

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

4187 SLAB SB 290 - SB 295

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BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

April 19, 1985

The Honorable Don Bennett
President of the Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Bennett:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to direct service charges for the sale of power by the Alaska Power Authority to retail consumers.

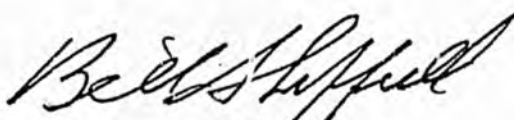
This bill addresses financing concerns with regard to future energy projects acquired or constructed by the Alaska Power Authority where the principal user of the power generated or transmitted by the authority is a non-governmental utility. Section 103(b) of the Internal Revenue Code restricts the use of tax-exempt bonds for financing power projects and transmission interties which are secured by payments to be made under power sales agreements with non-governmental utilities such as private investor-owned utilities, rural electric associations, and electric cooperatives.

This bill would facilitate the use of tax-exempt financing by authorizing the authority to impose and collect direct service charges from consumers, as an alternative to power sales agreements, as a method for securing and providing for the payment of bonds issued by the authority. Money collected by the authority from the imposition of direct service charges will constitute revenues to meet the costs of acquiring, financing, and guaranteeing power projects. The tax-exempt financing permitted by the use of direct service charges should help to reduce the capital costs of power projects.

at 290

After this bill is passed, the authority will seek a revenue ruling from the IRS to confirm that the use of direct service charges as security for revenue bonds will permit tax-exempt financing of power projects.

Sincerely,



Bill Sheffield
Governor

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No: 50290

FISCAL DETAIL

Agency Affected: ALASKA POWER AUTHORITY

Title: An act relating to the direct service charges for the sale of power by the Alaska Power Authority

Program Category Affected: _____

Sponsor: Senate Rules Committee

BRU, Program or Subprogram(s) Affected: _____

Requestor: Governor

Date of Request: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES			- 0 -			
200 TRAVEL						
300 CONTRACTUAL			NOT APPLICABLE			
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING						

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND			- 0 -			
FEDERAL FUNDS			NOT APPLICABLE			
OTHER						
TOTAL						

POSITIONS:

FULL-TIME			- 0 -			
PART-TIME			NOT APPLICABLE			
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Robert D. Heath
Division: Alaska Power Authority

Phone: 276-0001
Date: 4/12/85

Approved by Commissioner: _____
Agency: _____

Date: _____

Distribution (by Agency preparing fiscal note):

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

7/1/84



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.

James O. Smith
Signature of Camera Operator

11/24/89
Date

SB

201

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 291
 Title: An act authorizing the APA to trans-
 fer certain projects to public utilities
 Sponsor: Senate Rules Committee
 Requestor: Governor
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Alaska Power Authority

Program Category Affected: _____

BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES			- 0 -			
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES			NOT APPLICABLE			
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING						

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS			- 0 -			
OTHER			NOT APPLICABLE			
TOTAL						

POSITIONS:

FULL-TIME			- 0 -			
PART-TIME			NOT APPLICABLE			
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Robert D. Heath Phone: 276-0001
 Division: Alaska Power Authority Date: 4/12/85

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

BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

Sh-291

April 19, 1985

The Honorable Don Bennett
President of the Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Bennett:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill authorizing the Alaska Power Authority to transfer two completed transmission line projects that were originally financed through the power development fund. Rather than attempt to deal retroactively with the 1981 appropriations for the Port Lions transmission line and the Kobuk - Shungnak transmission line, the bill simply permits the power authority to transfer the projects.

AS 44.83.380 -- 44.83.425 require that the Alaska Power Authority own and operate projects constructed with money from the power development fund. That fund was originally intended to finance major retail generation, transmission, and distribution projects under the "energy program for Alaska." The power authority board and staff have determined that they have neither the financial nor staff resources to operate and maintain small projects that are often located in remote areas of the state. This bill will permit the authority to transfer ownership, management, and operation of these two projects to the local utilities.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield".

Bill Sheffield
Governor

APR 30 1985

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LAW

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

OFFICE OF THE ATTORNEY GENERAL

April 8, 1985

MEMORANDUM

TO: Honorable Bill Sheffield
Governor

FROM: *Norman C. Gorsuch*
Norman C. Gorsuch
Attorney General

RE: attached bill on transfer of
transmission line projects from the
power development fund
Our file: 377-182-85

Attached is a bill to authorize transfer of two completed transmission line projects (Port Lions and Kobuk - Shungnak) that were originally financed through the power development fund, a fund administered by the Alaska Power Authority. The bill was requested by the board of directors of the authority. We do not know the extent of review or approval it has received in your office.

Although the board originally asked for legislation permitting the transfer of three projects out of the "energy program for Alaska," our research indicates that the appropriation for the Delta agricultural project was never made to the power development fund. Consequently, that project is not within the energy program for Alaska and no legislation is necessary for transferring that project.

We understand that the transfer of these projects is intended to be a gift, not a sale, to the respective utilities. This grant of public property raises the question of whether a public purpose is being served, as required by art. IX, sec. 6, of the Alaska Constitution, which provides in part:

No tax shall be levied, or appropriation of public money made, or public property transferred, ... except for a public purpose.
[Emphasis added.]

We do not know many of the facts surrounding these proposed transfers, but, considering a number of Alaska Supreme Court decisions that have applied art. IX, sec. 6, it would appear that a grant of power transmission lines to communities such as these would indeed serve a public purpose. We have been told

Honorable Bill Sheffield
377-182-85

April 3, 1981
Page 2

that the local utilities to which these projects are intended to be transferred are owned by nonprofit corporations, but we do not know the basis for their selection, their demonstration of ability to operate and maintain the transmission lines, the nature or extent of the service they plan to provide, or the way in which these free transmission lines will affect the utilities' rate structures. The power authority will no doubt provide this sort of information as the bill works its way through your office and the legislature.

A draft transmittal letter to the legislature is also attached.

NCG:ANP:CEJ:cmh

cc w/enc.: Hon. Loren H. Lounsbury, Commissioner
Dept. of Commerce & Economic Development

Lee Murn, Chairman
Alaska Power Authority
Anchorage

Robert Heath, Executive Director
Alaska Power Authority
Anchorage

XC: Susan White

MEMORANDUM

State of Alaska

TO: Larry Crawford
Executive Director
Alaska Power Authority

DATE July 18, 1984

FILE NO

TELEPHONE NO

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: Transfer of APA
facilities -
July 9, 1984.

BY: *RAK*
Ross A. Kopperud
Assistant Attorney General
Transportation Section, Anchorage

JUL 18 1984

ALASKA POWER AUTHORITY

The issue was raised in Eric Yould's memorandum to me of August 4, 1983, whether the APA had the authority to transfer the Cantwell Distribution System to Golden Valley Electric Association (GVEA) upon completion. Eric Yould's memo is attached for your convenience. By subsequent telephone calls and from APA staff, the question has been expanded to include whether the APA can dispose of other projects once they are completed.

I responded to this inquiry in the fall of 1983, although there is no memorandum confirming the advice given at that time. The advice given was that the APA could transfer these facilities away to other entities in keeping with the APA's purpose.

On July 6, 1984, I discussed the above advice which I had previously given to the APA with Carolyn Jones, assistant attorney general for the APA. Ms. Jones confirmed that this advice was consistent with her understanding of the APA's authority and further stated she had also given similar advice to the APA in her memorandum to you of May 30, 1984, referenced "Use and disbursement of appropriations". Ms. Jones's memorandum is also attached for your convenience.

The underlying rationale for my advice to the APA is as follows:

A.S. 44.83.070. Purpose of the Authority.

The purpose of the authority is to promote, develop and advance the general prosperity and economic welfare of the people of Alaska by providing a means of constructing, acquiring, financing and operating power production facilities limited to fossil fuel, wind power, tidal, geothermal, hydroelectric, and solar energy and energy conservation facilities.

Under A.S. 44.83.080 entitled "Powers of the Authority", it states:

In furtherance of its corporate purpose, the authority has the following powers in addition to its other powers;

(7) to sell, lease as lessee or lessor, exchange, donate, convey ... real or personal property owned by it, or in which it has an interest, when in the judgment of the authority, the action is in furtherance of its corporate purpose.

. . . .

(14) to enter into contracts or agreements with respect to the exercise of any of its powers, and do all things necessary or convenient to carry out its corporate purpose and exercise the powers granted in this chapter.

(Emphasis added).

The above statutory references make it clear that the APA may donate or convey real or personal property in furtherance of its corporate purpose. The other statutory references make it clear that the purpose and authority of the APA is quite broad. It is my understanding that the APA has no staff or facilities to maintain and operate those facilities which it wants to transfer to public utilities. It would, I believe, be consistent with the APA's corporate purpose to transfer the facilities in issue to various utilities who can maintain and operate those facilities for the benefit of the people of Alaska.

In conclusion, absent legislation which would specifically rescript the APA's power to transfer its facilities to some other entity, it is my opinion that the APA may transfer its facilities to other entities so long as it is in keeping with the APA's corporate purpose.

If you should have any further questions on this issue, please call me at your convenience.

RK/dw



**STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS**

DEPARTMENT Commerce & Econ. Dev.	DIVISION Alaska Power Authority	BILL NUMBER HB 391	SPONSOR House Rules/by Governor
DEPARTMENT POSITION Support passage of HB 391.			
PREPARED BY Susan White, Special Assistant to the Executive Director	DATE	COMMISSIONER'S SIGNATURE 	DATE 5/1/85

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Department of Commerce and Economic Development Office of Energy	CONSTITUENT GROUP(S) AFFECTED BY BILL Kodiak Electric Association City of Kobuk
ORGANIZATIONAL SUPPORT FOR BILL	ORGANIZATIONAL OPPOSITION TO BILL None

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT
See attached.

ANALYSIS OF BILL/PROGRAM EFFECTS

Proposed projects transfer as specified in HB 391 would grant the Kobuk-Shungnak and Port Lions transmission lines to the City of Kobuk and Kodiak Electric Association. Transfer of these projects would remove them out of the Energy Program for Alaska and relinquish the State's responsibility to own, operate and maintain them.

If statutory authority is not provided for transfer of the Kobuk-Shungnak line, APA will work to develop an O&M agreement with AVEC (which operates the power plant at Shungnak) and the City of Kobuk and develop a set of fees to provide for O&M revenues to be returned to the State. Currently, APA is providing minimal maintenance twice a year to assure basic operational status of the line. Maintenance costs over the past two years have been approximately \$5,000 per year.

