Let us know if we can be of further assistance.

GK

A M E N D M E N T # 1

Offered in the HOUSE

By Davis

TO: CSHB 12 (C&RA)

Page 2, line 3, following "chapter", delete all material and insert:

"or if regulation is required under AS 42.05.713"

Page 2, lines 4 through 6, delete all material and insert:

"* Sec. 5. AS 42.05 is amended by adding a new section to read:

Sec. 42.05.713. PETITION AND ELECTION FOR REGULATION OF MUNICIPALLY OWNED UTILITIES. (a) A municipally owned and operated utility that provides services outside the boundary of the municipality is subject to regulation under this chapter, except for the provisions of AS 42.05.221 - 42.05.281, if ~~10~~¹⁵ percent of the customers of the utility petition the commission for regulation and if the customers of the utility approve regulation by a majority vote in an election under this section.

(b) Upon receipt of a valid petition for regulation under (a) of this section, the commission shall notify the utility of the petition for regulation. The utility board, assembly, or council shall call an election after notification from the commission and send to each customer of the utility with the customer's regular bill for service a notice of election at least 60 days before the date of election.

(c) The notice of election under (b) of this section must contain impartial language informing the customer of the utility that a

election on the question of regulation by the Alaska Public Utilities Commission will be held within 60 days and that a ballot to participate in that election will be mailed or delivered to each customer of the utility with the regular bill for service. The notice of election shall also state that a customer of the utility is entitled to vote in the election without regard to whether the customer's account with the utility is current and that the ballot must be postmarked or returned to the commission within 30 days after it was mailed or otherwise delivered to the customer. The notice shall also announce the schedule for one or more public meetings that shall provide an opportunity for the customers to discuss this election. The public meeting or meetings shall be held not more than 30 days before the ballots are mailed or distributed to those eligible to vote.

(d) The utility board, assembly, or council shall mail or deliver a ballot with a return postage paid envelope addressed to the commission to each customer of the utility with the customer's bill for service. The ballot shall contain only the following language:

"Shall (name of utility) be subject to regulation by the Alaska Public Utilities Commission?

[] YES [] NO"

(e) The commission shall certify the results of an election under this section within 60 days after the ballots are mailed or delivered to the customers.

(f) The utility shall make available during the 60 days immediately preceding an election under this section a list of customers of the utility at cost to any customer of the utility who requests one.

The list shall be in the same form that is available to the utility.

(g) An election under this section may be held only once every two years.

(h) The regulation of a utility approved in an election under this section terminates three years after the date the results of the election are certified under (e) of this section. Nothing in this subsection prevents a subsequent petition and election for regulation of the utility under this section following termination of regulation of the utility."

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

January 18, 1985

BILL SHEFFIELD, GOVERNOR

POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

225 CORDOVA STREET - BLDG
ANCHORAGE, ALASKA 99501
PHONE: (907) 264-2294

POSITION PAPER

RE: HB 12

SPONSOR: Representative Mike Davis

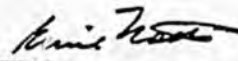
Program Effects of Bill

This bill would limit the current exemption from APUC regulation of utilities of political subdivisions of the State to operations within municipal limits. It would not affect departmental programs.

Comments

The department does not oppose this bill. Municipalities may operate a public utility outside municipal limits pursuant to AS 29.48.040. Municipalities currently enjoy exemption from most APUC regulation, in part because it is felt that resident users are protected by their ability to participate in the political process of governing the municipality. This protection obviously does not exist for utility users outside of municipal limits who are unable to vote in municipal elections. The proposed amendment could serve to provide some protection for these users' interests. However, administration of a utility in such a divided manner would be extremely difficult.

It should be noted that the exemption granted in AS 42.05.711(b) as it exists applies not just to a municipality, but to "a political subdivision of the state." The proposed amendment would have specific application to a regional electrical authority established in AS 18.57 which is statutorily defined as a political subdivision of the state (AS 18.57.020(a)). The proposed amendment in the bill could have a great potential impact on such an authority. This impact could be avoided by replacing "municipality" in the proposed bill with the language "political subdivision of the state." At the present time there is only one such regional electrical authority, which has, in any case, chosen to submit itself to APUC authority.



Emil Notti, Commissioner

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 12
 Title: An Act relating to the exempt-
 ion of municipally owned utilities from certain provisions of the Alaska Public
 Utilities Act
 Sponsor: Davis
 Requestor: House C&RA Committee
 Date of Request: 1-14-85

FISCAL DETAIL

Agency Affected: DCRA
 Program Category Affected: none
 BRU, Program or Subprogram(s) Affected:
 None

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-			

CAPITAL	-0-	-0-	-0-			
----------------	-----	-----	-----	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)


GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

This bill would have no fiscal impact on the Department.

Prepared By: James Plasman 
 Division: Municipal & Regional Assistance

Phone: 465-4707

Date: 1-18-85

Approved by Commissioner: 
 Agency: _____

Date: 1/18/85

Distribution (by Agency preparing fiscal note):

Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 1/25/85

REQUEST

Bill/Resolution No.: HR 12
 Title: Exemption of municipally owned util. from certain provisions of APU
 Sponsor: Davis
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Alaska Public Util. Commission
 Program Category Affected: Consumer Protection
 BRU, Program or Subprogram(s) Affected: Alaska Public Utilities Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES	0	119.5	119.5	119.5	119.5	119.5
200 TRAVEL	0	3.0	3.0	3.0	3.0	3.0
300 CONTRACTUAL	0	0	0	0	0	0
400 SUPPLIES	0	.8	.9	1.0	1.0	1.0
500 EQUIPMENT	0	-----	-----	-----	-----	-----
600 LAND & STRUCTURES	0	6.0	6.0	6.0	6.0	6.0
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	129.3	129.4	129.5	129.5	129.5

CAPITAL						
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REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND	0	129.3	129.4	129.5	129.5	129.5
FEDERAL FUNDS	0					
OTHER	0					
TOTAL	0	129.3	129.4	129.5	129.5	129.5

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME	0	2	2	2	2	2
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: John B. Farleigh, Executive Director Phone: 276-6222 ext. 111
 Division: Alaska Public Utilities Commission Date: 1/24/85
 Approved by Commissioner: Carolyn Guess Date: 1/25/85
 Agency: Alaska Public Utilities Commission

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

7/1/84



STATE OF ALASKA
OFFICE OF THE GOVERNOR

465-2504 to receive this information immediately.

BILL ANALYSIS

DEPARTMENT Commerce & Economic Development	DIVISION Alaska Public Utilities Commission	BILL NUMBER HB 12	SPONSOR Davis
DEPARTMENT POSITION			
PREPARED BY Carolyn S. Guess Chairman	DATE 1/22/85	COMMISSIONER'S SIGNATURE	DATE

SUMMARY

OTHER AGENCIES AFFECTED BY BILL	CONSTITUENT GROUPS AFFECTED BY BILL
ORGANIZATIONAL SUPPORT FOR BILL	ORGANIZATIONAL OPPOSITION TO BILL

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

~~BACKGROUND INFORMATION~~

ANALYSIS OF BILL:

The proposed legislation, by modifying the existing exemption statute for municipally owned utilities (AS 42.05.711(b)), in effect creates a potential for new Alaska Public Utilities Commission jurisdiction. This new jurisdiction would be particularly complex in that a municipal utility, with rates and services otherwise exempt from the regulatory process, would have to separate its operations and accounts for services outside its municipal boundaries. As a practical matter, it would be impossible to economically regulate such a utility without access to operating data from an exempt municipal utility for the purpose of allocating revenues and expenses between customers residing inside and outside of the municipal boundaries. Such partial regulation would be an administrative nightmare!

