

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

4838 HLAB SB 21 - SB 61

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STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL / BOX 2170 - JUNEAU 99801

1964 Opinions of the
Attorney General No. 2

July 22, 1964

Honorable Walter Kirkness
Commissioner
Department of Fish and Game
Support Building
Juneau, Alaska

Re: Enforcement of State Fish and Game
Laws on Military Reservations

Dear Mr. Kirkness:

You have asked whether the state has authority to enforce its fish and game laws on military reservations in Alaska. In our opinion the state does have such authority.

The Alaska Statehood Act (Pub. L. 85-508, 72 Stat. 339) in section 11(b) provides that Congress has the power of exclusive legislation over land owned by the federal government as of the date of admission which is used for military purposes. Section 11(b)(11) provides, however, that:

the reservation of authority in the United States for the exercise by the Congress of the United States of the power of exclusive legislation over the lands aforesaid shall not operate to prevent such lands from being a part of the State of Alaska, or to prevent the said State from exercising over or upon such lands, concurrently with the United States, any jurisdiction whatsoever which it would have in the absence of such reservation of authority and which is consistent with the laws hereafter enacted by the Congress pursuant to such reservation of authority.

By the terms of the Statehood Act, Alaska and the federal government have concurrent jurisdiction over federal military reservations.

A federal interdepartmental committee studied the problems arising out of the jurisdictional status of federally owned areas within the states and in 1956 submitted its report and recommendations. The committee explained the concept of concurrent legislative jurisdiction, such as exists between the federal government and Alaska over federally owned lands in Alaska, in this manner:

Under concurrent jurisdiction the two sovereigns, the Federal Government and a State, occupy an area, each having all the rights accorded a sovereign with the broad qualification that such rights run concurrently with those of the other sovereign. . . .

State law, including any amendments which may be made by the State from time to time, is applicable in a concurrent jurisdiction area. . . . State or local agencies and administrative processes needed to carry out various State laws, such as laws relating to notaries, various licensing boards, etc., can be made available by the State or local government in accordance with normal procedures. State criminal laws are, of course, applicable in the area for enforcement by the State. . . . Most crimes fall under both Federal and State sanction, and either the Federal or State government, or both, may take jurisdiction over a given offense. 1/

Of course, there are limits to the state's power. "The regulatory powers of the States may be exercised in the area but, again, not directly on the Federal Government or its instrumentalities, and not so as to interfere with Government activities." 2/

1/ Interdepartmental Committee for the Study of Jurisdiction over Federal Areas within the States, Jurisdiction over Federal Areas within the States, Part I, p. 20, U. S. Government Printing Office, 1956.

2/ Ibid.

Honorable Walter Kirkness
Commissioner

July 22, 1964

- 3 -

We conclude, therefore, that the Statehood Act grants to Alaska and the federal government concurrent jurisdiction to enforce Alaska's fish and game laws and regulations on federal military reservations. This conclusion is supported by a recent opinion of the Attorney General of Utah that State Fish and Game Department officers and federal officers could properly exercise jurisdiction in enforcing fish and game laws upon military reservations in Utah. The Attorney General stated:

The right of the state to enforce state game laws on military reservations on which there exists concurrent jurisdiction is undisputed. The penal laws of the state relative to fish and game are operative not only as federal law under the above cited [Assimilative Crimes] Act, but are enforceable as state laws as well. It follows then that both the United States and the state may actively enforce these laws. 3/

The states' jurisdiction over fish and game resources on federally owned military lands is more specifically set out in 10 U.S.C. section 2671. Because of its importance in answering your question this section is quoted in full:

(a) The Secretary of Defense shall, with respect to each military installation or facility under the jurisdiction of any military department in a State or Territory--

(1) require that all hunting, fishing, and trapping at that installation or facility be in accordance with the fish and game laws of the State or Territory in which it is located;

(2) require that an appropriate license for hunting, fishing, or trapping on that installation or facility be obtained, except that with respect to members of the Armed Forces, such a license may be required only if the State or Territory

3/ Opinions of the Attorney General of Utah, No. 54-060, 1954.

July 22, 1964

- 4 -

authorizes the issuance of a license to a member on active duty for a period of more than thirty days at an installation or facility within that State or Territory, without regard to residence requirements, and upon terms otherwise not less favorable than the terms upon which such a license is issued to residents of that State or Territory; and

(3) develop, subject to safety requirements and military security, and in cooperation with the Governor (or his designee) of the State or Territory in which the installation or facility is located, procedures under which designated fish and game or conservation officials of that State or Territory may, at such time and under such conditions as may be agreed upon, have full access to that installation or facility to effect measures for the management, conservation, and harvesting of fish and game resources.

(b) The Secretary of Defense shall prescribe regulations to carry out this section.