Although O&M funding for the Port Lions line is not budgeted in the APA's FY '86 operating budget, the FY '86 costs, if the project is retained by the APA, could potentially be absorbed within the existing budget (Terror Lake O&M agreement). If additional funding (program receipts) is, in fact, required, an RPL will be submitted to the LB&A Committee.

AMENDMENTS PROPOSED
No amendments.

2267W5185a

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

HB 391

BACKGROUND/LEGISLATIVE INTENT

The two transmission line projects recommended for transfer from the Power Authority to the appropriate utilities are the Kobuk-Shungnak and Port Lion's transmission lines. Appropriations to the Power Authority's Power Development Fund provided for the construction of these projects and include them in the Energy Program for Alaska. Power projects acquired or constructed as part of the Energy Program for Alaska may only be transferred through legislation.

The Kobuk-Shungnak transmission line was funded through two separate appropriations of \$345,000 (SLA 79, Ch. 80) and \$200,000 (SLA 81, Ch. 90). These appropriations were funded respectively to the Department of Commerce and Economic Development, Office of Energy and the Alaska Power Authority. The line is complete and has been operational since February 1982.

The Port Lion's transmission line was funded through three appropriation sources. (Please see attached Port Lion's funding summary). The Port Lion's line is complete and is ready to begin operation.

The Power Authority Board of Directors passed Resolution #1985-01 recommending transfer of the two projects, and requested legislation be introduced to effect the transfer. The Attorney General's Office has found the proposed transfer to be appropriate as the lines to be granted and transferred to the local utilities would serve the required public purpose.

PORT LION'S FUNDING SUMMARY

Total Construction Cost: \$1,639,481

Funding Sources:

Ch. 54, SLA 1980, page 3, line 9	\$ 93,812 (a)
Ch. 92, SLA 1981, page 12, line 6	1,400,000
Ch. 92, SLA 1981, page 12, line 9	145,669 (b)
	<u>\$1,639,481</u>

- (a) Balance of \$200,000 appropriation, remainder (\$106,188) was used by KEA to conduct feasibility study for a Port Lion's power project.
- (b) Revised program from Terror Lake allocation to Port Lion's allocation within the same appropriation.



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.

James A. Smith
Signature of Camera Operator

11/24/89
Date

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

April 19, 1985

The Honorable Don Bennett
President of the Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Bennett:

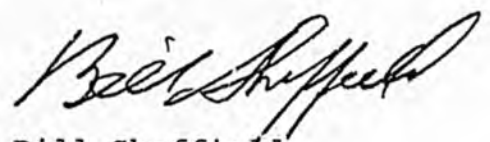
Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the exemption of the Alaska Power Authority's officers and employees from the State Personnel Act (AS 39.25).

The amendment in sec. 1 of the bill clarifies the status of the authority's executive director and staff by codifying a longstanding practice, *i.e.*, treatment of the executive director and his or her staff as being in the exempt service. The members of the authority are already in the exempt service by virtue of AS 39.25.110(10), which places "members of boards, commissions, or authorities" in that category. Adding the Alaska Power Authority to the list in AS 39.25.110(11), as sec. 1 of the bill does, may create an element of redundancy regarding "members" and "officers," but that list already contains precedent for doing so, and it leaves no doubt as to this authority -- both members and staff -- being in the exempt service.

The amendment in sec. 2 of the bill corrects what appears to be an error made when AS 44.83.045 became law in 1978 (ch. 156, SLA 1978). AS 44.83.045(c) contains language making the executive director of the authority "subject to the provisions of AS 39.25" (which citation the revisor of statutes, evidently, changed to refer specifically to the sections of AS 39.25). The State Personnel Act covers all state employees, placing them in one of three categories of service: exempt, partially exempt, or classified. Making the executive director "subject to" the State Personnel Act merely means that he or she is either exempt, partially exempt, or in the classified service. In effect, the language in question has no meaning.

Section 2 of the bill, therefore, deletes that language from AS 44.83.045(c), and makes clear what category of service the executive director and the rest of the staff are in -- consistent with the amendment in sec. 1.

Sincerely,



Bill Sheffield
Governor

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LAW

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

OFFICE OF THE ATTORNEY GENERAL

April 5, 1985

MEMORANDUM

TO: Honorable Bill Sheffield
Governor

APR 11 1985

FROM: Norman C. Carsuch
Attorney General

RE: Attached bill placing employees of
the Alaska Power Authority in the
exempt service
Our file: 377-181-65

Attached is a bill exempting the employees of the Alaska Power Authority from the State Personnel Act (AS 39.25). The bill was recommended by the board of directors of the Alaska Power Authority to clarify the status of the authority's executive director and staff.

It has long been our view that the Alaska Power Authority is exempt from the State Personnel Act, but a last-minute error in SCS CSR 442, when it was passed by the legislature in 1978 (sec. 4, ch. 156, SLA 1978), confused the issue. 1978 Inf. Cpp. Att'y Gen. (July 11; J-66-808-78). The attached amendment will finally correct that error. As mentioned in that July 11, 1978 opinion, it is likely that the original intent was to cite AS 39.50, the conflict-of-interests chapter, rather than AS 39.25. However we understand that the authority does not want to amend AS 44.23.045(c) in a way that would subject the executive director to AS 39.50.

A draft transmittal letter to the legislature is also attached.

CCG:CEJ:mem

cc w/enc.: Hon. Loren Lounsbury, Commissioner
Dept. of Commerce & Economic Development

Lee Nunn, Chairman
✓ Alaska Power Authority
Anchorage

Robert Heath, Executive Director
Alaska Power Authority

STATE.
of ALASKA

MEMORANDUM

TO: [Hon. Phillip Hubbard, Commissioner
 Department of Commerce & Economic
 Development
 ATTN: Lois Cook

DATE: July 11, 1978

FILE NO: J-66-808-78

TELEPHONE NO:

FROM: AVRUM M. GROSS
 ATTORNEY GENERAL

SUBJECT: Status of personnel
 of the Alaska Power
 Authority

By:
 Rodger W. Pegues
 Assistant Attorney General

This responds to your request for our opinion as to the effect of the recent amendment to the APA's organic act which provides, "The executive director of the authority is subject to the provisions of AS 39.25."

We are advised on good authority that the amendment was proposed to make the executive director subject to the Conflict of Interest Act and that, by error, the reference was made to AS 39.25 rather than to AS 39.50. The bill was rushed through at the last minute, and passed without correction to the reference. The Statute Reviser will be asked to make a corrective amendment in his omnibus bill next year.

In our view, the plain error rule controls. The amendment makes sense only if it is read to be 39.50 rather than 39.25. Making a person "subject to" the State Personnel Act -- without anything more -- accomplishes nothing. Under that Act, one may be exempt, partially exempt, or classified. If the amendment is read to mean AS 39.25, i.e., the Personnel Act, then all it says is that the executive director is exempt, partially exempt, or classified. He is that now, i.e., he is exempt. Moreover, there is neither rhyme nor reason to place the executive director under the Personnel Act and not include his staff. That will be the result, however, if the amendment's plain language is followed. On the other hand, if the reference were to AS 39.50, i.e., to the Conflict of Interest Act, it would subject the executive director to that Act's requirements and thereby accomplish the amendment's purpose. Moreover, it would make sense to subject the executive director to that Act but not to include his staff. Accordingly, the reference to AS 39.25 must be considered plain error, and the status quo ante obtains.

That the amendment was intended to subject the executive director to the Conflict of Interest Act does not, however, mean that he is now subject to that Act. Until a

AG's Opinion

Lois Cook
July 11, 1978
Page #2

law has been passed subjecting him to that Act, he is not subject to it; it takes more than intent to make a law. Train v. City of New York, 420 U.S. 35, 45 (1975). Nothing prevents his filing a Conflict of Interest Statement voluntarily, however, or the authority's requiring him to file one as a condition of employment.

The answers to your questions then are as follows:

- (1) The executive director of the APA is in the exempt service.
- (2) The other employees of the APA are in the exempt service.

RWP/pjg

... to meet the requirements and thereby accomplish the amendment's purpose. Moreover, it would make sense to subject the executive director to that Act but not to include the staff...



Alaska Power Authority

State of Alaska

March 4, 1986

Senator Fred Zharoff, Chairman
Senate Labor and Commerce Committee
P.O. Box V
Capital Building
Juneau, Alaska 99811

Dear Senator Zharoff:

As requested, the attached position paper relating to CSSB 292 is provided. If I may be of further assistance please do not hesitate to contact me.

Sincerely,

Robert D. Heath
Executive Director

POSITION PAPER CSSB 292 (SENATE LABOR AND COMMERCE)

SECTION 1:

CSSB 292 (SENATE LABOR AND COMMERCE) amends AS 39.25.110 (11) by establishing the Alaska Power Authority as a state agency in exempt service. Currently the legal status of the Executive Director and staff of the Alaska Power Authority is not expressly stated through statute. The Alaska Power Authority has been advised by the Attorney General's office to seek legislation clarifying the status of staff employed by the Alaska Power Authority. The Alaska Power Authority supports this amendment as shown by the resolution adopted by the Board of Directors at the 2/26/85 board meeting.

SECTION 2:

CSSB 292 (SENATE LABOR AND COMMERCE) addresses the membership of the Alaska Power Authority Board of Directors and proposes to repeal and reenact AS 44.83.030. Currently, the Executive Director and staff of the Alaska Power Authority reports directly to the Board of Directors. Because of this organizational structure, it is not appropriate for staff to render an opinion or state a position on the proposed language to restructure the make-up of the Alaska Power Authority Board. However, staff will present and solicit the Board's formal opinion on the bill at the next board meeting, tentatively scheduled for 3/24/86 or 3/25/86. The board's position on this matter will be expeditiously communicated in writing to the appropriate legislative committees.

SECTION 3,4,5,6 AND 7:

CSSB 292 (SENATE LABOR AND COMMERCE) propose amendments also requiring consideration by the Alaska Power Authority Board of Directors.

ALASKA POWER AUTHORITY
Resolution 1985-03

RESOLUTION BY THE ALASKA POWER AUTHORITY BOARD OF DIRECTORS RECOMMENDING THAT AS 39.25.110 BE AMENDED TO SPECIFICALLY NAME THE ALASKA POWER AUTHORITY AS A STATE AGENCY IN EXEMPT SERVICE.