Although the potential impact of this bill is not clear at this time, the Alaska Public Utilities Commission is aware that some services provided by the Fairbanks Municipal Utility System would fall into this category. The attached fiscal note was developed as a minimum-cost response to the proposed legislation and could require amendment if the impact is appreciably greater than now estimated.

.....
This legislation identifies a legitimate concern of those utility customers to whom no one is accountable. The APUC has no regulatory jurisdiction and, therefore, cannot respond to these customers' concerns; the elected officials who makes rate and service decisions affecting these consumers are not responsible to them through the elective process. We understand in some instances as much as 50% of the customer base of a municipal utility can be in this "no-man's" land. The Commission is willing to work with those affected to explore possible solutions other than bifurcated regulation of some municipal utilities.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 12
 Title: Exemption of municipally owned utilities from APUC Act
 Sponsor: Davis
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Alaska Public Util. Commis
 Program Category Affected: Consumer Protectio
 BRU, Program or Subprogram(s) Affected: Alaska Public Utilities Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES	119492	119492	119492	119492	119492	119492
200 TRAVEL	2500	2650	2809	2978	3156	3346
300 CONTRACTUAL	0	0	0	0	0	0
400 SUPPLIES	800	848	899	953	1010	1071
500 EQUIPMENT	4050	---	---	---	---	---
600 LAND & STRUCTURES	6000	6000	6000	6000	6000	6000
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	132842	128990	129200	129422	129658	129908
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND	132842	128990	129200	129422	129658	129908
FEDERAL FUNDS						
OTHER						
TOTAL	132842	128990	129200	129422	129658	129908

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME	2	2	2	2	2	2
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: John B. Farleigh, Executive Director. Phone: 276-6222 ext. 111
 Division: Alaska Public Utilities Commission Date: 1-22-85
 Approved by Commissioner: _____ Date: _____
 Agency: _____

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84



STATE OF ALASKA
OFFICE OF THE GOVERNOR

Please call Catherine Wallen at 465-2504 to receive this information immediately.

BILL ANALYSIS

DEPARTMENT Commerce & Economic Development	DIVISION Alaska Public Utilities Commission	BILL NUMBER HB 12	SPONSOR Davis
DEPARTMENT POSITION			
PREPARED BY Carolyn S. Guess Chairman	DATE 1/22/85	COMMISSIONER'S SIGNATURE	DATE

SUMMARY

OTHER AGENCIES AFFECTED BY BILL	CONSTITUENT GROUP(S) AFFECTED BY BILL
ORGANIZATIONAL SUPPORT FOR BILL	ORGANIZATIONAL OPPOSITION TO BILL

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

ANALYSIS OF BILL:

The proposed legislation, by modifying the existing exemption statute for municipally owned utilities (AS 42.05.711(b), in effect creates a potential for new Alaska Public Utilities Commission jurisdiction. This new jurisdiction would be particularly complex in that a municipal utility, with rates and services otherwise exempt from the regulatory process, would have to separate its operations and accounts for services outside its municipal boundaries. As a practical matter, it would be impossible to economically regulate such a utility without access to operating data from an exempt municipal utility for the purpose of allocating revenues and expenses between customers residing inside and outside of the municipal boundaries. Such partial regulation would be an administrative nightmare!

Although the potential impact of this bill is not clear at this time, the Alaska Public Utilities Commission is aware that some services provided by the Fairbanks Municipal Utility System would fall into this category. The attached fiscal note was developed as a minimum-cost response to the proposed legislation and could require amendment if the impact is appreciably greater than now estimated.

.....
This legislation identifies a legitimate concern of those utility customers to whom no one is accountable. The APUC has no regulatory jurisdiction and, therefore, cannot respond to these customers' concerns; the elected officials who makes rate and service decisions affecting these consumers are not responsible to them through the elective process. We understand in some instances as much as 50% of the customer base of a municipal utility can be in this "no-man's" land. The Commission is willing to work with those affected to explore possible solutions other than bifurcated regulation of some municipal utilities.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

FISCAL NOTE

Revision Date: 1/25/85

REQUEST

Bill/Resolution No.: HR 12
 Title: Exemption of municipally owned util. from certain provisions of APU

Sponsor: Davis
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Alaska Public Util. Commission
 Program Category Affected: _____
Consumer Protection
 BRU, Program or Subprogram(s) Affected: _____
Alaska Public Utilities Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES	0	119.5	119.5	119.5	119.5	119.5
200 TRAVEL	0	3.0	3.0	3.0	3.0	3.0
300 CONTRACTUAL	0	0	0	0	0	0
400 SUPPLIES	0	.8	.9	1.0	1.0	1.0
500 EQUIPMENT	0	----	----	----	----	----
600 LAND & STRUCTURES	0	6.0	6.0	6.0	6.0	6.0
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	129.3	129.4	129.5	129.5	129.5
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	129.3	129.4	129.5	129.5	129.5
FEDERAL FUNDS	0					
OTHER	0					
TOTAL	0	129.3	129.4	129.5	129.5	129.5

POSITIONS:

FULL-TIME	0	2	2	2	2	2
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

2/15/85 For Committee to see OIRA recommended replacing HB 12 with O.S. HB 12 (OIRA) with zero fiscal note.

Prepared By: John B. Farleigh, Executive Director

Phone: 276-6222 ext. 111

Division: Alaska Public Utilities Commission

Date: 1/24/85

Approved by Commissioner: Carolyn Guess

Date: 1/25/85

Agency: Alaska Public Utilities Commission

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

REQUEST

Bill/Resolution No.: CSHB 12(C&RA)
Title: Relating to municipally owned utility regulation & board representation
Sponsor: House C&RA
Requestor: _____
Date of Request: _____

FISCAL DETAIL

Agency Affected: Commerce & Economic Development
Program Category Affected: Protection
BRU, Program or Subprogram(s) Affected: Alaska Public Utilities Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
----------------	---	---	---	---	---	---

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Carolyn Guess, Chairman Phone: 276-6222
Division: Alaska Public Utilities Commission Date: 2/13/85
Approved by Commissioner: *Carolyn Guess* for *Chairman* Date: 2/13/85
Agency: Alaska Public Utilities Commission

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84



Alaska State Legislature

Representative Mike Davis

Pouch V
Juneau, Alaska 99811
(907) 465-4930/4941

Interim Office:
P.O. Box 81435
Fairbanks, Alaska 99708

MEMORANDUM

TO: Representative Peter Goll, Chairman
House Community & Regional Affairs Committee

FROM: Rep. Mike Davis

RE: HB 12

DATE: January 17, 1985

House Bill 12 would partially repeal the exemption of municipally owned utilities from certain provisions of the Alaska Public Utilities Act.

Under the current law a municipally owned utility that serves customers outside of its municipal limits, in effect, disenfranchises those customers from their decision making process. As an example in Fairbanks, approximately half of the Fairbanks Municipal Utility System's (FMUS) telephone subscribers are from outside the city. FMUS is regulated by the City Council (the Public Utilities Board is advisory only). Subscribers outside the city exercise no control over the City Council thus have no say in rate structuring, expansion plans, how funds are allocated from one utility service to another etc.