(c) Whoever is guilty of an act or omission which violates a requirement prescribed under subsection (a)(1) or (2), which act or omission would be punishable if committed or omitted within the jurisdiction of the State or Territory in which the installation or facility is located, by the laws thereof in effect at the time of that act or omission, is guilty of a like offense and is subject to a like punishment.

(d) This section does not modify any rights granted by treaty or otherwise to any Indian tribe or to the members thereof.

The purpose of this statute is to make violations of state fish and game laws applicable to military installations and facilities violations of federal law, and subject to like punishment as though committed within the state jurisdiction. 4/

4/ See 1958 U.S. Code Cong. and Adm. News, pp. 2230-2231.

July 22, 1964

- 5 -

Section 2671(a)(2) requires that military personnel obtain state licenses before hunting or fishing on military reservations but only if the state issues licenses to such personnel without regard to residence requirements and on the same terms as those upon which a license is issued to residents. Alaska does not grant such special privileges to military personnel: AS 16.05.940(14) provides that a member of the military service becomes a "resident" for licensing purposes only after fulfilling the normal twelve months residence requirement. Thus Alaska cannot require a license of military personnel who hunt or fish on a military reservation. 5/ However, any hunting or fishing at a military reservation must be in accord with Alaska laws regulating seasons, bag limits, methods of taking, etc., even though military personnel are not required to comply with Alaska's licensing requirements while hunting on the reservation. 6/

Except for the licensing of military personnel who hunt on military reservations, Alaska's fish and game laws are applicable as federal law on military reservations. One question remains: To what extent may state officers enter military reservations and enforce Alaska's fish and game laws? Section 2671(a)(3) requires the Secretary of Defense, in cooperation with state governors and subject to safety and military security requirements, to develop procedures by which state fish and game officials may have "full access" to military reservations "to effect measures for the management, conservation, and harvesting of fish and game resources." The subsection does not state that state officials must be given access to enforce state fish and game laws. However, Congress apparently anticipated that, at least where the military does not assign sufficient personnel to enforce fish and game laws, state game officials as well might enforce them. 7/ This might be done by deputizing state game officials as federal marshals, since subsection (c) makes violation of state fish and game laws a federal offense. But this would not seem to be necessary since state fish and game laws operate on a federal military

5/ The state may, of course, require a license of military personnel who hunt outside military reservations.

6/ 1958 U.S. Code Cong. and Adm. News, p. 2242

7/ Id. at p. 2243

Honorable Walter Kirkness
Commissioner

July 22, 1964


- 6 -

reservation not only as federal law but also as state law. Thus both the federal and state officers may enforce these laws. Only on a military reservation under the exclusive legislative jurisdiction of the federal government could enforcement be in the hands of the federal government exclusively. Our information is that at present no military reservations in Alaska are under exclusive federal jurisdiction.

One other federal statute deals with this matter. 16 U.S.C. section 670a allows, but does not require, the Secretary of Defense to agree with the Secretary of Interior and appropriate state agencies to cooperate in the development and conservation of fish and game on military reservations. Since section 670e provides that this statute does not modify or repeal any provision of 10 U.S.C. section 2671, it is of no importance in interpreting the latter. It does indicate, however, that Congress intends that the states maintain their authority to manage fish and game resources and enforce their laws on military reservations.

In brief the answer to your question is: Alaska's fish and game laws are applicable as state and federal law on military reservations in Alaska. State officers should have "full access" to such reservations in Alaska, subject to safety and military security requirements, to enforce these laws and manage and harvest fish and game resources. Federal law requires that the Secretary of Defense develop procedures by which this "full access" may be provided to state officials.

Very truly yours,


Warren G. Colver
Attorney General

WCC:rw

cc: Honorable William A. Egan
Governor of the State of Alaska

Honorable Floyd L. Guertin
Commissioner of Administration

notwithstanding that
of merchandise
by way of further
machines than upon
use of the amount
m offered for sale.¹⁴

does not necessarily
on the business of
a particular consti-
of the produce of a
ness of selling such

judicial interpretation,
if a debt has some-
by a licensing statute.
automobiles assigned
the purpose of satis-
imposing a license tax
where the dealer had

a state or municipality
ies.¹⁸ Some authority
ereas other authority
re the validity of such
its payment does not
on such business or

118 ALR 827.

Massachusetts, 5 Wall (US)
License Tax Cases, 5 Wall
497; *Casmus v Lee*, 236
35, 118 ALR 822 (license
taxes); *Youngblood v Sexton*,
120 Tenn 470, 120 Tenn
Mer v State, 88 Tenn 553,

Example, *Ex parte Garza*, 28
3 SW 779, holding that a
state could not impose a license tax
on a business, which was prohibited by
the state where there was no charter
authorizing such a tax.