WHEREAS, the Alaska Power Authority was created as a public corporation of the State of Alaska with a separate and independent legal existence in the Department of Commerce and Economic Development; and

WHEREAS, the Alaska Power Authority consists of a seven member board of directors required to employ an Executive Director, who employs additional staff as necessary, and is granted powers under AS 44.83.080 to carry on and further its corporate purposes; and

WHEREAS, the Alaska Power Authority, although considered to be a State agency in exempt service not covered by the provisions of AS 39.25 (the State Personnel Act), is not specifically named as such in this chapter; and

WHEREAS, the Authority has been advised by the Office of the Attorney General to seek legislation to provide clarification on the status of the Executive Director and staff;

NOW THEREFORE, BE IT RESOLVED, by the Board of Directors of the Alaska Power Authority:

That AS 39.25.110 is recommended for statutory amendment to specifically name the Alaska Power Authority as being a State agency in exempt service, thereby exempting the Authority from the provisions of the State Personnel Act;

BE IT FURTHER RESOLVED, that the Alaska Power Authority Board of Directors respectfully requests the Governor to introduce legislation providing for amendment to AS 39.25.110 as recommended herein.

This resolution having been submitted to a vote, the vote thereon was as follows:

YEAS: _____

NAYS: _____

ABSENT: _____

And the resolution was declared adopted on this the _____ day of _____, 1985.

ALASKA POWER AUTHORITY

BY: _____
Chairman

BY: _____
Secretary

JOSEPH C. AMICO*
 LLOYD V. ANDERSON
 LUANN E. BAILEY
 SUSAN P. BEHLKE
 RONALD G. BIRCH**
 WILLIAM H. BITTNER
 KATHRYN A. BLACK
 RODNEY B. CARMAN
 JOSEPH M. CHOMSKI**
 PAUL L. DILLON
 CYNTHIA L. DUCEY
 ERIC A. EISEN**
 JOSEPH W. EVANS
 CARL E. FORSBERG
 WILLIAM W. GARNER*
 KENNETH J. GOLDMAN
 RICHARD G. HAGGART
 BRUCE E. HORTON
 HAL R. HORTON
 CAROL JOHNSON
 MARC W. JUNE
 STANLEY T. LEWIS
 JEFFREY B. LOWENFELS
 LAWRENCE Z. OSTROVSKY
 MICHAEL J. PARISE
 SUZANNE C. PESTINGER
 TIMOTHY PETUMENOS
 MICHAEL V. REUSING
 ELISABETH H. ROSS
 BUDD SIMPSON
 STEPHEN F. SORENGEN
 MERIDAN STRICKLAND
 BARRY N. SUMMER*
 JON K. TILLINGHAST
 DANIEL WESTERBURG

LAW OFFICES

BIRCH, HORTON, BITTNER, PESTINGER AND ANDERSON
 A PROFESSIONAL CORPORATION
 1127 WEST SEVENTH AVENUE
 ANCHORAGE, ALASKA 99501
 TELEPHONE (907) 276-1530
 TELECOPIER (907) 276-2822
 TELEX 25-358

RECEIVED

FEB 19 1985

ALASKA POWER AUTHORITY
 711 GAFFNEY ROAD
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 (907) 586-2890
 ONE SEALASKA PLAZA, SUITE 100
 JUNEAU, ALASKA 99801
 (907) 586-2890
 1155 CONNECTICUT AVE., N.
 SUITE 1200
 WASHINGTON, D. C. 20036
 (202) 659-8200

February 13, 1985

*D. C. BAR ONLY
 **D. C. AND ALASKA BAR
 ALL OTHERS ALASKA BAR ONLY

William Mellow
 Assistant Attorney General
 Attorney General's Office
 Pouch "K"
 Juneau, Alaska 99811

Jonathan B. Rubini
 Assist. Attorney General
 Attorney General's Office
 Pouch "K"
 Juneau, Alaska 99811

Frank Raye, Director
 Division of Personnel
 Department of Administration
 Pouch "C"
 Juneau, Alaska 99811

Mr. Brad Thompson
 Division of Risk Mgmt.
 State of Alaska
 Pouch "C"
 Juneau, Alaska 99811

Mr. Dick Stone
 Northern Adjusters
 2609 Arctic Blvd.
 Anchorage, Alaska 99503

Re: Sidney R. Kidwell v. State of Alaska
 James E. Benka v. State of Alaska

Gentlemen:

I have already discussed with most of you my thoughts on these cases. As you are aware, two employees of the Alaska Power Authority, Kidwell and Benka, have sued the State of Alaska for wrongful termination. This letter and the attached Research Memorandum focuses on the claim made by these employees that they were fired contrary to the provisions of the Alaska Personnel Act.

Our investigation reveals that the Alaska Power Authority did not follow the Alaska Personnel Act because they were under the impression that the personnel act did not apply to the Alaska Power Authority.

As you can see from the attached Research Memorandum, we have a substantial concern that the personnel act will be held to apply to the Alaska Power Authority. I have routed results of this research to a broader group of people than I normally would in view of the fact that it:

William Mellow
Jonathan G. Rubini, Esq.
Frank Raye
Brad Thompson
Dick Stone
February 13, 1985
Page 2

appears important that the State consider remedial legislation specifically exempting the Alaska Power Authority from the provisions of the personnel act.

We have much more detailed memoranda in the file on the factual circumstances surrounding the termination of Kidwell and Benka which we can make available for your review. The issue addressed in the attached memorandum however is a purely legal issue regarding the procedures that must be followed under the Alaska Personnel Act. It did not appear necessary to detail the facts of the Kidwell and Benka cases in order to keep you advised.

Very truly yours,

BIRCH, HORTON, BITTNER,
PESTINGER & ANDERSON



Timothy Petumenos

TP/jm
Encl.
cc: Ray Benish
David Ritze

**STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date: _____

REQUEST:
Bill/Resolution No.: SB 292
Title: An act placing the employees of APA in the exempt service under the State Personnel Act
Sponsor: Senate Rules Committee
Requestor: Governor
Date of Request: _____

FISCAL DETAIL
Agency Affected: Alaska Power Authority
Program Category Affected: _____
BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL			- 0 -			
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT			NOT APPLICABLE			
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING						

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS			- 0 -			
OTHER						
TOTAL			NOT APPLICABLE			

POSITIONS:

FULL-TIME			- 0 -			
PART-TIME			NOT APPLICABLE			
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Robert D. Heath Phone: 276-0001
 Division: Alaska Power Authority Date: 4/12/85

Approved by Commissioner: _____ Date: _____
 Agency: _____

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

Fiscal Note

degree of independence and perpetuity necessary for a consistent long term cost-beneficial program such as described in this document. There should be full recognition of the management commitment that is necessary for the long term capital commitment and long term construction cycles of the electric generation facilities inherent under this concept.

The Committee assumes that the Alaska Power Authority (APA) will be the organization to administer this program. Since State funds will be involved, the legislature and administration will continue to be interested in the success of the program.

It is the recommendation of the Committee that a nine member board be created with the fiduciary responsibility of setting policy and directing the operation of the Power Authority. The Board would be constituted as follows:

- The Commissioner of Commerce and Economic Development--This would be the only Board member without a fixed term and would be the specific person charged with representing the interests of the Governor and his administration.
- Four Directors appointed by the Governor for staggered six year terms and approved by the legislature--These four members should include one member from the banking industry and one a consumer representative and two from business and industry.
- Four Directors from the Alaska Systems Coordinating Council (ASCC)--The Alaska Systems Coordinating Council is an existing group of electric utility

managers who on ad hoc basis are now coordinating the development of electric generation and transmission systems within the State. The Governor should appoint and the legislature approve these four Directors--two Railbelt, one Southeast Alaska, and one bush utility manager. The ASCC should make recommendations to the Governor. As with the other appointed members, the ASCC Directors should serve six year staggered terms.

An important function of the Board of Directors will be to set electric power development policy and to assure that cost-beneficial planning and operations are conducted by the APA that will benefit all Alaskan consumers. In order to insure that generating capacity additions are the ones which result in minimum cost, are compatible to long range plans and contribute to system optimization, any equalization payments for prospective units must be based solely on pre-construction approval by the Power Authority Board. In no event should the Authority be required to purchase power either directly or indirectly through a participating system which was not generated by said participating system.

Over the past few years, the State of Alaska has provided loans or grants for substantial sums of monies to develop generation capacity--most notable examples are the Four Dam Pool and the Fairbanks-Anchorage Intertie. It is the recommendation of this committee that these loans be converted to grants by the State and be considered as equity of the Alaska Power Authority. These projects obviously fit within the context of the concept presented by the Committee, in that they contribute to lowering the cost of generation for all

- (3) prior positions held by a state employee;
 - (4) whether a state employee is in the classified, partially exempt, or exempt service;
 - (5) the dates of appointment and separation of a state employee; and
 - (6) the compensation authorized for a state employee.
- (c) A state employee has the right to examine the employee's own personnel files and may authorize others to examine those files.
- (d) An applicant for state employment who appeals an examination score may review written examination questions relating to the examination unless the questions are to be used in future examinations. (§ 18 ch 144 SLA 1960; am § 5 ch 112 SLA 1982)

Effect of amendments. — The 1982 amendment rewrite this section.

Article 2. Coverage of Personnel.

<p>Section 90. Coverage of chapter 100. Classified service 110. Exempt service</p>	<p>Section 120. Partially exempt service 130. Extension of partially exempt and classified services</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------

Sec. 39.25.090. Coverage of chapter. This chapter and the rules adopted under it apply to all positions in (1) the classified service, and (2) the exempt and partially exempt service as specifically provided. (§ 3 ch 144 SLA 1960; am § 6 ch 112 SLA 1982)

Effect of amendments. — The 1982 amendment inserted "exempt and" in item (2).

Sec. 39.25.100. Classified service. The classified service consists of all positions in the state service not included in the exempt service or in the partially exempt service. (§ 4 ch 144 SLA 1960)

NOTES TO DECISIONS

Quoted in *Mueller v. Alaska State Bd. of Personnel*, Sup. Ct. Op. No. 396 (File No. 738). 425 P.2d 145 (1967); *State v. Bogenrife*, Sup. Ct. Op. No. 918 (File No. 1665), 513 P.2d 13 (1973).