Allowing APUC to regulate such a utility would give such subscribers a legitimate means to participate in deciding matters that the Commission regulates such as described above.

This exemption would apply only to a municipality owning a utility that serves consumers beyond the municipal borders and only to its activities in the area beyond its borders.

Office of the City Attorney



HERBERT P. KUSS
CITY ATTORNEY

WM. RONALD SMITH
DEPUTY CITY ATTORNEY

PATRICK B. COLE
DEPUTY CITY ATTORNEY

JAMES M. MULLEN
ASSISTANT CITY ATTORNEY

410 CUSHMAN STREET
FAIRBANKS, ALASKA 99701
907-452-1881

February 28, 1985

Honorable Mike Navarre
Pouch V
Juneau AK 99811

RE: House Bill 12

Dear Representative Navarre:

The City of Fairbanks has learned that a committee substitute for House Bill 12 is presently in the House labor and commerce committee (copy attached). The City opposes House Bill 12 and does not believe any legislation is necessary.

There is already legislation on the books granting authority to the borough to regulate MUS telephone rates and to set requirements for deposits (AS 29.48.060, copy attached). I have not heard any criticism of the rates or security deposits set by the City's telephone utility. In fact, our rates are very low and our security requirements minimal. Regulation of rates by APUC will not effectuate what citizens complain about, lack of extension of service to new areas and upgrading of party line service to private lines.

The City has a new telephone manager, Ernie Cuzzecrero. In the short time he's been here he's impressed the community with his dynamic enthusiasm and ability to upgrade the system for all our customers.

As far as I know APUC has never required a utility to raise its rates in order to extend service. There will be very substantial costs to the City if APUC is given the authority to regulate the city telephone utility. The City is working very hard to provide quality service to all its customers at the lowest possible cost. Adding this regulatory burden will not assist us in doing so.

There are significant problems with the change to 42.05.711(b) contained in Committee Substitute HB 12 offered February 15, 1985.

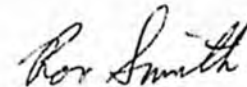
1. The City of Fairbanks owns and operates five different utilities. The bill needs to clarify that this change will only apply to the utility operating outside the municipality and not the other utilities owned by the City.

2. This change in effect provides for rule by minority. A petition by 25% of the telephone customers can control what the majority actually gets, which may not be what they desire.

3. The clear intent of the change is that 25% of the customers refers to customers both inside and outside the municipality. However, to avoid disputes, this needs to be made very specific.

4. There are problems with any changes or decisions to be made solely by petition. All other state and city provisions relating to referendums, initiatives and recalls are begun by petitions but decided by an election. Petitions generally present only one side of the issue. Many times customers may be dissatisfied and sign a petition for change without understanding the possible ramifications of the change or the other side of the issue. It is strongly recommended that if a petition by 25% of the customers is submitted to APUC, either APUC or the municipality shall be required to conduct an election within 60 to 90 days with the majority deciding. Even if a certain percentage less than a majority can approve the change, at least both sides of an issue may be presented to customers. Attached is my proposal for changed language in the bill to avoid these problems if the basic concept is thought necessary.

Sincerely,



Wm. Ronald Smith
Deputy City Attorney

WRS/bjw

cc: W.C. Droz, City Manager
Virgil Gillespie, MUS General Manager

Enc: CS for HB 12
AS 29.48.060
Proposed change to CS for HB 12

CHANGE TO AS 42.05.711(b)
AS STATED IN CS FOR HB 12
OFFERED FEBRUARY 15, 1985

However, if the public utility provides services outside the boundaries of the municipality, the utility is subject to regulation if 25% of the customers of the utility petition the commission for regulation.

SHOULD BE AMENDED TO READ:

However, if a public utility provides services outside the boundaries of the municipality, the utility is subject to regulation if 25% of the customers of the utility, both inside and outside the municipality, petition the commission for regulation and an election is held at which a majority of customers vote in favor of regulation. Customer for purpose of this section is the person or entity in whose name the utility service is listed with the utility. If a municipality owns and operates more than one utility, only the utility whose customers have petitioned and voted in favor of regulation is subject to regulation by the Alaska Public Utilities Commission other than the provisions of AS 42.05.221 - 42.05.281. The municipality affected shall conduct the election within 60 days in the manner prescribed by its election code except the eligible voters shall be the customers of the utility affected.

NOTES TO DECISIONS

Power to provide for utilities authorizes binding grant of franchise. — Power granted to a municipality to provide for water supply and lights under a former, similar provision undoubtedly carried with it the power to grant a franchise to an electric light company for a limited period of time to use the municipal streets for poles and wires and the transmission of electricity, and the franchise, if accepted, became binding upon both the city and the company, not to be revoked or repealed, unless the power to repeal had been clearly and unmistakably reserved. *Alaska Elec. Light & Power Co. v. City of Juneau*, 294 F. 864 (9th Cir.), cert. denied, 266 U.S. 601, 45 S. Ct. 90, 69 L. Ed. 462 (1924).

Meaning of "franchise". — While the grant of a right to use a public wharf, being a privilege conferred by public authority, might be a "franchise" within the broad and general meaning of that word, it was not a "franchise" within the meaning of a former, similar provision. As there used, the word was limited to include only privileges granted to a private person to construct and maintain public services. *Femmer v. City of Juneau*, 9 Alaska 315, 97 F.2d 649 (9th Cir. 1938).

This section draws a distinction between franchises and permits to use. *Femmer v. City of Juneau*, 9 Alaska 315, 97 F.2d 649 (9th Cir. 1938), decided under former, similar law.

Permits need not be given by separate ordinances. — A former, similar

provision required only that permission to use might be given under, i.e., in accordance with, "rules and regulations" established by ordinance, not that each separate permit had to be the subject of an ordinance. *Femmer v. City of Juneau*, 9 Alaska 315, 97 F.2d 649 (9th Cir. 1938).

But franchises must be approved by electorate. — Both in the case of the grant of a franchise to construct and maintain public utilities and in the case of a sale, lease, exchange or similar disposal of public property, approval of the electorate was necessary to validate the transaction under a former, similar provision. *Femmer v. City of Juneau*, 9 Alaska 315, 97 F.2d 649 (9th Cir. 1938).

A certificate of public convenience and necessity did not grant a monopoly, in relation to a city's electrical utility system, to furnish electrical energy throughout the service areas which had been allotted. *Chugach Elec. Ass'n v. City of Anchorage*, Sup. Ct. Op. No. 407 (File Nos. 705, 706), 426 P.2d 1001 (1967).

A certificated utility is not insulated from competition by municipally owned and operated utilities under the Alaska Public Service Commission Act (AS 42.05). *Chugach Elec. Ass'n v. City of Anchorage*, Sup. Ct. Op. No. 407 (File Nos. 705, 706), 426 P.2d 1001 (1967).

Applied in *E. C. Cable Co. v. City of Juneau*, Sup. Ct. Op. No. 2112 (File No. 4587), 613 P.2d 616 (1980).

Collateral references. — 56 Am. Jur. 2d. Municipal Corporations, Counties, and Other Political Subdivisions, § 140 et seq.

64 C.J.S., Municipal Corporations, § 1726.

Motive of council passing ordinance as

to franchise as affecting validity thereof, 32 ALR 1525.

Forfeiture of street railway franchise for breach of condition, 34 ALR 1420.