118 ALR 827, 831.

25 v 43 Gallons of Whisky,
1 L Ed 803, 2 S Ct 906 (sale
of liquor in Indian territory); *Pervear v*
5 Wall (US) 475, 19 L Ed
186, 5 Wall (US) 462,

The matter of the validity of federal impositions on illegal activities is
discussed elsewhere in this work.²

§ 11. — Work on federal projects and federal land.

Legislation purporting to impose license restrictions or charges against
instrumentalities of the Federal Government has frequently been described
as "void."³ And particular legislation attempting to impose such require-
ments or charges has often been found to be inapplicable to the particular
federal project involved. Accordingly, it has been said that a contractor
whose bid for the construction of federal facilities in a particular state has
been accepted by the United States and who has begun work on the project
may not be convicted by a court of that state for working as a contractor
in the state without obtaining the contractor's license required by the state's
laws, where the effect of imposing the state's licensing restrictions would give
state authorities a virtual power of review over the federal determination
of whether an award of a particular contract to a particular contractor was
consonant with federal policy as set out in express federal legislation.⁴ It has,
however, been declared that a state may extend a privilege tax to contractors
with the Federal Government, where the locus in quo is within the territorial
limits of the state and exclusive jurisdiction over the same has not been ceded
to the Federal Government, and where there is no discrimination against
such contractors and no unlawful interference with interstate commerce.⁵
Thus, it has been held that a state statute imposing a license tax for the
privilege of transacting business in the state as a contractor is applicable to
a contractor whose sole business in the state is the erection of a building on
land of the Federal Government, where the work makes it necessary for the
contractor to occupy the sidewalks on the adjacent streets to the exclusion
of pedestrians.⁶

It has been held that a state has territorial jurisdiction to enforce an oc-
cupation tax as applied to gross income received by contractors with the
United States for the construction of locks and dams in navigable streams,⁷
and that a state's jurisdiction to impose an occupation tax upon a contractor
with the United States also extends to activities of the contractor on lands

18 L Ed 497; *Palmer v State*, 88 Tenn 553,
13 SW 233.

Annotation: 118 ALR 827, 832 et seq.

2. See 38 Am Jur 2d, *GAMBLING* §§ 20-25.

3. See, for example, *Williams v Talladega*,
226 US 404, 57 L Ed 275, 33 S Ct 116,
holding ordinance void that taxed the privi-
lege of carrying on the telegraph business,
without making any exception as to the send-
ing of government messages, the court noting
that part of the business was that of a gov-
ernmental agency in communication between
the officers and departments of the federal
government.

Annotation: 96 L Ed 263, 269, s. 2 1 Ed
2d 1789, 1791.

4. *Leslie Miller, Inc. v Arkansas*, 352 US
187, 1 L Ed 2d 231, 77 S Ct 257.

Annotation: 1 L Ed 2d 1729, 1731.

5. *Silas Mason Co. v Tax Com.* 302 U.S.
186, 82 L Ed 187, 58 S Ct 233; *James v*

Dravo Contracting Co. 302 US 134, 82 L
Ed 155, 58 S Ct 208, 114 ALR 318; *General*
Constr. Co. v Fisher, 149 Or 84, 39 P2d
358, 97 ALR 1252, app dismd 295 US 715,
79 L Ed 1671, 55 S Ct 646 (involving a
contract with the federal Government to fur-
nish labor and materials for the construction
of a dam and irrigation works in connection
with an irrigation project within the state);
Sollitt & Sons Constr. Co. v Commonwealth,
161 Va 854, 172 SE 290, 91 ALR 774.

Annotation: 91 ALR 779, 780, s. 115 ALR
371, 127 ALR 827; 97 ALR 1257, s. 114
ALR 347.

6. *Sollitt & Sons Constr. Co. v Common-
wealth*, supra.

7. *Silas Mason Co. v Tax Com.* 302 US
186, 82 L Ed 187, 58 S Ct 233; *James v*
Dravo Contracting Co. 302 US 134, 82 L Ed
155, 58 S Ct 208, 114 ALR 318.

Annotation: 115 ALR 371, 372, s. 127
ALR 827; 96 L Ed 263, 267, s. 2 1 Ed 2d
1789, 1790.

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HOUSE COMMITTEE REPORT

(7)

Date referred: 4/24/87

FURTHER REFERRALS: Judiciary
Finance

DATE: _____

The Labor & Commerce Committee has considered CSSSSB 22 (Fin)

"An Act exempting certain telephone and electric utilities and certain transactions from regulation by the Alaska Public Utilities Commission; restricting the authority of the Alaska Public Utilities Commission in considering certain costs in connection with rates charged by utility and with calculating power cost equalization; and providing for an effective date."