Sec. 39.25.110. Exempt service. Unless otherwise provided by law, the following positions in the state service constitute the exempt service and are exempt from the provisions of this chapter and the rules adopted under it:

- (1) persons elected to public office by popular vote or appointed to fill vacancies in elected offices;

- (2) justices, judges, magistrates, and employees of the judicial branch including employees of the Judicial Council;
- (3) employees of the state legislature and its agencies;
- (4) the head of each principal department in the executive branch;
- (5) officers and employees of the University of Alaska;
- (6) certificated teachers and noncertificated employees employed by a regional educational attendance area established and organized under AS 14.08.031 — 14.08.041 to teach in, administer, or operate schools under the control of a regional educational attendance area school board;
- (7) certificated teachers employed by the Department of Education as correspondence teachers or teachers in skill centers operated by the Department of Education;
- (8) patients and inmates employed in state institutions;
- (9) persons employed in a professional capacity to make a temporary or special inquiry, study or examination as authorized by the governor;
- (10) members of boards, commissions, or authorities;
- (11) the officers and employees of the following boards, commissions, and authorities:
 - (A) Alaska Gas Pipeline Financing Authority;
 - (B) Alaska Permanent Fund Corporation;
 - (C) Alaska Energy Center;
 - (D) Alaska Industrial Development Authority;
 - (E) Alaska Commercial Fisheries Entry Commission;
 - (F) Alaska Commission on Postsecondary Education;
- (12) the executive secretary and legal counsel of the Alaska Municipal Bond Bank Authority;
- (13) physicians licensed to practice in this state and employed by the division of mental health and developmental disabilities, Department of Health and Social Services;
- (14) petroleum engineers and petroleum geologists employed in a professional capacity by the Department of Natural Resources and by the Oil and Gas Conservation Commission, except for those employed in the division of geological and geophysical surveys in the Department of Natural Resources;
- (15) officers, agents, and employees of the Alcoholic Beverage Control Board granted limited peace officer powers by the Alcoholic Beverage Control Board under AS 04.06.110;
- (16) persons employed by the division of marine transportation as masters and members of the crews of vessels who operate the state ferry system and who are covered by a collective bargaining agreement provided in AS 23.40.040;
- (17) officers and employees of the state who reside in foreign countries;
- (18) employees of the Alaska Seafood Marketing Institute;

(19) firefighters employed by the Department of Natural Resources for a fire emergency;

(20) employees of the Office of the Governor and the office of the lieutenant governor, including the staff of the governor's mansion;

(21) [Repealed June 30, 1988] Employees of the Citizens' Advisory Commission on Federal Areas in Alaska (AS 41.37.010);

(22) youth employed by the Department of Natural Resources under the Youth Employment and Student Intern programs. (§ 5 ch 144 SLA 1960; am § 1 ch 48 SLA 1961; am § 1 ch 133 SLA 1961; am § 3 ch 93 SLA 1962; am § 3 ch 24 SLA 1966; am § 31 ch 46 SLA 1970; am § 65 ch 69 SLA 1970; am § 13 ch 113 SLA 1970; am § 3 ch 78 SLA 1971; am § 18 ch 78 SLA 1974; am § 42 ch 127 SLA 1974; am § 2 ch 32 SLA 1975; am § 2 ch 79 SLA 1975; am § 37 ch 124 SLA 1975; am § 1 ch 157 SLA 1976; am § 3 ch 90 SLA 1978; am § 7 ch 18 SLA 1980; am § 43 ch 106 SLA 1980; am § 10 ch 131 SLA 1980; am § 4 ch 148 SLA 1980; am § 4 ch 106 SLA 1981; am §§ 2, 3 ch 37 SLA 1982; am § 7 ch 112 SLA 1982; am § 1 ch 11 SLA 1983; am § 1 ch 103 SLA 1984)

Effect of amendments. — The first 1980 amendment added paragraph (22). (See now paragraph (11)(B).)

The second 1980 amendment added paragraph (23). (See now paragraph (11)(D).)

The third 1980 amendment added paragraph (24). (See now paragraph (15).)

The fourth 1980 amendment added paragraph (25). (See now paragraph (11)(C).)

The 1981 amendment added a paragraph (26) (see now paragraph (18)), relating to employees of the Alaska Seafood Marketing Institute.

The first 1982 amendment added a paragraph (27) (see now paragraph (21)), relating to employees of the Citizens' Advisory Commission on Federal Areas in Alaska. Section 3, ch. 37, SLA 1982, effective June 30, 1988, repeals this paragraph.

The second 1982 amendment rewrote this section.

The 1983 amendment rewrote paragraph (13).

The 1984 amendment added paragraph (22).

NOTES TO DECISIONS

The thrust of the exemptions in this chapter, the Public Employees Retirement System, former AS 39.35.680(5)(c), and the statutory leave provisions for state employees, AS 39.20.310, is to provide for those public employees who are not susceptible to ordinary recruiting and examining procedures. *Hafling v. Inlandboatmen's Union*, Sup. Ct. Op. No.

1743 (File No. 3438), 585 P.2d 870 (1978).

No inconsistency between ferry crew exemption of this section and inclusion of such personnel with Public Employment Relations Act, AS 23.40.070 et seq. — See *Hafling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Sec. 39.25.120. Partially exempt service. (a) Positions in the partially exempt service are included in the position classification plan established under this chapter and are compensated according to the pay plan (AS 39.27.011).

(b) A person holding a position in the partially exempt service is not required to take an examination or qualify or earn a place on a register,

AS44.83.030 DOCUMENT= 1 OF 1 PAGE = 1 OF 2

CHAPTER = 44.83

SECTION = 44.83.030

TITLE = 44

HEADINGS TITLE 44.
State Government.
CHAPTER 83.
Alaska Power Authority.
ARTICLE 1.
Creation and Organization.

CITATION Sec. 44.83.030.

CATCH LINE

MEMBERSHIP OF THE AUTHORITY.

TEXT The authority shall consist of the following directors:

(1) three public directors to be appointed by the governor and confirmed by the legislature; only one director may be appointed from each judicial district described in AS 22.10.010;

(2) the director of the office of management and budget, or the director's designee within that office, and three commissioners of principal executive departments appointed by the governor.

HISTORY (Sec. 1 ch 278 SLA 1976; am sec. 2 ch 156 SLA 1978; am sec. 2 ch 118 SLA 1981; am sec. 25 ch 63 SLA 1983)

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

HISTORICAL REVIEW OF THE COMPOSITION OF THE APA BOARD:

- 1976: 4 public members, appointed by the Governor, and the Commissioner of DCED;
- 1978: 4 directors, appointed by the Governor, and the Commissioner of DCED. Commissioners of C&RA, DNR, DOT, and Revenue have the rights and privileges, but not voting.
- 1979: same
- 1980: same
- 1981: same
- 1982: 3 public members from different judicial districts; director of management and Budget, and 3 commissioners.
- 1983: same
- 1984: 7 directors, with 6 of those members appointed by the Governor. Of the 7, 3 must be public members, 3 must be commissioners, and the director of OMB.
- 1985: same

Advisory Committee on Statewide Power Production
Recommendation: Change the current composition of the APA Board to give it long term stability, free from political pressure.

9 member Board, with 6 year staggered terms, composed as follows:

- 1) One Commissioner (DCED)
- 2) four members from the utility industry
- 3) Two members from business and industry
- 4) one banker
- 5) one consumer representative

BOARD: POWER AUTHORITY, ALASKA

TITLE: Alaska Power Authority

DEPT: Department of Commerce and Economic Development

AUTHORITY: AS 44.83.010

STATUS: ACTIVE

REQUIREMENTS: FINANCIAL DISCLOSURE

PROHIBITIONS:

TERM: 4-year - overlapping

DESCRIPTION: 7 directors - 6 appointed by Governor: 3 public from different judicial districts (for terms), and 3 Commissioners, plus Director, Div. of Budget and Management; Board elects Chair.

SPECIAL FACTS: Quorum - 4 members; public corporation with independent legal existence; receives grants

FUNCTION: Promote general prosperity and economic welfare of Alaskans by providing a means of constructing, acquiring, financing, and operating power projects and facilities that recover and use waste energy.

COMPENSATION: Standard travel/per diem

MEETINGS: 12 times per year; 48 days maximum

*FOR FURTHER INFORMATION CONTACT: Executive Director, Alaska Power Authority, 334 West Fifth Avenue, Second Floor, Anchorage, AK 99501 - 276-0001

85

Power Authority.

<u>MEMBER</u>	<u>APPT</u>	<u>REAPPT</u>	<u>TERM</u>
David L. Allison 217 Second Street Juneau 99801 Public/Restricted	83/07/06	84/07/02	88/07/01
Robert L. Huffman 1018 Galena Street Fairbanks 99701 Public/Restricted	83/02/28	83/06/30	87/07/01
Richard J. Knapp DCT/PF - Pouch Z Juneau 99811 Comm./State Dept.	84/06/30		
Loren Lounsbery DCED Juneau 99811 Comm./State Dept.	85/01/03		
Gordon Harrison OME Juneau 99811 OMB-Dir/Mandate	84/11/13		
Lee R. Nunn, Jr. 6311 Habicht Court Anchorage 99504 Public/Restricted	83/06/07		85/07/01
Esther Wunnicke DNR Juneau 99811 Comm./State Dept.	83/01/18		

BOARD: POWER AUTHORITY, ALASKA

TITLE: Alaska Power Authority

DEPT: DCED

AUTHORITY: AS 44.83.010

STATUS: ACTIVE

REQUIREMENTS: FINANCIAL DISCLOSURE

PROHIBITIONS:

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DESCRIPTION: 7 directors - 6 appointed by Governor: 3 public from different judicial districts (for terms), and 3 Commissioners, plus Director, Div. of Budget & Management; Board elects Chair.

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REGISTRATION: Standard travel/per diem

MEETINGS: 12 times per year; 48 days maximum

Power Authority, Larry Crawford, E.D., 334 West Fifth Avenue,
Anchorage 99501 - 277-7641

84

Power Authority

<u>MEMBER</u>	<u>APPT</u>	<u>REAPPT</u>	<u>TERM</u>
David L. Allison 217 Second Street Juneau 99801 Pub/Restricted	83/07/06		84/07/01
Robert Heath Revenue Juneau 99811 Comm./ST Dept.	83/11/23		
Robert L. Huffman 1018 Galena Street Fairbanks 99701 Pub/Restricted	*83/02	83/06/30	87/07/01
Richard Lyon Commerce Juneau 99811 Comm./ST Dept. - Chair	83/01/18		
Pete McDowell OMB Juneau 99811 OMB-Dir/Mandate	83/01/18		
Lee R. Nunn, Jr. 6311 Habicht Court Anchorage 99504 Pub/Restricted	83/06/07		85/07/01
Esther Wunnicke DNR Juneau 99811 Comm./ST Dept.	83/01/18		

84

POWER AUTHORITY, ALASKA

(SLA 278; AS 44.83.010) 3 public members from different judicial districts; director of Budget & Management; 3 commissioners. Requires financial disclosure.