Municipality's liability in damages for refusal to grant franchise, 37 ALR2d 694.

Sec. 29.48.060. Public utilities rates. The assembly acting for the area outside cities and the council acting for the area within a city may regulate, fix, establish and change, as it considers proper, the rates and charges imposed for utilities services given to the municipality or its inhabitants by a municipally owned utility not regulated under AS 42.05 and may regulate and provide what is a reasonable deposit for meters and security for service to be given, provided that interest is paid on the deposit. All rates, charges and regulations shall be reasonable and shall permit a fair and reasonable return on invested capital. (§ 2 ch 118 SLA 1972; am § 1 ch 136 SLA 1980)

HB 12 File Contents

HB 12--C & RA Committee

- 1) Bill Summary -- Legislative Reporting Service
- 2) Position Paper -- Rep. Mike Davis
- 3) Fiscal Note -- DCRA
- 4) Fiscal Notes plus Fiscal Analysis -- APUC
- 5) Alaska Statutes 42.05.221-281 & 691-712
- 6) Legislative Analysis -- House Research Agency
- 7) Memorandum -- Rep. Davis to Rep. Goll, C & RA
- 8) Public Response:
 - a. City of Fairbanks (opposed) & Response by Rep. Davis
 - b. Alaska Municipal League (opposed)
 - c. POM from Don Thrapp (pro)
 - d. Written testimony -- Gary Newman (pro)
 - e. City of Seward (opposed) and Rep. Gruenberg's response
 - f. Response of Rep. Davis to City of Seward

CSHB 12 -- C & RA Committee

- 9) CSHB 12 Bill Summary -- Legislative Reporting Service
- 10) CSHB 12 (C&RA)
- 11) Sectional Analysis CSHB 12 -- Rep. Davis
- 12) Revised FN -- CSHB 12 -- APUC
- 13) Committee Report for CSHB 122- C&RA
- 14) Additional proposed amendments -- Marrou and Furnace Feb. 12, 85
- 15) Committee Minutes C & RA -- January 23 and 28, 1985
- 16) Comparison of Electrical Rates for Regulated and Unregulated Utilities -- House Research Agency at request of John Sund

SENATE BILLS RECEIVED IN THE HOUSE

Judicial
Vacancy SENATE BILL NO. 124, (see pages 215;226;272). Received in the House February 13 and referred to Judiciary.

Setting of
Venue SENATE BILL NO. 125, (see pages 215;226;273). Received in the House February 13 and referred to Judiciary.

Automobile
Racing Assns. SENATE BILL NO. 126, (see pages 215;273). Received in the House February 15 and referred to State Affairs, Judiciary.

Missing
Children
(pictures of) SENATE CONCURRENT RESOLUTION NO. 5, (see pages 267; 273). Received in the House February 15 and referred to Judiciary.

COMMITTEE REPORTS (House)

Municipally
Owned Utilities
(exempt from
APUC Act) HOUSE BILL NO. 12, (see page 19). Reported back to the House February 15 by Community & Regional Affairs recommending it be replaced with a substitute and as follows: Goll (Chair), Wallis, Koponen and Gruenberg recommend it do pass. Furnace and Phillips had no recommendation. Marrou recommends do not pass. To Labor & Commerce.

The C&RA substitute contains none of the original language. Adds AS 29.23.340 (Municipal Officers and Employees. Utility Boards) to list of limitations of home rule powers, and adds language to AS 29.23.340 stating a resident of any area served by a utility may vote on the election of members of the board. Adds another section stating that if a utility provides services outside a municipality, a resident of any area served is eligible to serve as a member of the board.

Under current law public utilities that are owned and operated by a municipality that are not in competition with other utilities, are exempt from the provisions of the Alaska Public Utilities Act, unless the owner and operator elect to be subject to those provisions. Under the substitute bill if a public utility provides service outside the boundaries of the municipality, it is subject to regulation if 25 percent of the customers petition the commission for regulation.

Car Theft/
Joyriding
(heavier
penalties) HOUSE BILL NO. 17, (see page 40). Reported back to the House February 13 by Judiciary recommending it be replaced with a substitute and that it do pass. Concurring: M. M. Miller (Chair), Gruenberg, Taylor, Pettyjohn and Phillips. Sund had no recommendation. To Rules.

Under the new Judiciary version of the bill, a person who is convicted of current or former car theft/joyriding laws (criminal mischief in the 3rd degree), first, second or third degree and lesser theft charges, or for a similar municipal offense would be guilty of a class C felony if a propelled vehicle were stolen a second time within a seven year period.

Medicaid
Services
(mandatory &
optional) HOUSE BILL NO. 98, (see page 131). Reported back to the House February 15 by HESS recommending it do pass. Concurring: Koponen and Gruenberg (Co-Chairs), Pettyjohn, Hanley, Taylor and Hurley. To Finance.

... Rural/Local Gov ...

Redefining "Rural" For Loans

An attempt to redefine "rural" for the purposes of housing loans is behind the introduction of HB-175 by Marrou and SB-65 by Kerttula. HB-175 will base rural solely on population -- those living in communities of 4,500 or less will be considered "rural" and will therefore include communities like Homer and Soldotna. SB-65, in addition to using population, requires that a rural community cannot be connected to Anchorage by road or rail, thereby excluding Homer and Soldotna.

Rural "Job" Bills

Both HB-154 by Thompson and SB-31 by Zharoff are intended to provide residents of rural communities greater access to state jobs. Both bills focus on setting up mechanisms for getting rural job seekers on registers as well as sending the word of state job openings out to rural areas. The main drawback to the bill is the fiscal side -- implementation of such a program could be very expensive. SB-31 had a first hearing in Senate Labor and Commerce; HB-154 was pulled out of committee by its sponsor prior to its first hearing before House Community and Regional Affairs for revision.

Rural Air Service

The deregulation of the airline industry resulted in the cessation of most air service to the bush. The Essential Air Service Act was passed by Congress as a means of gradually, rather than abruptly cutting off this service. It provides federal subsidies to carriers servicing bush communities and was intended to do so through 1988. However, funding for the continuation of the program has not been included in next year's federal budget. HJR-16 by Cato, requests the Department of Transportation to adhere to the scheduled continuation of the Act through the 1988 expiration date. HJR-16 will be heard the 19th in Transportation.

Local Project "Cost Sharing"

Local governments may have to pay for at least 10% of construction costs for capital projects, in addition to paying for their operation and maintenance, should HB-41 by Larson pass. Intended as a means to reestablish local responsibility in the state appropriation process, a number of concerns surfaced at the bill's first hearing before House Finance.

One of the major questions which needs to be answered is how the local share of "at least 10%" will be determined. Also of concern is how smaller communities without a strong tax base will be able to raise the proposed local match.

The bill is currently in a special subcommittee of House Finance, chaired by Larson, who is expected to issue a substitute by the end of the month.

Municipal Utilities

Some areas of the state, outside the jurisdiction of a municipality, are served by municipally owned public utilities. HB-12, by Davis, will enable those who reside in such service areas to have more clout about the regulation of the utilities.

Two main aspects comprise the CS which passed out of House Community and Regional Affairs last week. The first pertains to those municipalities having advisory boards to work with them on utilities, including rates and service. These boards may be appointed or elected. The CS will enable residents of service areas outside of the municipality to vote for the members of the advisory board in those instances where an election is held. The second point provides these residents with greater recourse concerning their utilities. When 25% or more subscribers are unhappy with their service, they will be able to petition the Alaska Public Utilities Commission (APUC) for regulation. CSHR-12 has been referred to House Labor and Commerce.