RECOMMENDS:

- [] replace with _____ [] the same title
- [] attached amendment(s) [] a new title
- [] do pass
- [] do not pass
- [X] no recommendation
- [] individual recommendations
- [] additional referral to the _____ Committee

ADOPTS: [] _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- [] fiscal impact [] same as previous fiscal note published _____
- [] zero fiscal note [X] same as previous zero fiscal note published 3-12-87
- [] zero with analysis

SIGNING DO PASS:

Cliff Davidson

SIGNING OTHER RECOMMENDATIONS:

W. Furnace NO REC.

Cliff Davidson no rec

Alvin Korman no rec.

David J. Douley NO REC

G. A. ... NO REC

W. Ellis NO REC.

Chairman's signature

ALASKA POWER AUTHORITY

Position Paper

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 22

The Alaska Power Authority supports enactment of SSSB 22. Specifically, Sections 1, 2, 4 and 5 of the bill, provide for amendments which would exempt wholesale power agreements between the Alaska Power Authority and a public utility from review or approval by the Alaska Public Utilities Commission (APUC). Enactment of this legislation is essential to the program of revenue bond financing of the Bradley Lake Hydroelectric Project.

The need for enactment of SSSB 22 is due to a 1986 amendment to APUC legislation. The amendment gives the APUC authority to review in advance and approve wholesale power agreements between public utilities. Once the agreements are in effect, the APUC may also order the parties to the agreement to renegotiate the agreement if the APUC determines that the retail power rates are not just. Where the parties are unable to agree to an amendment, the APUC may order the parties to proceed under the agreement's dispute resolution procedures.

The 1986 amendment was part of a complex, lengthy and controversial package of amendments within the "sunset" reauthorization bill for the Alaska Public Utilities Commission. The effect of the amendment on the Alaska Power Authority, its wholesale power agreements, and the Bradley Lake agreement in particular, was never addressed to the 1986 Legislature. Consequently, we are now presented with a statutory conflict. The Power Authority is exempt by statute from the APUC's jurisdiction. On the other hand, the APUC has jurisdiction over wholesale power agreements to which the Power Authority is a party.

Without an amendment to correct this anomaly, general civil construction cannot commence this season. Bond financing will be jeopardized for at least two reasons. The lengthy hearing process and any subsequent litigation arising out of the APUC's orders would delay construction of Bradley and ultimately jeopardize timely bond financing of the project. Moreover, if the APUC can order negotiation of power sales contracts in effect, bondholders will not be able to rely on the power sales contracts and the rates which are the basis for the contracts.

The Alaska Power Authority Board of Directors met on February 27, 1987, and unanimously adopted attached Resolution 1987-05, which supports legislation to be introduced during the 1987 Legislative session, for the purposes of clarification that the Alaska Power Authority and its wholesale power agreements would be specifically excluded from the jurisdiction of APUC.

Additional background information outlining the need for enactment of SSSB 22 is provided in the attached memorandum (dated March 9, 1987) from the Alaska Power Authority bond counsel of Wohlforth, Flint, and Gruening.

Alaska Power Authority

Addendum to Alaska Power Authority Position Paper SSSB 22

If SB 22 is enacted:

- Allows Bradley contracts to be signed and executed in a timely basis for construction to meet utilities' schedules of need.
- Provides certainty to wholesale power rate based on terms and provisions fixed in contract and not subject to future adjustment.
- Prevents duplication of review by State agencies. Public interest already served by Alaska Power Authority involvement.
- Lowers costs to consumers through lower interest rates on long-term debt.
- Lowers APUC review costs.
- Eliminates possibility of conflicting interpretations of contractual terms by two state agencies both assisted by the Dept. of Law

If not enacted:

- The provision for adjusting rates in the future lowers the rating of the long-term debt to less than investment grade (A-rated to "junk" bond.)*
- Unable to have former contracts until APUC re-reviews all power supply option studies already performed by OMB, legislature, utilities and their respective boards, and Alaska Power Authority and its Board (including four commissioners).
- No basis for future decisions.
- Delaying Bradley Lake by one year could increase construction costs by approximately \$10 million (less any additional arbitrage earnings.)

* Interest rate could increase 1.5 to 2.0 percent. Based on \$175 million in debt and 8.0 percent and 9.75 percent interest rate for with and without exemption, respectively, debt service would increase by approximately \$2.7 million per year - \$81 million over life of bonds.

2/6/118

13

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: SSSB 22C Fin
Publish Date: 3-12-87

Revision Date: March 10, 1987

Title: Act exempting certain telephone utilities and certain transactions from APUC regulations

Agency Affected: Commerce & Econ. Dev.
Alaska Public Utilities Commission

Sponsor: _____

Components: Operations

Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
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-
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS :

Passage of this version of SB 22 will return the Alaska Public Utilities Commission to the level of activity which it had prior to the passage of the legislation last year concerning AS 42.05.431(b). Therefore, there will be no increased costs associated with this legislation.