MEMBERS	REPLACING	APPT.	TERM
---------	-----------	-------	------

Mr. Charles Conway 821 N Street, Suite 201 Anchorage, Alaska 99501 (Chair)	Reappointed	81/08/17	84/07/01
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Mr. Robert B. Weeden Box 80425 Fairbanks, Alaska 99701 479-6664	Reappointed	81/08/17	83/07/01
--------------------------------------------------------------------------	-------------	----------	----------

Mr. John Schaeffer Box 106 Kotzebue, Alaska 99752		81/09/01	85/07/01
---------------------------------------------------------	--	----------	----------

Ron Lehr, Director
Division of Budget & Management
Pouch AM
Juneau, Alaska 99811

The Honorable Robert Ward
Commissioner
Dept. of Transportation
& Public Facilities
Pouch Z
Juneau, Alaska 99811

The Honorable Chuck Webber
Commissioner
Dept. of Commerce & Economic
Development
Pouch D
Juneau, Alaska 99811

The Honorable Ernst Mueller
Commissioner
Dept. of Environmental Conservation
Pouch O
Juneau, Alaska 99811

CONTACT AGENCY:
Eric Yould, Executive Director
333 W. Fourth Street
Anchorage, AK 99501
(277-7641)

D #1 (G-11)

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Mr.
950
Anc
Bus

Mr.
App
407
Anc
Anc

ID

82/83

POWER AUTHORITY, ALASKA

(SLA 278; AS 44.83.010) 3 public members from different judicial districts; director of Budget & Management; 3 commissioners. Requires financial disclosure.

MEMBERS	REPLACING	APPT.	TERM
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Mr. Charles Conway 821 N Street, Suite 201 Anchorage, Alaska 99501 (Chair)	Reappointed	81/08/17	84/07/01
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Mr. Robert B. Weeden Box 80425 Fairbanks, Alaska 99701 479-6664	Reappointed	81/08/17	83/07/01
--------------------------------------------------------------------------	-------------	----------	----------

Mr. John Schaeffer Box 106 Kotzebue, Alaska 99752		81/09/01	85/07/01
---------------------------------------------------------	--	----------	----------

Ron Lehr, Director
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Dept. of Transportation
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Juneau, Alaska 99811

Commissioner Chuck Webber
Dept. of Commerce & Economic
Development
Pouch D
Juneau, Alaska 99811

Commissioner Ernst Mueller
Dept. of Environmental Conservation
Pouch O
Juneau, Alaska 99811

CONTACT AGENCY:

Eric Yould, Executive Director
333 W. Fourth Street
Anchorage, AK 99501
(277-7641)

82

POWER AUTHORITY, ALASKA

(SLA 278; AS 44.83.010) 4 public members; financial disclosure;
four-year terms.

MEMBERS	REPLACING	APPT.	TERM
Thomas E. Kelly 225 Cordova, Building B Suite 307 Anchorage, Alaska 99501	Charles Behlke	80/06/23	83/01/01
Mr. Chuck Conway Box 520 Sitka, Alaska 99835	Reappointed	80/12/15	85/01/01
Robert B. Weeden Box 80425 Fairbanks, Alaska 99701	Jacob Wick	80/06/23	84/01/01
Mr. Arnold G. Espe 2204 Arcadia Drive Anchorage, Alaska 99503	Bob Ward	79/02/14	82/01/01

CONTACT AGENCY:

Eric Yould, Executive Director
333 W. Fourth Street
Anchorage, AK 99501
(277-7641)

ID #1 (G-12)

(SLA 278; AS 44.56.010-240) 4 public members; members are subject to
*legislative confirmation and financial disclosure; four-year terms.

MEMBERS	REPLACING	APPT.	TERM
Mr. Charles Behlke P. O. Box 80257 Fairbanks, Alaska 99758	Frank Murkowski	79/02/14	83/01/01
Mr. Chuck Conway Box 520 Sitka, Alaska 99835		76/12/21	81/01/01
Mr. Jacob Wick Box 746 Kodiak, Alaska 99615		77/03/25	80/01/01
Mr. Arnold G. Espe 2204 Arcadia Drive Anchorage, Alaska 99503	Bob Ward	79/02/14	82/01/01

CONTACT AGENCY:

Commerce & Economic Development
(465-2500)

*Confirmation is required by statute but is not allowed under the
constitution.

ID #80

ALASKA POWER AUTHORITY

(SLA 278; AS 44.56.010-240) 4 public members; members are subject to
*legislative confirmation and financial disclosure.

MEMBERS	REPLACING	APPT.	TERM
Mr. Charles Behlke P. O. Box 80257 Fairbanks, Alaska 99758	Frank Murkowski	79/02/14	83/01/01
Mr. Chuck Conway Box 520 Sitka, Alaska 99835		76/12/21	81/01/01
Mr. Jacob Wick Box 746 Kodiak, Alaska 99615		77/03/25	80/01/01
Mr. Arnold G. Espe 2204 Arcadia Drive Anchorage, Alaska 99503	Bob Ward	79/02/14	82/01/01

CONTACT AGENCY:

Commerce & Economic Development
(465-2500)

*Confirmation is required by statute but is not allowed under the
constitution.

ID #80

79

(SLA 278; AS 44.56.010-240; 4 public members; members are subject
 *legislative confirmation and financial disclosure)

NAMES AND ADDRESSES	Replacing	New Appt.	Acct.	Term Expires
Frank Murkowski 3 Mi. Chena Pump Road Fairbanks 99701		2/21/78		1/1/79
Chuck Conway Box 520 Sitka 99835		10/31/76		1/1/81
Jacob Wick Box 746 Kodiak 99615		3/31/77		1/1/80
Bob Ward 6711 Foothill Dr. Anchorage 99501		* 11/6/77		1/1/82
CONTACT AGENCY: Department of Commerce and Economic Development Office of the Commissioner (465-2500)				
* Confirmation is required by statute but is not allowed under the constitution				

78



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

SB 292 Sectional Analysis

Section 1) Adds the APA to the list of Boards, Commissions, and authorities whose officers and employees are in the exempt service.

Section 2) Changes the composition of the APA Board to seven members as follows:

Commissioner of DCED

one director from the banking industry

one consumer representative

two directors from business and industry

two directors who are managers in the utility industry;

Directors appointed by the Governor shall serve staggered 6 year terms, and are subject to confirmation by the Legislature.

Section 3) Adds new language so that the board advises the executive director, rather than the powers of authority being held directly by the board.

Section 4) Directors appointed by the Governor must be state residents and comply with conflict of interest provisions.

Section 5) Adds language so that the powers of the authority are vested in the executive director. Adds staff of the APA to the exempt service category.

Section 6) Amends language to be consistent with sections 3 and 5.

Section 7) Current ^{Public} members will serve out their terms.

Section 8) Immediate effective date.

Cramer
2/13/86
#2

Original sponsor: Kules/Governor

1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR SENATE BILL NO. 292 (L&C)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Fower Authority; and
7 providing for an effective date."

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

9 * Section 1. AS 39.25.110(11) is amended to read:

10 (11) the officers and employees of the following boards,
11 commissions, and authorities:

- 12 (A) Alaska Gas Pipeline Financing Authority;
- 13 (B) Alaska Permanent Fund Corporation;
- 14 (C) Alaska Energy Center;
- 15 (D) Alaska Industrial Development Authority;
- 16 (E) Alaska Commercial Fisheries Entry Commission;
- 17 (F) Alaska Commission on Postsecondary Education;
- 18 (G) Alaska Power Authority;

19 * Sec. 2. AS 44.83.030 is repealed and reenacted to read:

20 Sec. 44.83.030. MEMBERSHIP OF THE AUTHORITY. The board of
21 directors of the authority consists of seven members. The commis-
22 sioner of commerce and economic development serves as a director and
23 the governor shall appoint one director from the banking industry, one
24 consumer representative, two directors from business and industry, and
25 two directors who are managers in the utility industry. Directors
26 appointed by the governor serve for staggered terms of six years and
27 are subject to confirmation by a majority of the members of the legis-
28 lature in joint session.

29 * Sec. 3. AS 44.83.040(a) is amended to read:

1 (a) The directors shall elect one of their number as chairman
2 and may elect other officers they determine desirable. The board
3 shall advise the executive director on the management of the auth-
4 ority. Four [THE POWERS OF THE AUTHORITY ARE VESTED IN THE DIRECTORS,
5 AND FOUR] directors of the authority constitute a quorum. Action may
6 be taken and motions and resolutions adopted by the authority at a
7 meeting by the affirmative vote of a majority of the directors. The
8 directors of the authority serve without compensation, but they shall
9 receive the same travel pay and per diem as provided by law for board
10 members.

11 * Sec. 4. AS 44.83.045(a) is amended to read:

12 (a) The [PUBLIC] directors appointed by the governor must
13 [SHALL] be residents and qualified voters of Alaska and shall comply
14 with the requirements of AS 39.50 (conflict of interests). [THE
15 PUBLIC DIRECTORS SHALL SERVE OVERLAPPING FOUR-YEAR TERMS.]

16 * Sec. 5. AS 44.83.045(c) is amended to read:

17 (c) The authority shall employ an executive director who may [,
18 WITH THE APPROVAL OF THE AUTHORITY,] employ additional staff as neces-
19 sary. The powers of the authority are vested in the executive direc-
20 tor. In addition to its staff of regular employees, the authority may
21 contract for and engage the services of legal and bond counsel, con-
22 sultants, experts, and financial and technical advisors the authority
23 considers necessary for the purpose of conducting studies, investiga-
24 tions, hearings, or other proceedings. The board of directors shall
25 establish the compensation of the executive director. The executive
26 director and staff of the authority are in the exempt service under
27 AS 39.25.110 [IS SUBJECT TO THE PROVISIONS OF AS 39.25.010 - 39.25.-
28 220].

29 * Sec. 6. AS 44.83.110(f) is amended to read:

1 (f) The executive director [CHAIRMAN] of the authority shall
2 annually, no later than January 2, make and deliver to the governor
3 and the legislature a certificate stating the sum, if any, required to
4 restore any capital reserve fund to the capital reserve fund require-
5 ment. The legislature may appropriate the [SUCH A] sum, and the au-
6 thority shall deposit the [ALL] sums appropriated during the then
7 current fiscal year by the legislature for the [SUCH] restoration
8 [SHALL BE DEPOSITED BY THE AUTHORITY] in the proper capital reserve
9 fund. Nothing in this section creates a debt or liability of the
10 state.

11 * Sec. 7. Notwithstanding the amendments to AS 44.83.030 made by sec. 2
12 of this Act, the public directors of the authority on the day before the
13 effective date of this Act shall continue to serve until their terms ex-
14 pire. On the effective date of this Act, the governor shall replace the
15 director of the office of management and budget and the three commissioners
16 in accordance with AS 44.83.030 as amended by this Act.