Alaska



TELEPHONES
(907) 586-1325
(907) 586-6526

105 MUNICIPAL WAY, SUITE 301
JUNEAU, ALASKA 99801

To: House Community and Regional Affairs Committee

From: Scott A. Burgess, Executive Director

Date: January 23, 1985

Subject: HB 12 - Municipal Utilities Exemption from APUC

On behalf of the Alaska Municipal League, I am opposed to HB 12. Repealing the current exemptions of public utilities from regulation by the APUC (AS 42.05.711(b)), would not be in the best interests of the public, the municipalities, the utilities or the level of service they provide.

My understanding of the bill is that it would repeal the current exemption for the utility service area outside the municipal limits. In the service area outside the municipal limits, the APUC would also regulate in addition to the council/assembly. The APUC regulation would be primarily one of rates, not service. Currently, the APUC does review and regulate service areas, determining who can provide the best service in a given area. Therefore, to require them to regulate municipal utilities would only add expense and bureaucracy, not improve service.

In the interests of brevity, I have outlined some points that clarify the League's opposition to the bill, and why I do not believe the legislation would have the desired effect of improving utility service by franchising customers receiving municipal utility service outside of municipal boundaries:

1. The City Council is a local regulator, and convenient, sympathetic and responsive to the local customer with complaints. Where the service area is in a borough, the borough assembly is also available. Boroughs also may seek utility authority.

2. The major public utilities providing utility service beyond the city limits are Fairbanks and Ketchikan. Both have utility boards with representation from the public outside the cities.

3. The APUC currently regulates service areas of municipal utilities. The additional regulation called for in HB 12 would only apply to rate setting. The utility manager in Seward estimated a cost of \$50,000 to \$100,000 to prepare a rate case before the APUC. The result would not be improved service but, in fact, higher costs to the rate payer from the added bureaucracy.

4. Without the presence of the public utility, no service may be provided to the public outside the municipal boundary.

5. The bill addresses a problem unique to the Fairbanks Municipal Utility Service and, specifically, the telephone utility. Much of the problem has been as a result of State subdivisions providing residential lots in proximity to urban areas without providing utilities or the funds to the public utility to provide the services expected by the eventual homeowner.

6. Municipalities that provide some utility service outside the municipalities boundaries, and that I was able to contact, oppose the bill on the basis that it will add confusion and cost with no improvement in service. More importantly, the city council and their utility boards are more accessible and responsive than the APUC in Anchorage. The municipalities that I contacted are: Fairbanks, Ketchikan, Seward, and Kenai.

"The League supports the current statutory exemptions which allow municipal utilities to operate in the best interests of the consumer public without regulation by the APUC." (1985 Policy Statement, PART VI, A.2., page 10)

"The League endorses the return to municipalities of the authority to regulate all utilities, other than co-op utilities and utilities that have opted out of the Alaska Public Utilities Commission (APUC) regulation, within their jurisdiction to the extent not regulated or specifically exempted from municipal regulation under state law." (1985 Policy Statement, PART VIII, A. 6., page 13)

Again, the League opposes HB 12. Thank you for the opportunity to comment.

*
* DELIVER TO: JPOM *
*
* ORIGINAL *
* SENT: 01/22/85 TIME: 16:13 *
* FROM: LIOSOL *
* SUBJECT: TELEPHONE ZONING *
* PRINT DATE: 01/22/85 TIME: 16:14 *
*

P.O.M.

TO: ALL SENATORS AND ALL REPRESENTATIVES

FROM: DON T. TRAPP
BOX 449
KASILOF, AK 99810
262-1433

MESSAGE: PLEASE GET ALASKA PUBLIC UTILITY COMMISSION OFF THEIR
TAILS AND ZONE OUR TELEPHONE SERVICE AREAS SO RURAL RESIDENTS CAN
OFFORD PRIVATE LINES. APPLICATION HAS BEEN BEFORE THEM FOR OVER
TWO YEARS. ACTION PLEASE!

E.O.M.

DR

TELECOPY COVER SHEET
FAIRBANKS INFORMATION OFFICE

TO: Inu Info FOR: Rep. GOLL
+ Rep. Davis PHONE: _____

FROM: GARY Newman - FAIRBANKS PHONE: _____

ADDITIONAL INSTRUCTIONS: This is testimony for a
meeting this afternoon on HB 12.

DATE/TIME SENT: 9:00 AM SENT BY: Ann
1/28/85

PLEASE ACK. RECEIPT: HOLD FOR PICK-UP: _____

NUMBER OF PAGES 2 (NOT COUNTING COVER SHEET)

Gary C. Newman
1083 Esro Road
Fairbanks, Alaska 99701

Phone 488-2001

January 25, 1985

Rep. Peter Goll, Chairman
House Committee on Community
and Regional Affairs
Pouch V
Juneau, Alaska 99811

Dear Rep. Goll,

Please accept this written testimony on HB 12, as I was not able to finish my testimony during the teleconference last week and I will be in Chalkyitsik during the next teleconference on Monday.

I would like to explain that I am a journeyman telephone installer who worked for FMUS for nine years. I am presently a member of the Fairbanks North Star Borough Planning Commission and previously served on the Platting Board, so I have absorbed some knowledge about the development that has taken place over the years in the Fairbanks area.

I do support the intent of this bill. There has been a real problem in insuring that FMUS Telephone:

- 1) sets rates appropriately to meet their construction and expansion needs,
- 2) when collecting revenues, insuring that those revenues do go into meeting their construction and expansion needs.
- 3) meets their construction and expansion needs in the areas that they are franchised to serve.

Rates are and have been artificially low. While Fairbanks has been a fast growing for the past several years, there was a several year period prior to that where there was plenty of opportunity to catch up on inside and outside plant construction. Extra revenues received by the telephone utility have traditionally been used to subsidize the other utilities over the years. Major construction and expansion projects have been limited to occasional bond issues and legislative appropriations. From a recent study funded by the city, it would take \$160,000,000 to bring the telephone utility up to standard.

While most of the brunt of the poor shape of the utility has fallen on outlying areas where there is a lack of facilities with which to provide service, all areas have been equally hard hit by overloaded switches.

The question in my mind regarding this bill is whether APUC regulation would improve the utility. The additional burden of regulation will be costly to the utility in rate filings before the commission. However, I think that the APUC would more readily see and insist that the utility meets its obligations under its franchise to operate.

There is definitely an issue as to whether subscribers or potential subscribers within the FMUS service are who live outside the City of Fairbanks have any legal recourse before a political body which sets the rates, the Fairbanks City Council. It was a step in the right direction to re-establish the Public Utilities Board with some members as representatives of those living outside the City of Fairbanks. Yet the P.U.B. is essentially an advisory board to the City Council. The City Council must retain the right and obligation to encumber city funds. The last time the P.U.B. strongly insisted that the City upgrade its facilities, the City Council abolished the P.U.B.