Prepared by: T.S. Moninski II, Executive Director

Phone: 276-6222

Division: Alaska Public Utilities Commission

Date: March 11, 1987

Approved by Commissioner: B. Anthony Smith, Commissioner

Date: March 11, 1987

Agency: Department of Commerce and Economic Development

Distribution (by preparer):

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

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OF COUNSEL
ROGER G. CONNOR
RICHARD W. GARNETT, III

MEMORANDUM

TO: Mr. Robert E. LeResche
Executive Director
Alaska Power Authority

FROM: Wohlforth, Flint & Gruening *ggw*

RE: Sponsor Substitute for Senate Bill No. 22

DATE: March 9, 1987

Enactment of the above Bill, which would exempt wholesale power agreements between the Alaska Power Authority and a public utility from review or approval by the Alaska Public Utilities Commission, is essential to the program of revenue bond financing of the Bradley Lake Hydroelectric Project.

The \$267,500,000 of Variable Rate Demand Bonds issued in October, 1985, are presently outstanding to provide short-term financing for the Bradley Lake Hydroelectric Project. These Variable Rate Demand Bonds, which are secured by Letters of Credit from three large Japanese banks, initially are due in 1991 and are subject to two one-year extensions. In order for successful long-term take-out financing to be marketed so as to retire the Variable Rate Demand Bonds, power sales agreements with the utilities to be served must be entered to secure the long-term debt.

Revenue bond financing of power generating facilities throughout the rest of the country is typically secured by power sales agreements, such as those which are in course of negotiation with the utilities to be served by Bradley Lake. The public body which is the authorizing entity and the participant utilities must be free to enter into the wholesale

WOHLFORTH, FLINT & GRUENING

Mr. Robert E. LeResche
March 9, 1987
Page 2.

power agreements unfettered by regulatory powers of a public utilities commission. Power sales agreements pledged to secure long term debt, once entered into, cannot be disturbed while the debt is outstanding. The provisions of AS 42.05.-031(b), which provide for initial approval and continuing Commission jurisdiction, would seriously impede and perhaps make impossible conventional revenue bond financing secured by power sales agreements of the Bradley Lake Project. Enactment of Sponsor Substitute for Senate Bill No. 22, eliminating these provisions, is therefore essential to financing of the project pursuant to power sales agreements with the utilities.

EEW:jg

Enclosure: Sponsor Substitute for
Senate Bill No. 22.

RESOLUTION 87-05

WHEREAS the Alaska Power Authority is an instrumentality of the State of Alaska and created by the legislature, in the interests of promoting the general welfare and public purposes of all the people of the state, to reduce consumer power costs and otherwise to encourage the long-term economic growth of the state, including the development of its natural resources, through the establishment of power projects;

WHEREAS the Alaska Power Authority is not subject to the jurisdiction of the Alaska Public Utilities Commission;

WHEREAS the Alaska Power Authority is authorized by statute to borrow money and issue bonds the principal and interest on which are payable from the income and receipts or other money derived from projects financed with the proceeds of the bonds and from revenue-producing contracts including a contract providing for the security of the bonds made by the authority with any person;

WHEREAS the Alaska Power Authority is currently concluding negotiations with the Railbelt utilities for the sale of project capacity and power from the Bradley Lake hydroelectric project;

WHEREAS a portion of the project's construction costs will be financed with the proceeds of a \$175,000,000 bond issuance by the Alaska Power Authority;

WHEREAS execution of the Bradley Lake agreement by June, 1987 is necessary in order that civil construction of the project may commence during this construction season;

WHEREAS, during the 1986 legislative session, the Legislature enacted AS 42.05.431(b) as part of a complex, lengthy and controversial package of amendments within the "sunset" reauthorization bill for the Alaska Public Utilities Commission;

WHEREAS AS 42.05.431(b) provides that a wholesale power agreement between public utilities is subject to advance approval of the commission and the Alaska Public Utilities Commission has ordered Anchorage Municipal Light and Power to submit the Bradley Lake power sales agreement to the commission for advance approval;

WHEREAS AS 42.05.431(b) permits the Alaska Public Utilities Commission to issue a comparable order to other Railbelt utilities who will be purchasers under the Bradley Lake wholesale power agreement;

WHEREAS AS 42.05.431(b) further provides that, once a wholesale power agreement is in effect and the commission determines that the rates set in accordance with the agreement

are not just and reasonable, the commission may order the parties to negotiate an amendment to the agreement, or to use the dispute resolution procedures contained in the agreement;

WHEREAS there now exists an anomaly between AS 44.83.090(b) which provides that the Alaska Public Utilities Commission does not have jurisdiction over the Alaska Power Authority and AS 42.05.720(4)(A) which seemingly gives the commission the authority to order the Alaska Power Authority to renegotiate its wholesale power agreements and to proceed under the contract's dispute resolution procedures;