17 * Sec. 8. This Act takes effect immediately in accordance with AS 01.-
18 10.070(c).
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Introduced: 4/19/85
Referred: Labor and Commerce
and State Affairs

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2

SENATE BILL NO. 292

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act placing the employees of the Alaska Power
Authority in the exempt service under the State
Personnel Act; and providing for an effective date."

7

8

9

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

10

* Section 1. AS 39.25.110(11) is amended to read:

11

(11) the officers and employees of the following boards,

12

commissions, and authorities:

13

(A) Alaska Gas Pipeline Financing Authority;

14

(B) Alaska Permanent Fund Corporation;

15

(C) Alaska Energy Center;

16

(D) Alaska Industrial Development Authority;

17

(E) Alaska Commercial Fisheries Entry Commission;

18

(F) Alaska Commission on Postsecondary Education;

19

(G) Alaska Power Authority;

20

* Sec. 2. AS 44.83.045(c) is amended to read:

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(c) The authority shall employ an executive director who may,

22

with the approval of the authority, employ additional staff as neces-

23

sary. In addition to its staff of regular employees, the authority

24

may contract for and engage the services of legal and bond counsel,

25

consultants, experts, and financial and technical advisors the author-

26

ity considers necessary for the purpose of conducting studies, inves-

27

tigations, hearings, or other proceedings. The board of directors

28

shall establish the compensation of the executive director. The

29

executive director and staff of the authority are in the exempt

1 service under AS 39.25.110 [IS SUBJECT TO THE PROVISIONS OF AS 39.25.-
2 010 -- 39.25.220].
3 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
4 10.070(c).

CHAIRMAN'S INFORMATION: CSSB 292 (L&C)

- 1) BILL TITLE: "An act relating to the Alaska Power Authority; and providing for an effective date."
 - a) Introduced: Governor (subcommittee rolled in contents of SB 265 changing the composition of the APA Board)
 - b) Co-sponsors:
- 2) INTENT: This measure clarifies that employees of APA are in the exempt service, and restructures the composition of the Power Authority Board. Powers of the authority would be vested in the executive director, and the board shall advise the executive director on the management of the authority.

FISCAL NOTE: 0

N.B. NO EFFECTIVE DATE CLAUSE

- 3) ADDITIONAL REFERRALS: State Affairs, Rules
- 4) PUBLIC HEARINGS:
 - a) Sponsor:
 - b) Public Witnesses:
- 5) BILL ACTION:
 - a) Hold in committee?
 - b) Assign to sub committee for further review?
 - c) Move from committee?
 - d) Close public hearings?
- 6) COMMITTEE ACTION?
 - a) amendments?
 - b) CS adoption? Need to adopt the L&C CS



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.

James A. Smith
Signature of Camera Operator

11/24/89
Date

S B

2 9 5

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : SB 295
 Title : Treatment of a mental
or nervous condition in certain
policies
 Sponsor : Faiks
 Requestor : _____
 Date of Request : _____

FISCAL DETAIL

Agency Affected : Commerce & Econ. Dev.
 BRU : Consumer Protection
 Components : Insurance

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

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 : John George, Director Phone : 465-2515
 Division : Insurance Date : _____

Approved by Commissioner : Loren H. Lounsbury Date : 1/15/86
 Agency : Commerce and Economic Development

Distribution (by Agency preparing fiscal note) :

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

2227WA11586b,

page

FISCAL NOTE

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

<p><u>REQUEST</u> Bill/Resolution No.: <u>SR 205</u> Title: <u>Treatment of a mental</u> <u>or nervous condition in certain policies</u> Sponsor: <u>Faiks</u> Requestor: _____ Date of Request: _____</p>	<p><u>FISCAL DETAIL</u> Agency Affected: <u>Commerce & Econ. Dev.</u> Program Category Affected: _____ <u>Consumer Protection</u> BRU, Program or Subprogram(s) Affected: _____ <u>Insurance</u></p>
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

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	-0-	-0-	-0-	-0-	-0-	-0-

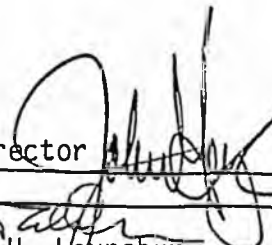
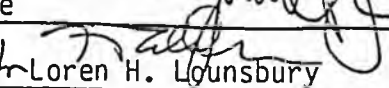
FUNDING: (Thousands of Dollars)

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: John George, Director  Phone: 465-2515
 Division: Insurance Date: 4/25/85
 Approved by Commissioner: Loren H. Lounsbury  Date: 4/26/85
 Agency: Commerce and Economic Development

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 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST
Bill/Resolution No.: SB 295
Title: An Act Requiring Insurers
to offer coverage for the
treatment of
Sponsor: Faiks
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: All State Agencies
BRU: Retirement and Benefits
Components: Retirement and Benefits
(GHLB)

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
OPERATING						
PERSONAL SERVICES						
RTMNT & BNFTS						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
TRS MATCH						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:	-0-	-0-	-0-	-0-	-0-	-0-
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FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

J.K. Humphreys

Prepared By: J.K. Humphreys, Director Phone: 465-4470
 Division: Retirement & Benefits Date: 2/21/86

Eleanor Andrews

Approved by Commissioner: Eleanor Andrews Date: 3/4/86
 Agency: Department of Administration

Distribution (by Agency preparing fiscal note):

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

Senate Bill 295
Fiscal Note Analysis
Prepared by Division of Retirement & Benefits
Department of Administration
February 21, 1986

Analysis: Passage of this bill would require insurers to offer an option to receive certain minimum coverage for treatment of a mental or nervous condition.

It is our understanding that an employer, as policy holder of a group plan, could elect this option for covered employees. Employees in a group plan could not make this election on an individual basis.

The State of Alaska now provides mental health coverage for all eligible employees. The level of this coverage is somewhat less than that provided for in the bill in an effort of cost containment in the Plan. Health insurance benefits are determined at the bargaining table. This bill would not affect our present level of coverage or cost.

Should the higher level of coverage described in the bill be incorporated into the state's health plans, FY 87 costs to the state are estimated to increase by \$1,522,024.

This cost is calculated as follows:

The increase of \$2.65 per month health cost times the number of state employees (13,200) times 12 months equals	\$419,760
The change in the PERS employer contribution rate (.12%) times the estimated FY 87 state PERS salaries (\$590,176,728) equals	\$708,212
The change in the TRS employer contribution rate (.075%) times the estimated FY 87 state TRS salaries (\$68,569,578) equals	\$ 51,427
The changes in the TRS state match contribution rate (.075%) times the estimated FY 87 TRS system salaries (\$456,833,417) equals	\$342,625
Total	<u>\$1,522,024</u>

Introduced: 4/22/85
Referred: Labor & Commerce and
Health, Education & Social Services

1 IN THE SENATE

BY FAIKS

2

SENATE BILL NO. 295

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act requiring insurers to offer coverage for the
7 treatment of a mental or nervous condition in certain
8 health insurance policies."

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

10 * Section 1. AS 21.42 is amended by adding a new section to read:

11 Sec. 21.42.365. COVERAGE FOR TREATMENT OF A MENTAL OR NERVOUS
12 CONDITION. (a) An insurer that issues for delivery, delivers, or
13 renews a health insurance policy in the state after the effective date
14 of this section shall offer the insured an option to receive the
15 following minimum coverage for treatment of a mental or nervous condi-
16 tion of the insured or other person who would otherwise be covered by
17 the insured's health insurance policy:

18 (1) 45 days a year of inpatient treatment for each covered
19 individual;

20 (2) 30 visits a year of outpatient treatment for each
21 covered individual.

22 (b) The health insurance policy may impose reasonable contract
23 limitations, but may not require that the insured pay a higher deduct-
24 ible or co-payment for a cost for treatment of a mental or nervous
25 condition than for a cost for treatment of another condition or
26 illness.

27 (c) In this section

28 (1) "co-payment" means the portion of the cost to be paid
29 by the insured;

1 (2) "cost" means the lesser of the following:

2 (A) the actual charge for the treatment received for a
3 mental or nervous condition; or

4 (B) the usual, customary and reasonable charge for the
5 treatment in the judicial district of this state where the treat-
6 ment was rendered;

7 (3) "health insurance policy" means a hospital or medical
8 expense policy, or a nonprofit health care corporation plan;

9 (4) "inpatient treatment" means continuous treatment of
10 more than 12 hours in a 24-hour period in the psychiatric unit of a
11 general hospital licensed under AS 18.20, in a psychiatric hospital
12 that is licensed under AS 18.20, or in a hospital in the state that is
13 specifically exempt under AS 18.20.020 from the licensing requirements
14 of the state;

15 (5) "mental or nervous condition" means an impairment of
16 psychobiological processes that is severe enough to cause social,
17 psychological, or biological malfunctioning; "mental or nervous condi-
18 tion" includes a substantial disorder of thought, mood, perception,
19 orientation, or memory that significantly impairs judgment, behavior,
20 capacity to recognize, or ability to cope with the ordinary demands of
21 life; mental retardation, epilepsy, drug addiction, and alcoholism do
22 not constitute a mental or nervous condition although a person who
23 suffers from one or more of these conditions may also be suffering
24 from a mental or nervous condition;

25 (6) "outpatient treatment" means treatment that is not
26 inpatient treatment and that is provided under the supervision of

27 (A) a psychiatrist who is licensed as a physician in
28 the state and certified in psychiatry by the American Board of
29 Psychiatry and Neurology;

1 (B) a physician who is employed by the federal govern-
2 ment in this state and certified in psychiatry by the American
3 Board of Psychiatry and Neurology; or

4 (C) a psychologist or psychological associate licensed
5 under AS 08.86.

6 * Sec. 2. AS 21.87.340 is amended to read:

7 Sec. 21.87.340. OTHER PROVISIONS APPLICABLE. In addition to the
8 provisions contained or referred to previously in this chapter, the
9 following chapters and provisions of this title also apply with
10 respect to service corporations to the extent applicable and not in
11 conflict with the express provisions of this chapter and the reason-
12 able implications of the express provisions, and for the purposes of
13 the application the corporations shall be considered to be mutual
14 "insurers":

- 15 (1) AS 21.03
16 (2) AS 21.06
17 (3) AS 21.09, except AS 21.09.090
18 (4) AS 21.18.010
19 (5) AS 21.18.030
20 (6) AS 21.18.040
21 (7) AS 21.18.120
22 (8) AS 21.21.321
23 (9) AS 21.36
24 (10) AS 21.69.400
25 (11) AS 21.69.520
26 (12) AS 21.69.600, 21.69.620, and 21.69.630
27 (13) AS 21.78
28 (14) AS 21.90
29 (15) AS 21.42.345 - 21.42.365 [AND 21.42.355]

- 1 (16) AS 21.89.040
- 2 (17) AS 21.89.060.
- 3

Blue Cross
of Washington and Alaska



3111 C Street, Suite 100
P.O. Box 10-2480
Anchorage, Alaska 99510-2480
(907) 561-5065

January 22, 1986

JAN 22 1986

The Honorable Jan Faiks
The Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, AK 99811

Dear Senator Faiks:

During the 1985 session of the legislature, you introduced Senate Bill 295, "an act requiring insurers to offer coverage for the treatment of a nervous and mental condition in certain health insurance policies."