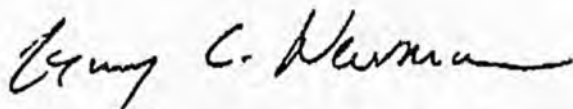
I think that the simplest description of the problem has been that the FMUS telephone utility has been guided by political decisions and not utility management decisions. The present mayor, just recently reelected, has pledged that he will veto an rate increase in defiance of the recent study that shows how bad things really are. I can recognize that FMUS Telephone has just about reached the end of the line with special appropriations in the state's capital budget. Yet the subscribers and those who would subscribe to telephone service in areas outside the city boundaries that FMUS should be serving were not amongst those who elected the mayor of the City of Fairbanks.

There are a couple other options that might affect the need for this legislation, but that seem unlikely in the near future: that of selling the utility or that of unifying the city and the borough.

I would suggest that this bill be modified to read that the exemption from APUC regulation be removed for any municipal utility if more than 10% of their customers reside outside the municipal boundaries. The task of delineating which items affect non-city subscribers would be too complex. I think the utility subscribers would be better served if a regulatory body with expertise in that utility was able to take a stronger hand than an advisory body.

Thank you for your attention to my concerns. Please share this letter with the other members of your committee.

Best regards,



cc: Rep. Mike Davis

State of Alaska

COMMITTEES

HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES
(Co-Chairman)
HOUSE JUDICIARY
HOUSE COMMUNITY AND
REGIONAL AFFAIRS



POUCH V
JUNEAU, ALASKA 99811
(907) 465-4968
914 CLAY COURT
ANCHORAGE, ALASKA 99501
(907) 276-6844

Representative Max F. Gruenberg, Jr.
District 11
Spenard, Upper Midtown Anchorage

February 12, 1985

Mayor Donald W. Cripps
City of Seward
P.O. Box 167
Seward, AK 99664

Re: House Bill 12

Dear Mayor Cripps:

Thank you very much for your letter on House Bill 12. I agree with you that the APUC should not be involved in municipally owned utilities. Several members of the House Community and Regional Affairs Committee, including myself, are attempting to work on the bill to provide an alternative solution. I will make sure that your letter is placed in the committee file on the bill.

Cordially,

A handwritten signature in cursive script, appearing to read "Max F. Gruenberg, Jr.".

Max F. Gruenberg, Jr.

MFG/ke

cc: Bob Berry, C&RA Committee staff

CITY OF SEWARD

P.O. BOX 167
SEWARD, ALASKA 99664



- Main Office (907) 224-3331
- Police (907) 224-3338
- Harbor (907) 224-3341
- Telecopier (907) 224-3248

February 5, 1985

The Honorable Max Gruenberg, Jr.
House of Representatives
Pouch v
Mail Stop 3100
Juneau, AK 99811

SUBJECT: HOUSE BILL NO. 12, 14th LEGISLATIVE

Dear Representative Gruenberg:

I am very concerned about the impact on the rate payer of the Seward Electric Utility if House Bill 12 were passed as currently drafted. The additional cost required to meet the administrative needs of Alaska Public Utilities Commission would have to be directly passed to the consumer, but would not result in any improvement in service.

The Seward Electric Utility consists of approximately 1800 customer accounts, of which 1400 are within the city limits. Those outside are mainly located in subdivisions adjacent to the city limits, with a few spread along the Seward Highway between miles 12 and 24. The KWH rate is standard throughout this service area, even though the cost of service outside the city far exceeds that within the city limits. The monthly customer charges vary to reflect a slightly higher cost of service outside the city, residential fees being \$20.08 vs \$22.28, and commercial \$36.25 vs \$45.49. Service and response to emergencies is the same, except for travel time delay.

The Seward City Council performs the function of a utility board or commission. All tariffs and similar actions are considered in open assembly and are subject to public hearing as is other city business. The Council has never refused to permit testimony from a person outside city limits on a matter affecting the Utility.

House Bill No. 12
14th Legislative
Page 2

Placing a small utility, such as Seward Electric, under the APUC will subject them to unreasonable and costly administration that will increase the cost of service to the rate payer, while experiencing no improvements to service. The utility generally follows the APUC operating rules published for utilities, however, they are not subject to requirement for APUC tariff hearings and other costly, time consuming administrative reviews. The cost alone of preparing for a tariff revision and subsequent hearings would add 10 to 15% to the operating budget. A utility with 1800 customers cannot absorb such unnecessary overhead without directly impacting the cost of service to the customer. This additional burden would be even more unreasonable if one accepts statements by other utilities concerning the cost of responding to demands of the APUC, or the benefits gained from implementing their procedures.

Seward's position is that placing the Seward Utility under the APUC would not be beneficial by either rate regulation or improved services. Rates would increase and/or service would deteriorate in response to the increased administrative burdens. Furthermore, because the Seward City Council has close communications with rate payers within and without the City limits and is very responsive to their needs, there is no need for another overview agency. This bill should be defeated, or at least amended to allow small municipal owned utilities having the majority of their customers within city limits to continue to be exempt from APUC control.

Respectfully yours,

THE CITY OF SEWARD



DONALD W. CRIPPS
MAYOR

EPD:DWC:mr

REMARKS:

Professionals in action since 1975

128 Seward Street
Juneau, Alaska 99801

Business Phone - (907) 586-1715
Telecopy Phone - (907) 586-4821

Introduced: 1/16/85
Referred: Community & Regional Affairs,
and Labor & Commerce

1 IN THE HOUSE

BY DAVIS

2

HOUSE BILL NO. 12

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the exemption of municipally
owned utilities from certain provisions of the Alaska
Public Utilities Act."

7

8

9

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

10

* Section 1. AS 42.05.711(b) is amended to read:

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(b) Public utilities owned and operated by a political subdivision of the state and none of whose utilities is in competition with any other utility, are exempt within the boundary of the municipality owning the utility from the provisions of this chapter other than the provisions of AS 42.05.221 - 42.05.251, unless the owner and operator elect to be subject to all provisions of this chapter.

to do it. However, a similar bill was introduced last year and the League staff got conflicting support and resistance for the bill from several municipalities. Shouldn't the State contract with the local police? Municipalities should clarify their position. It has been referred to State Affairs, HESS and Judiciary.

SB 90 DCED Power to Administer Contracts: Introduced by the Rules Committee by request of the Governor, the bill would authorize the Department of Commerce and Economic Development to administer grants to community and regional governments, non-profit organizations or in unorganized boroughs. Referred to L&C and Finance.

COMMITTEE ACTION

HB 12 Municipal Utility Exemption: The bill was heard for the first time Wednesday, January 23 by the House C&RA Committee. The hearing was teleconferenced to Fairbanks and Anchorage. The hearing will be continued Monday, January 28 at 3:00 p.m. Rep. Davis, the sponsor, admitted that there may be other ways to give municipal utility customers outside city limits a voice in regulation other than APUC regulation - 25% petition, legislative action prohibiting discrimination and elected public utility board membership representing customers outside the city limits. Other than the sponsor, two people in Fairbanks spoke in favor of the legislation. Two people spoke in opposition stating that further regulation by APUC would be confusing and costly and would not result in better service. Both mentioned the accessibility and responsiveness of the City Councils and Public Utility Boards in Fairbanks and Ketchikan to customer complaints. The Committee appears sympathetic; please voice your opposition individually.

COMMITTEE MEETINGS/HEARINGS

House Community & Regional Affairs

3:00 p.m.

Behrends 209

HB 12 Municipal Utility APUC Exemption ----- Monday, January 28 (continued from 1/23/85)

HB 11 Municipal Taxation of Agricultural Land ----- Wednesday, January 30

HB 39 Preservation of Agricultural Land ----- Friday, February 1

House Labor & Commerce

8:30 a.m.