WHEREAS the effect of AS 42.05.720(4)(A) on the Alaska Power Authority and its wholesale power agreements was never addressed to the 1986 Legislature;

WHEREAS AS 42.05.720(4)(A) creates a statutory conflict with the legislation authorizing the authority to finance the establishment of power projects through the issuance of bonds and with the legislation exempting the authority from the jurisdiction of the Alaska Public Utilities Commission;

WHEREAS prolonged hearings before the Alaska Public Utilities Commission and litigation subsequent to the hearings would jeopardize timely bond financing of the project, and

WHEREAS bondholders would be unable to rely on the rates agreed upon in a power sales agreement where there is a prospect of the Alaska Public Utilities Commission ordering a change in an agreement already in effect;

IT IS HEREBY RESOLVED that the Alaska Power Authority will ask the 1987 Alaska Legislature to enact legislation clarifying that wholesale power agreements for the sale of project capacity or power from a public works project of the state are not subject to review or approval by the Alaska Public Utilities Commission.

IT IS FURTHER RESOLVED that the Alaska Power Authority will ask for statutory language as provided in Option ___ and considered today at this meeting.

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

YEAS: Boe, Halloran, Allison, Schaeffer, Aufman, Mathis, Nunn

NAYS: Ø

ABSENT: Ø

And the resolution was declared adopted on this the 27th day of February, 1987.

ALASKA POWER AUTHORITY

BY: Lee R. Nunn, Chairman

BY: Robert D. Heath, Secretary

Senator John B. (Jack) Coghill
Alaska State Legislature

Box V
Juneau, Alaska 99811
(907) 465-4797

Box 55028
North Pole, Alaska 99705
(907) 488-0862



May 4, 1987

MEMORANDUM

To: Representative Donley,
House Labor and Commerce Committee

From: Senator Jack Coghill

Re: CSSSSB 22 (Fin), "An Act exempting certain telephone and electric utilities and certain transactions from regulation by the Alaska Public Utilities Commission; restricting the authority of the Alaska Public Utilities Commission in considering certain costs in connection with rates charged by a utility and with calculating power cost equalization; and providing for an effective date."

My original sponsor substitute was two-fold in purpose, the Senate Finance Committee version includes APUC dealings with certain power equalization calculations.

I will address each purpose separately. First, my original concept was to exempt small electric and telephone companies, those having less than 250 subscribers, from regulation by the APUC. The exemption now is raised to 500 subscribers. Presently the existing law specifies that small utilities with less than \$50,000 gross annual income are exempt from regulation. This bill expands the definition to include subscribers. The high costs of energy in the rural areas still means low subscriber levels.

Many small electric and telephone companies have contacted me in the last two years to vent their frustrations concerning the cost of regulation. These utilities have to go through much the same process that the big companies do. These costs have been passed along to the consumer. Many others can not even afford to begin the process, so they are saddled with uneconomical rate structures.

I believe that if the APUC can not come up with a reasonable process to assist these small owners, then they should be exempted. I believe that consumers are more apt to petition the APUC for regulation if rates become outrageous, than petition to ask for deregulation.

Secondly, within the last month, a serious problem has developed between the APUC and the Alaska Power Authority. Secs. 1, 2, 3, 5, and 6 address this problem.

Up until last year and the passage of HB 314, the APUC "sunset" legislation, a wholesale power purchase contract between the APA and a regulated utility was not within the jurisdiction of the APUC. Under AS 42.05.431(b) the Commission now has the authority to approve power purchase contracts. Included in your packet is an attorney general's opinion on the issue.

This legislation restores the jurisdictional balance that existed before 1986 legislation and again exempts wholesale power sale contracts from APUC jurisdiction and specifies that all costs incurred by a utility in connection with a contract with the APA are considered prudent.

Leaving this situation unchanged will seriously affect the Bradley Lake hydroelectric project and future large project financing through revenue bonds. It also could allow the APUC to retroactively call for review of any old AEA wholesale power agreements, for example the four dam pool.

Sec. 7 removes United States Department of Defense facilities from power cost equalization calculation.

I urge you to support this bill.