Through the courtesy of your staff, I was asked to review the text of the bill, to point out areas which might be a problem to us, and to provide some general cost figures should such a benefit be elected by a group purchasing coverage for a nervous and mental condition from Blue Cross of Washington and Alaska. As I informed your staff, our Plan suggested four wording changes in the text of the bill. The first change appears on page 1, lines 15 and 16, "... condition of the insured or other person who would otherwise be covered by" We suggest the word "eligible" be inserted between the words "other" and "person" and that the phrase "who would otherwise be" be deleted. This addition and deletion would make the statement clearer as to who may be covered by the benefit.

The second change appears on page 2, lines 4-6. The bill reads "the usual, customary and reasonable charge for the treatment in the judicial district of the state where the treatment was rendered." This statement could put this section in conflict with the proposed usual, customary and reasonable part of the rules on unfair claims that are expected to be adopted by the Division of Insurance in late January or early February 1986. We suggest the deletion of the last 12 words of lines 4-6. It is important to Blue Cross of Washington and Alaska and other carriers to have uniform rules governing the administration of usual, customary and reasonable charges in order to avoid increased costs and confusion for the provider and patient alike.

The Honorable Jan Faiks
January 22, 1986
Page 3

The offering of benefits for specific situations, illnesses or conditions is an equitable method of providing coverage to groups and their members. The choice remains with the group where it may have been negotiated or otherwise determined by the group and its members. In this manner, the health benefit dollar can be utilized to provide the most appropriate benefits for that group. Requirements to provide coverage neglect consideration of the location of the group, the availability of competent providers, the needs of the employees and even the availability of funds to provide basic coverage.

I hope this letter will provide you with positive information for your consideration. If I can be of further assistance, please do not hesitate to contact me at the Anchorage District Office, 563-2728, or my Juneau home, 586-3141.

It will be a pleasure to work with you on the legislation.

Sincerely,

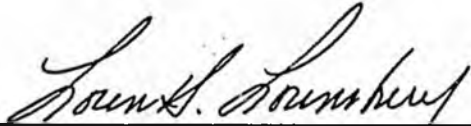
Martin E. Tirador, Senior Representative
Corporate Relations

SB 295 "An Act requiring insurers to offer coverage for the treatment of a mental or nervous condition in certain health insurance policies."

The department does not favor the mandate of any kind of health insurance in a policy voluntarily purchased. The department has in the past supported legislation addressing provider discrimination or recipient discrimination. This proposal does not address a discrimination issue. It mandates specific levels of coverage for treatment of a nervous or mental condition.

While the bill does not directly impact the programs of the Division of Insurance, it does impact market availability of health insurance in this State. The areas of concern with this legislation include:

1. This bill conflicts with the ERISA preemption and the NLRA provisions relating to plans which are established pursuant to a collective bargaining agreement.
2. This bill will tend to force the small to medium sized insurer from the marketplace for lack of underwriting expertise relating to the mandated coverage or ability to write it economically.
3. A demand for the coverage has not become evident. If a coverage is economic and there is sufficient demand for it, competition will assure that coverage is available;
4. The bill does not apply to self-insurers and, since it does not, may lead to the self-insuring of risks that should not be self-insured.
5. The cost of the mandated coverage can be of such consequence as to discourage purchase at all or to force exclusion of more popular coverages such as vision care and dental care. To the degree that available dollars for health care are fixed, this bill has the effect of decreasing health care dollars for things now covered.
6. The Federal Government is currently considering a tax on the cost of benefits above a certain amount. It would be unfair to force a person into a position where coverages he or she does not want or does not need cause taxation for coverages that are wanted and needed.


Loren H. Lounsbury, Commissioner

Date: 1/15/86

2227WB11586b

Bannister
2/13/86

= CS changes

Original sponsor: Faiks

*new state
opt. - private*

1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR SENATE BILL NO. 295 (L&C)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act requiring insurers to offer coverage for the
7 treatment of a mental or nervous condition in certain
8 health insurance policies."

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

10 * Section 1. AS 21.42 is amended by adding a new section to read:

11 Sec. 21.42.365. COVERAGE FOR TREATMENT OF A MENTAL OR NERVOUS
12 CONDITION. (a) An insurer that issues for delivery, delivers, or
13 renews a health insurance policy in the state after the effective date
14 of this section shall offer the insured ^(2 year!) an ^{(2 mandatory) - 7.7.} option to receive the
15 following minimum coverage for treatment of a mental or nervous condi-
16 tion of the insured or other eligible person who would otherwise be
17 covered by the insured's health insurance policy:

18 (1) 45 days a year of inpatient treatment for each covered
19 individual;

20 (2) 30 ^{hrs of equivalent treatment} [visits] a year of outpatient treatment for each
21 covered individual.

22 (b) The health insurance policy may impose reasonable contract
23 limitations, but may not require that the insured pay a higher deduct-
24 ible or co-payment for a cost for treatment of a mental or nervous
25 condition than for a cost for treatment of another condition or
26 illness.

27 (c) In this section

28 (1) "co-payment" means the portion of the cost to be paid
29 by the insured;

(2) "cost" means the lesser of the following:

(A) the actual charge for the treatment received for a mental or nervous condition; or

(B) the usual, customary and reasonable charge for the treatment; *IN THE JUDICIAL DISTRICT WHERE TREATMENT IS RENDERED.*

(3) "health insurance policy" means a hospital or medical expense policy, or a nonprofit health care corporation plan;

(4) "inpatient treatment" means continuous treatment of more than 12 hours in a 24-hour period in the psychiatric unit of a general hospital licensed under AS 18.20, in a psychiatric hospital that is licensed under AS 18.20, or in a hospital in the state that is specifically exempt under AS 18.20.020 from the licensing requirements of the state;

(5) "mental or nervous condition" means an impairment of psychobiological processes that is severe enough to cause social, psychological, or biological malfunctioning; "mental or nervous condition" includes a substantial disorder of thought, mood, perception, orientation, or memory that significantly impairs judgment, behavior, capacity to recognize, or ability to cope with the ordinary demands of life; mental retardation, epilepsy, drug addiction, and alcoholism do not constitute a mental or nervous condition although a person who suffers from one or more of these conditions may also be suffering from a mental or nervous condition;

(6) "outpatient treatment" means treatment that is not inpatient treatment and that is provided under the supervision of

(A) a psychiatrist who is licensed as a physician in the state and certified, or eligible for certification, in psychiatry by the American Board of Psychiatry and Neurology;

(B) a physician who is employed by the federal

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check for

*check for
I.C.D. 9's
I.M.D. 3's*

*broader
including
psychiatrists*

1 government in this state and certified in psychiatry by the
2 American Board of Psychiatry and Neurology; or
3 (C) a psychologist licensed under AS 08.86. *OR psychological ASSOCIATE*

4 * Sec. 2. AS 21.87.340 is amended to read:

5 Sec. 21.87.340. OTHER PROVISIONS APPLICABLE. In addition to the
6 provisions contained or referred to previously in this chapter, the
7 following chapters and provisions of this title also apply with
8 respect to service corporations to the extent applicable and not in
9 conflict with the express provisions of this chapter and the reason-
10 able implications of the express provisions, and for the purposes of
11 the application the corporations shall be considered to be mutual
12 "insurers":

- 13 (1) AS 21.03
14 (2) AS 21.06
15 (3) AS 21.09, except AS 21.09.090
16 (4) AS 21.18.010
17 (5) AS 21.18.030
18 (6) AS 21.18.040
19 (7) AS 21.18.120
20 (8) AS 21.21.321
21 (9) AS 21.36
22 (10) AS 21.69.400
23 (11) AS 21.69.520
24 (12) AS 21.69.600, 21.69.620, and 21.69.630
25 (13) AS 21.78
26 (14) AS 21.90
27 (15) AS 21.42.345 - 21.42.365 [AND 21.42.355]
28 (16) AS 21.89.040
29 (17) AS 21.89.060.

WORK DRAFT

WORK DRAFT

WORK DRAFT

Version #:
Bannister
4/15/86.

Original sponsor: Faiks

1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR SENATE BILL NO. 295 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act requiring insurers to offer certain coverage
7 for the treatment of a mental or nervous condition in
8 certain health insurance policies."

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

10 * Section 1. AS 21.42 is amended by adding a new section to read:

11 Sec. 21.42.365. COVERAGE FOR TREATMENT OF A MENTAL OR NERVOUS
12 CONDITION. (a) An insurer that issues for delivery, delivers, or
13 renews a health insurance policy in the state after January 1, 1987,
14 shall offer the insured an option to receive the following minimum
15 coverage for treatment of a mental or nervous condition of the insured
16 or other person who would otherwise be covered by the insured's health
17 insurance policy:

18 (1) 45 days a year of inpatient treatment for each covered
19 individual;

20 (2) a total of 50 hours a year of outpatient treatment for
21 each covered individual, accumulated in any increments of time.

22 (b) The health insurance policy may impose reasonable contract
23 limitations, but may not require that the insured pay a higher deduct-
24 ible or co-payment for a cost for treatment of a mental or nervous
25 condition than for a cost for treatment of another condition or ill-
26 ness.