Capitol 124

HB 62 Prevailing Wages/Overtime; Public Construction ----- Friday, January 25

House Resources

8:30 a.m.

Capitol 118

HB 33 Agricultural Rights to Land ----- Monday, January 28

HB 33 Agricultural Rights to Land ----- Wednesday, January 30

Senate State Affairs

8:30 a.m.

Capitol 205
Butrovich

SB 34 Campaign Financing ----- Thursday, January 31

Senate Labor & Commerce

3:30 p.m.

Capitol 211
Beltz

SB 31 Hiring in Rural Areas ----- Wednesday, January 30



Alaska State Legislature

Representative Mike Davis

Branch V
Juneau, Alaska 99811
(907) 465-4930/4941

Interim Office:
P.O. Box 81435
Fairbanks, Alaska 99708

March 1, 1985

Mayor Donald W. Cripps
City of Seward
P.O. Box 167
Seward, AK 99664

Dear Mayor Cripps:

Thank you for your letter regarding House Bill 12. I understand your concern that Seward's utility not be saddled with unreasonable burdens.

I would like to explain the provisions of the attached bill that you have addressed.

Section 2 of the bill amends subsection (b) of AS 29.23.340 Utility Board. Subsection (a) of this section allows municipalities to provide for a managing board. Subsection (b) allows the municipality to determine by ordinance whether the board would be appointed or elected. The proposed change to subsection (b) says, in effect, that if a municipality chooses to have a managing board, and if it is elected, then non-residents may vote in the election.

This proposed amendment would not apply to Seward precisely because the City Council acts as the managing board.

Section 3 of the bill amends AS 29.23.340 with a new subsection (e) that allows a non-resident customer to serve on a managing board, whether elected or appointed, if a municipality chooses to have a board other than the council or assembly.

Again, this proposed section would not apply to the Seward utility because Seward chooses not to have a separate managing board.

Section 4 of the bill amends AS 42.05.711(b) to allow 25% of the customers of a municipally owned utility that serves customers outside of its boundaries, to petition the APUC for regulation.

This 25% figure is consistent with other provisions in the existing law. I feel that obtaining the signature of 25% of the customers would reflect far wider dissatisfaction. It is not the intent of this bill to place utilities under the regulation of APUC. If the Seward City Council has close communications with its customers, there would be no reason for them to exercise this provision. The intent is to give customers the option of APUC regulation if they feel it is a preferable alternative to municipal regulation.

I appreciate the suggestion that a majority of the customers should be able to vote. I'm considering an amendment that would, by petition of a percentage of customers, require a majority vote for regulation by APUC. I'd be glad to send you a copy when it is drafted.

I appreciate your comments. I hope I have answered some of your concerns.

Sincerely,

A handwritten signature in cursive script that reads "Mike".

Representative Mike Davis



Alaska State Legislature

Representative Mike Davis

Pouch V
Juneau, Alaska 99811
(907) 465-4930/4941

Interim Office:
P.O. Box 81435
Fairbanks, Alaska 99708

March 6, 1985

Wm. Ronald Smith
Deputy City Attorney
City of Fairbanks
410 Cushman Street
Fairbanks, AK 99701

Dear Mr. Smith:

Thank you for your letter and suggested amendments to HB 12. I'd like to address the concerns you have raised.

The intent of the bill is to attempt to correct a fundamental disparity between customers living inside the the city and those outside the city. Those outside the city do not have the same ability to be heard and participate in the management of the utility.

Rate setting, as you indicated, is not the motivating factor for most complaints against MUS. To my knowledge, no borough has exercised the existing legislation (AS 29.48.060) nor do I believe FNSB desires to do so.

I appreciate your comments about the need to clarify that regulation by petition will only apply to the particular utility operating outside the city. This is my intent and APUC believes it is feasible to regulate in this manner.

I also intend to offer an amendment that would establish a petition process much like the deregulation provision AS 42.05.712. I would be glad to send you a copy of the amendment when it is drafted for your comment.

The bill will be heard by teleconference March 13 in the Labor & Commerce Committee.

I look forward to the meeting with Mr. Cuzzecrero on March 16. The reports in the paper have been encouraging.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mike Davis".

Representative Mike Davis

INTRODUCTION OF BILLS (House)(cont'd)

State Employees HOUSE BILL NO. 10, by Reps. M. M. Miller & Duncan. Would
(tax-deferred wage reduc.) allow state employees to contribute specified amounts into a tax-deferred account. The bill would take effect upon receipt of a favorable ruling by the Internal Revenue Service approving the changes to the Alaska Supplemental Annuity Plan converting it to a qualified plan that permits additional tax-deferred voluntary wage reductions. The bill adds the new language to AS 39.30.150 (Insurance & Supplemental Employee Benefits, Supplemental Employee Benefits on Withdrawal from Social Security, Contributions). Does not provide for an effective date (becomes law 90 days after Governor signs bill).

Introduced January 14 and referred to State Affairs, then Finance.

Agricultural Land HOUSE BILL NO. 11, by Rep. Davis. Requires that land that is determined to be agricultural and sold by the state at auction shall be assessed on the basis of full and true value for agricultural purposes and may not be assessed as if subdivided or used for some other nonagricultural purpose. The bill adds the new language to AS 29.53 (Municipal Assessment & Taxation). Defines "agricultural purpose" to include farming, ranching, grazing, and storage or control of agricultural crops or livestock. Act is retroactive to January 1, 1985. Provides Act takes effect immediately.

Introduced January 14 and referred to Community & Regional Affairs, Resources, then Finance.

Municipally Owned Utilities HOUSE BILL NO. 12, by Rep. Davis. Seeks to exempt from the provisions of the Alaska Public Utilities Act (AS 42.05) (exempt from APUC Act) a public utility that is owned and operated by a municipality if the utility is not in competition with another utility. The utility would be exempt within the boundaries of the municipality that owns it. The exemption does not apply to certificates of public convenience and necessity (AS 42.05.221 - 42.05.281). Does not provide for an effective date (becomes law 90 days after Governor signs bill).

Introduced January 14 and referred to Community & Regional Affairs, then to Labor & Commerce

U of A Anchorage HOUSE BILL NO. 13, by Rep. Martin. Would name the campus (naming campus) of the University of Alaska in Anchorage "Alaska State University". Does not provide for an effective date (takes effect 90 days after Governor signs bill).

Introduced January 14 and referred to Health, Education & Social Services, then Finance.

AK Territorial Guard HOUSE BILL NO. 14, by Rep. Fuller. Classifies a person (death benefit) who served in the Alaska Territorial Guard as a "veteran", thereby making that person eligible for a death benefit under AS 26.10.080 (Veterans. Death Gratuity). Note: The death gratuity is paid by the Dept. of Military and Veterans' Affairs, and amounts to \$750 to be paid the surviving spouse or personal representative of the vet. The veteran must have been buried on or after 5/13/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSHB 12(C&RA)
 Title: Relating to municipally owned utility regulation & board representation
 Sponsor: House C&RA
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Commerce & Economic Development
 Program Category Affected: Protection
 BRU, Program or Subprogram(s) Affected: Alaska Public Utilities Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Carolyn Guess, Chairman Phone: 276-6222
 Division: Alaska Public Utilities Commission Date: 2/13/85
 Approved by Commissioner: *Carolyn Guess* for Carolyn Guess, Chairman Date: 2/13/85
 Agency: Alaska Public Utilities Commission

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

7/1/84

COMMITTEE REPORT

2/15

HOUSE

(7)

1/14/85

FURTHER: Labor and Commerce

Date: _____

The Committee on Community and Regional Affairs has had HB 12

"An Act relating to the exemption of municipally owned utilities from certain provisions of the Alaska Public Utilities Act."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 12 (CRA) same title
 new title
- and recommends it do pass
- AND attaches a "Letter of Intent" ~~New Fiscal Note~~
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

WALLIS F. K. Wallis

ROSEN Steve Rosen

ROSENBERG Harold Rosenberg

GOLL Peter Goll

ANDERSON Andre M. Do Not Pass.