ELECTRIC AND TELEPHONE UTILITIES IMPACTED BY SB 22

I. 250 OF FEWER SUBSCRIBERS

Name of Electric Utility	Number of Users
Andreanof Electric Corporation	37
Aniak Light & Power Company, Inc.	170
Arctic Utilities, Inc.	25
Battles Light & Power, Inc.	50
Egegik Light and Power Homer Lee Leonard d/b/a	65
I-N-N Electric Cooperative, Inc.	226
Levelock Electric Cooperative, Inc.	57
Manley Utility Company, Inc.	70
McGrath Light & Power Company ¹	220
Northway Power & Light, Inc.	91
Pelican Utility Company ²	76
Tanana Power Company, Inc.	178
Teller Power Company ¹	73

13

Name of Telephone Utility	Number of Main Access Lines
Whittier Telephone Company	178

1

II. 251 TO 750 SUBSCRIBERS

Name of Electric Utility	Number of Users
Gwitchyaa Zhee Utility Company	296
Haines Light & Power Company, Inc.	740
Yakutat Power, Inc.	298

4

Name of Telephone Utility	Number of Main Access Lines
Bristol Bay Telephone Cooperative, Inc.	730
Bush-Tell, Incorporated	347
Yukon Telephone Company	333

18

Information derived from the Alaska Public Utilities Commission's 1985 Annual Report.

¹ Based on 1984 information

² Based on 1983 information

ELECTRIC UTILITIES
(1985 Calendar Year)

Utility	Net Plant	Revenues		Users
		Total Revenues	Net Income	
<u>(Gross Operating Revenue greater than \$5,000,000)</u>				
Alaska Electric Light & Power Company	\$ 26,526,452	\$ 16,351,630	\$ 158,097	10,710
Alaska Village Electric Cooperative, Inc. ⁽¹⁾	23,864,478	11,548,022	563,856	4,672
Chugach Electric Association, Inc.	360,541,250	97,051,827	14,533,318	58,713
Copper Valley Electric Association, Inc.	14,310,043	7,229,017	865,775	2,323
Golden Valley Electric Association, Inc.	122,259,215	42,647,009	3,373,060	25,059
Homer Electric Association, Inc.	70,947,394	28,477,467	2,655,173	16,165
Kodiak Electric Association, Inc.	26,568,384	12,106,789	2,804,601	4,024
Matanuska Electric Association, Inc.	99,197,479	38,021,882	4,316,796	26,678
Municipal Light & Power Department Municipality of Anchorage d/b/a	<u>144,442,370</u>	<u>56,579,459</u>	<u>1,011,063</u>	<u>30,558</u>
Subtotal	<u>\$898,657,065</u>	<u>\$310,213,102</u>	<u>\$30,881,739</u>	<u>178,902</u>
<u>(Gross Operating Revenue greater than \$1,500,000 but less than \$5,000,000)</u>				
Alaska Power & Telephone Company	\$ 2,902,490	\$ 3,047,178	\$ 352,082	1,529
Arctic Utilities, Inc. ⁽²⁾	2,732,249	4,183,866	535,897	25
Barrow Utilities and Electric Cooperative, Inc.	1,105,062	2,200,768	928,716	1,231
Bethel Utilities Corporation, Inc.	2,781,816	4,240,333	128,504	1,631
Kotzebue Electric Association, Inc.	3,383,891	2,982,594	312,398	944
Nusliagak Electric Cooperative, Inc.	4,844,043	2,282,667	104,124	1,082
Tlingit-Haida Regional Electrical Authority	<u>5,501,162</u>	<u>2,864,219</u>	<u>249,277</u>	<u>911</u>
Subtotal	<u>\$23,250,713</u>	<u>\$21,773,625</u>	<u>\$2,690,998</u>	<u>7,353</u>

(1) Communities being furnished electric utility service by Alaska Village Electric Cooperative, Inc.

Alakanuk	Hooper Bay	New Stuyahok	Scammon Bay
Ambler	Huslia	Noatak	Selawik
Andreafsky	Kaltag	Noorvik	Shageluk
Avik	Kasigluk	Nulato	Shaktolik
Chevak	Kiana	Nunapitchuk	Shishmaref
Eek	Kivalina	Old Harbor	Shungnak
Elim	Koyuk	Pilot Station	Stebbins
Emmonak	Lower Kalskag	Pitkas Point	Togiak
Gambell	Marshall	Quinhagak	Toksook Bay
Goodnews Bay	Mekoryuk	St. Marys	Tununak
Grayling	Minto	St. Michael	Upper Kalskag
Holy Cross	Mountain Village	Savoonga	Wales

(2) Information Presented for Year Ended 6/30/85.