27 (c) In this section

28 (1) "co-payment" means the portion of the cost to be paid
29 by the insured;

1 (2) "cost" means the lesser of the following:

2 (A) the actual charge for the treatment received for a
3 mental or nervous condition; or

4 (B) the usual, customary and reasonable charge for the
5 treatment;

6 (3) "health insurance policy" means a hospital or medical
7 expense policy, or a nonprofit health care corporation plan;

8 (4) "inpatient treatment" means continuous treatment during
9 a 24-hour period in the psychiatric unit of a general hospital li-
10 censed under AS 18.20, a psychiatric hospital that is licensed under
11 AS 18.20, or a hospital in the state that is specifically exempt under
12 AS 18.20.020 from the licensing requirements of the state;

13 (5) "mental or nervous condition" means a mental disorder
14 identified in

15 (A) the Diagnostic and Statistical Manual of Mental
16 Disorders (Third Edition) published by the American Psychiatric
17 Association; or

18 (B) the ICD-9-CM (First Edition) published by the
19 Commission on Professional and Hospital Activities;

20 (6) "outpatient treatment" means treatment that is not
21 inpatient treatment and that is provided by one or more of the follow-
22 ing, or by a person who is under the direct supervision of one or more
23 of the following, has a master's or doctorate degree in psychology,
24 nursing, or social work, and is employed by the same health care
25 facility as the person or persons providing the direct supervision,

26 (A) a psychiatrist who is licensed as a physician in
27 the state and certified, or eligible for certification, in psych-
28 iatry by the American Board of Psychiatry and Neurology;

29 (B) a physician who is employed by the federal

1 government in the state and certified or eligible for certi-
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3 Neurology; or

4 (C) a psychologist licensed under AS 08.86.

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6 (d) Except to the extent necessary to comply with AS 21.42.365,
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8 a person who provides a service covered under a group disability
9 policy that extends coverage on an expense incurred basis, or under a
10 group service or indemnity type contract issued by a nonprofit corpo-
11 ration, if the service is within the scope of the provider's occupa-
12 tional license. In this subsection, "provider" means a state licensed
13 physician, dentist, osteopath, optometrist, chiropractor, or nurse
14 midwife.

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16 Sec. 21.87.340. OTHER PROVISIONS APPLICABLE. In addition to the
17 provisions contained or referred to previously in this chapter, the
18 following chapters and provisions of this title also apply with re-
19 spect to service corporations to the extent applicable and not in
20 conflict with the express provisions of this chapter and the reason-
21 able implications of the express provisions, and for the purposes of
22 the application the corporations shall be considered to be mutual
23 "insurers":

- 24 (1) AS 21.03
25 (2) AS 21.06
26 (3) AS 21.09, except AS 21.09.090
27 (4) AS 21.18.010
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29 (6) AS 21.18.040

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- (7) AS 21.18.120
- (8) AS 21.21.321
- (9) AS 21.36
- (10) AS 21.69.400
- (11) AS 21.69.520
- (12) AS 21.69.600, 21.69.620, and 21.69.630
- (13) AS 21.78
- (14) AS 21.90
- (15) AS 21.42.345 - 21.42.365 [AND 21.42.355]
- (16) AS 21.89.040
- (17) AS 21.89.060.

Alaska State Legislature

CO-CHAIRMAN
FINANCE COMMITTEE

907-465-3740



JAN FAIKS
POUCH V
CAPITOL BUILDING
JUNEAU, ALASKA 99811

Senate

April 22, 1985

MEMORANDUM

TO: Members of Senate Labor and Commerce Committee

FROM: Senator Jan Faiks *Jan Faiks*

SUBJECT: Background on Senate Bill 295

This bill will require insurers to offer their customers the opportunity to purchase minimum mental health coverage in all health insurance policies sold in Alaska.

Currently, twelve states have passed similar laws which require that policy holders be given the opportunity to purchase mental health insurance. Fourteen other states take a stronger position; they do not give the policy holders an option, but rather require that minimum mental health coverage be included in every health insurance policy.

This bill adopts the "mandatory option" approach because it allows subscribers to decide whether the benefits of mental health coverage are worth the added premium costs, and it preserves this option for the collective bargaining process.

Most states that require mental health coverage also define the minimum coverage that must be offered. Senate Bill 295 requires a minimum of 45 days of inpatient treatment and 30 visits of outpatient treatment per year.

These requirements are consistent with the requirements of other states. For inpatient services, four states require a minimum of 30 days, while two other states require 45 days. For outpatient services, minimum requirements are expressed in either visits (one other state calls for thirty per year) or dollar limits (six states have minimums ranging from \$500 to \$1000 per year). The remaining states require only that mental health benefits be on par with those offered for other illnesses.

When mental health coverage is offered, usually the benefits are much less than those available for other treatment. Insurers will often require that their customers pay a higher deductible or a greater portion of the cost of mental health services.

In a 1980 survey of health insurance plans in Alaska, 87% offered inpatient coverage and 74% offered outpatient coverage for mental illness. If these plans follow a national pattern which was identified in a 1983 study, only half of our plans will offer inpatient and less than 10% will offer outpatient benefits that are equal to coverage that is offered for other illnesses.

In order that mental health coverage be given parity with other coverages, then, this bill requires that the former be offered under the same terms as the latter.

There are several myths that have impeded the requiring of mental health coverage in health insurance policies. According to one belief, the costs of psychiatric treatment are unpredictable and uncontrollable.

This belief stems in part from the common perception of mental illness in terms of only its more serious forms, like schizophrenia. However, only 15% of persons who are treated in private mental hospitals suffer from this acute disease. For most forms of mental illness, only one hospital stay with several follow-up visits are all that is needed for successful treatment.

From seven to ten percent of subscribers use mental health benefits when these are available in their policies. This is approximately the same rate that subscribers use extra care from other medical specialists.

There is no evidence that mental health benefits are abused at a rate that differs from other health benefits. If insurers are concerned about accountability, they can subscribe to peer review services that will review the validity of individual claims. These services have shown a costs-to-savings ratio of 1:100.

It is true that mental health coverage will mean higher premium cost to subscribers. However, this cost is not substantial. A national survey of 79 major corporate plans revealed that the average annual premium increase for each subscriber was \$29.47.

On the other hand, psychotherapy produces savings in the form of increased employee productivity and reduced absenteeism. The Equitable Life Assurance Society has verified that every dollar invested in mental health treatment results in a three dollar increase in productivity.

Medical science has long recognized the correlation between physical disease and mental health. Many dollars that are now paid for other medical services are actually paid for the indirect treatment of mental impairments. In addition, studies have proven that direct treatment of mental problems results in lower costs for other medical care.

In a 1983 study, a moderate amount of psychotherapy was shown to significantly reduce hospital costs for persons suffering from four different types of chronic disease. Another study that same year showed that patients who received outpatient psychotherapy treatment used 56% fewer medical services than those who had not been treated.

Finally, there is a cost savings that will be enjoyed by the State of Alaska. Nationwide, the state governments pay about 50% of the total cost of our mental health bill. When subscribers are given access to mental health coverage on the same basis as other medical benefits, more of this burden will be shifted from the State to the private sector.

CHAIRMAN'S INFORMATION: SB 295

- 1) BILL TITLE: "An act requiring insurers to offer certain coverage for the treatment of a mental or nervous condition in certain health insurance policies."
 - a) Introduced: Sen Faiks
 - b) Co-sponsors:
- 2) INTENT: Measure requires insurers to offer an option for minimum mental health coverage in all health insurance policies sold in Alaska after Jan 1, 1987.

FISCAL NOTE: 0

- 3) ADDITIONAL REFERRALS: HESS and Rules
- 4) PUBLIC HEARINGS:
 - a) Sponsor:
 - b) Public Witnesses:
- 5) BILL ACTION:
 - a) Hold in committee?
 - b) Assign to sub committee for further review?
 - c) Move from committee?
 - d) Close public hearings?
- 6) COMMITTEE ACTION?
 - a) amendments?
 - b) CS adoption? Need to adopt the L&C CS for purposes of discussion.

#1

SCS CSHB 305(L&C)
Amendment #1
by Sackett

Zharoff and

Page 4, line 9, add a new Sec. 8 AS 08.13.140 is amended to read:

Section 08.13.140. Lapsed License. A lapsed license may be reinstated if the license has not been lapsed for a period of more than three years, or otherwise at the discretion of the Board, and all renewal and delinquent fees for the period during which the license has been lapsed are paid.

Renumber remaining sections accordingly

2

AMENDMENT #2

by ↑ Sackett
Zharoff and

SCS CSHB 305 (L&C), relating to barbers, hairdressers, and
cosmetologists,

Page 3, line 6: following the word "instructor" delete the
period, add a semi-colon and the word or, and
on line 7, add a new subsection to read:

(6) have completed a combination of coursework and
apprenticeship acceptable to the board. (Sec. 1 Ch 159
SLA 1980).

2 CS FOR SENATE BILL NO. 295 (L&C)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act requiring insurers to offer certain coverage
7 for the treatment of a mental or nervous condition in
8 certain health insurance policies."

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

10 * Section 1. AS 21.42 is amended by adding a new section to read:

11 Sec. 21.42.365. COVERAGE FOR TREATMENT OF A MENTAL OR NERVOUS
12 CONDITION. (a) An insurer that issues for delivery, delivers, or
13 renews a health insurance policy in the state after January 1, 1987,
14 shall offer the insured an option to receive the following minimum
15 coverage for treatment of a mental or nervous condition of the insured
16 or other person who would otherwise be covered by the insured's health
17 insurance policy:

18 (1) 45 days a year of inpatient treatment for each covered
19 individual;

20 (2) a total of 50 hours a year of outpatient treatment for
21 each covered individual, accumulated in any increments of time.

22 (b) The health insurance policy may impose reasonable contract
23 limitations, but may not require that the insured pay a higher deduct-
24 ible or co-payment for a cost for treatment of a mental or nervous
25 condition than for a cost for treatment of another condition or ill-
26 ness.

27 (c) In this section

28 (1) "co-payment" means the portion of the cost to be paid
29 by the insured;

1 (2) "cost" means the lesser of the following:

2 (A) the actual charge for the treatment received for
3 mental or nervous condition; or

4 (B) the usual, customary and reasonable charge for the
5 treatment;

6 (3) "health insurance policy" means a hospital or medical
7 expense policy, or a nonprofit health care corporation plan;

8 (4) "inpatient treatment" means continuous treatment during
9 a 24-hour period in the psychiatric unit of a general hospital li-
10 censed under AS 18.20, a psychiatric hospital that is licensed under
11 AS 18.20, or a hospital in the state that is specifically exempt under
12 AS 18.20.020 from the licensing requirements of the state;

13 (5) "mental or nervous condition" means a mental disorder
14 identified in

15 (A) the Diagnostic and Statistical Manual of Mental
16 Disorders (Third Edition) published by the American Psychiatric
17 Association; or

18 (B) the ICD-9-CM (First Edition) published by the
19 Commission on Professional and Hospital Activities;

20 (6) "outpatient treatment" means treatment that is not
21 inpatient treatment and that is provided by one or more of the follow-
22 ing, or by a person who is under the direct supervision of one or more
23 of the following, has a master's or doctorate degree in psychology,
24 nursing, or social work, and is employed by the same health care
25 facility as the person or persons providing the direct supervision,

26 (A) a psychiatrist who is licensed as a physician in
27 the state and certified, or eligible for certification, in psych-
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