FURNACE Walt Furnace No Rec.

SMITH Roll E. Bell No Rec.

Peter Goll
CHAIRMAN

Alaska State Legislature

COMMITTEES:

Committee on Community and Regional Affairs
Committee on Transportation
Special Committee on Oil and Gas
Special Committee on Fisheries
Finance Sub-committee on Fish and Game



District 5

Kenai	Sterling
Soldotna	Ancho: Point
Homer	Point Graham
Seldovia	English Bay
Kachemak	Nikolaevsk
Kasilof	Halibut Cove
Nimilchik	Clam Gulch

Representative Andre Marrou

February 17, 1985

The Honorable Mike Navarre
Chairman
House Committee on Labor and Commerce
Capitol
Juneau, Alaska 99811

Re: CSHB12 (CRA)

Dear Rep. Navarre:


Following are comments submitted for consideration by Representative Andre Marrou and Representative Walt Furnace regarding CSHB12 (CRA).

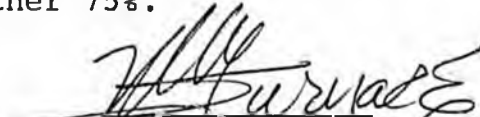
The undersigned feel that the committee substitute emphasizes overall regulation, plus control of extraterritorial users by those inside the municipality.

What we proposed, and still propose, are two changes to the CS as follows:

Addition of one sentence to Sec. 3.AS 29.23.340(e) to read: "The membership of the board must reflect the composition of the user group to the extent feasible." We feel that this would protect a minority of extraterritorial users from being controlled by those inside the municipality. If, say, 40% of the users lived outside the municipality, they would be provided 2 members on a 5-member board.

Change in the last sentence of the CS, under Sec.4.AS 42.05.711(b): substitute "A majority" for "25 percent". This would ensure that most of the users desire regulation by Alaska Public Utilities Commission, and that 25% of the users would not control the other 75%.


Andre Marrou
Representative


Walt Furnace
Representative



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y. State Capitol
Juneau, Alaska 99811
(907) 465-3991

February 12, 1985

MEMORANDUM

TO: Representative John Sund

FROM: Jonathan Sherwood, Legislative Analyst

RE: Electrical Rates under Regulated and Unregulated Utilities
in Alaska
Research Request 85-123

John Hartle of your staff requested that we compare electric utilities regulated by the Alaska Public Utilities Commission (APUC) with unregulated utilities. We were asked to provide information on the cost of power to consumers and the cost of power to utilities. Although we have been unable to locate any comprehensive source of information as to the plant-by-plant power production costs to utilities, we have located information which allows us to compare the total power production costs for many utilities in the state.

Table 1 shows the 1983 average retail price of electricity per kilowatt-hour (kwh), average production cost per kwh, and the difference between the two for thirty-six utilities within the state. These data are taken from a report which the Advisory Committee on Statewide Power Production Costs prepared for the Alaska Power Authority. The average retail price is calculated by dividing the utility's operating revenues by energy sales. The average production cost (referred to as the busbar rate in the advisory committee report) is the production and transmission costs of the utility divided by the amount of energy generated by the utility.

As Table 1 shows, the unregulated utilities for which the advisory committee obtained data had neither the highest or lowest retail rates and production costs. Retail rates ranged from 5.5 cents per kwh in Anchorage to 49.1 cents in Bettles. Production costs range from 2.7 cents per kwh in Barrow to 30.2 cents in Galena. All of these utilities are regulated by the APUC. The differences between the retail price and the production cost of electricity range from -1.2 cents in Sitka, an unregulated utility, to 23.6 cents in Bettles, a regulated utility.

Attachment A is the table from the advisory committee report from which Table 1 was derived. The committee also produced estimates of power

Representative Sund
February 12, 1985
Page Two

costs for several utilities for which data were available; these estimates are included in the committee's table. I have excluded them from Table 1 because they were developed as part of an effort to estimate the effect of a postage stamp rate on electric rates, not to compare regulated and unregulated utilities.

Attachment B lists the electric utilities which were certified by the Alaska Public Utilities Commission as of 1983. Regulated utilities are noted with an asterisk (*).

Attachment C contains the Alaska statutes which define the APUC's authority to regulate utilities. Generally, municipally owned utilities and utilities that fall below certain revenue minimums are exempted from APUC regulation.

Attachment D is a table showing average residential, commercial, and total electric rates for utilities in Alaska. This table is reproduced from the Alaska Power Administration's Alaska Electric Power Statistics 1960-1983.

* * *

I regret that we are unable to provide you with more detailed information on power production cost; however, there does not appear to be a comprehensive compilation of this data available at this time. If you have any questions, or if we can be of further assistance, please do not hesitate to contact us.

JS

Attachments

Table 1
Electric Rates and Production Costs For Selected Utilities
1983

Utility	Production Cost (cents/kwh)	Retail Rate (cents/kwh)	Difference (Rate-Cost)
<u>Regulated</u>			
Alaska Electric (AEL&P)	3.5	5.9	2.4
Alaska Power (AP&T)	12.4	16.1	3.7
Alaska Villages (AVEC)	29.6	44.8	15.2
Anchorage (AML&P)	3.6	5.5	1.9
Aniak (APC)	28.3	33.9	5.6
Barrow (BU&EC)	2.7	9.0	6.3
Bethel (BUC)	15.7	18.1	2.4
Bettles (BL&P)	25.5	49.1	23.6
Chugach Electric (CEA)*	3.0	6.5	3.5
Cold Bay (NP&E)	16.4	19.3	2.9
Copper Valley (CVEA)	8.3	13.3	5.0
Ft. Yukon (FYU)	24.5	34.3	9.8
Galena (M&DE)	30.2	38.1	7.9
Golden Valley (GVEA)	6.4	10.0	3.6
Haines (HL&P)	13.7	16.4	2.7
Kodiak (KdEA)	12.1	16.4	4.3
Kotzebue (KtEA)	18.0	23.4	5.4
McGrath (MGL&P)	24.5	32.0	7.5
Northway (NP&L)	18.9	26.5	7.6
Pelican (PUC)	8.3	10.6	2.3
Sandpoint (PUC)	15.5	17.3	1.8
Tanana (T.PC)	24.6	31.8	7.2
Tlingit-Haida (THREA)	25.3	38.4	13.1
Yakutat (YPI)	13.3	18.1	4.8
<u>Unregulated</u>			
Cordova (CEC)	14.6	20.4	5.8
Fairbanks (FMU)	6.6	7.5	.9
Glacier Highway (GHEA)	5.2	11.1	5.9
Ketchikan (KPU)	5.9	9.0	3.1
Metlakatla (MP&L)	5.6	8.2	2.6