ELECTRIC UTILITIES (CONT.)
For Calendar Year

Utility	Net Plant	Revenues		Users
		Gross Revenues	Net Income	
<u>(Gross Operating Revenue greater than \$500,000 but less than \$1,500,000)</u>				
Aniak Light and Power Company, Inc.	\$ 314,789	\$ 618,573	\$ 93,597	170
G & K Inc.		(Not Reported)		
Gwitchyaa Zhee Utility Company ⁽³⁾	555,659	671,535	(26,331)	296
Haines Light & Power Company, Inc.	1,177,642	1,307,297	91,302	740
I-N-N Electric Cooperative, Inc.	1,535,948	636,877	28,603	226
McGrath Light & Power Company		(Not Reported)		
Sand Point Electric Company, Inc. ⁽⁴⁾		(Not Reported)		
Tanana Power Company, Inc.	791,297	631,920	23,810	178
Yukutat Power, Inc.	651,880	744,488	54,336	298
Subtotal	<u>\$ 4,987,175</u>	<u>\$ 4,610,681</u>	<u>\$ 285,398</u>	<u>1,908</u>
<u>(Gross Operating Revenue less than \$500,000)</u>				
Andreanof Electric Corporation ⁽²⁾	\$ 154,533	\$ 98,852	\$ 15,595	37
Bettles Light & Power, Inc.	305,347	443,071	24,903	50
Egegik Light and Power Homer Lee Leonard d/b/a	244,407	167,855	62,769	45
Lavelock Electric Cooperative, Inc. ⁽³⁾	64,082	155,592	17,865	57
Manley Utility Company, Inc. ⁽⁵⁾	187,974	50,976	(15,710)	70
Mankotuk Power Company, Inc.		(Not Reported)		
Napaklak Incinnq Power Company	124,300	163,175	(4,675)	Not reported
Northway Power & Light, Inc.	194,639	326,534	26,724	91
Pelican Utility Company		(Not Reported)		
Teller Power Company Helen M. and Robert R. Blodgett d/b/a		(Not Reported)		
Subtotal	<u>\$ 1,211,200</u>	<u>\$ 1,272,443</u>	<u>\$ 109,406</u>	<u>313</u>
TOTALS	<u>\$928,106,153</u>	<u>\$337,869,851</u>	<u>\$33,967,531</u>	<u>188,476</u>

(2) Information Presented for Year Ended 6/30/85.

(3) Information Presented for nine-month period 7/1/84 - 4/30/85.

(4) Certificate No. 233 was transferred from Pelican Utility Company to Sand Point Electric Company, Inc., in 1986.

(5) United Companies, Inc., acquired controlling interest of Manley Utility Company, Inc., in 1985.

TELECOMMUNICATION UTILITIES
(Long Lines and Local Exchange Carriers)
(1985 Calendar Year)

Utility	Net Plant	Total Revenues	Net Income	Main Access Lines
<u>(Gross Operating Revenue greater than \$4,000,000)</u>				
Alascom, Inc.	\$394,863,699	\$290,913,750	\$40,896,931	N/A
Anchorage Telephone Utility Municipality of Anchorage d/b/a	194,981,783	101,332,244	19,722,151	115,524
General Telephone Company of Alaska	11,507,574	7,409,694	892,607	9,867
Glacier State Telephone ⁽¹⁾ Company	81,032,595	38,183,932	6,815,238	26,212
Juneau and Douglas Telephone ⁽²⁾ Company	24,151,156	16,518,149	2,328,639	14,878
Matanuska Telephone Association, Inc.	84,761,609	24,646,697	2,289,692	-Not Reported-
Sitka Telephone Company ⁽¹⁾	17,098,806	7,678,049	394,816	6,550
United Utilities, Inc.	<u>10,987,615</u>	<u>5,150,501</u>	<u>484,279</u>	<u>3,160</u>
Subtotal	<u>\$819,384,837</u>	<u>\$492,035,010</u>	<u>\$73,824,353</u>	<u>176,191</u>
<u>(Gross Operating Revenue greater than \$1,000,000 but less than \$4,000,000)</u>				
Arctic Slope Telephone Association Cooperative, Inc.	\$ 4,301,006	\$ 4,390,249	\$ 829,683	1,215
Bristol Bay Telephone Cooperative, Inc.	3,312,409	1,417,223	(277,110)	730
Copper Valley Telephone Cooperative, Inc.	9,366,962	3,398,173	585,213	2,641
Interior Telephone Company	7,842,077	4,230,172	245,836	-Not Reported-
National Utilities, Inc.	1,271,048	1,305,041	279,438	1,081
Nushagak Telephone Cooperative, Inc.	3,078,305	1,606,325	223,807	1,120
OTZ Telephone Cooperative, Inc.	3,806,236	1,698,591	35,403	1,409
Telephone Utilities of ⁽²⁾ Alaska, Inc.	<u>2,620,592</u>	<u>1,638,047</u>	<u>206,915</u>	<u>1,450</u>
Subtotal	<u>\$35,806,335</u>	<u>\$19,683,823</u>	<u>\$2,129,185</u>	<u>9,646</u>

(1) In 1986, these utilities were consolidated into Telephone Utilities of the Northland, Inc.

(2) In 1986, Juneau and Douglas Telephone Company was consolidated with Telephone Utilities of Alaska, Inc.

TELECOMMUNICATION UTILITIES (CONT.)
 1985 Exchange List
 1985 Calendar Year

Utility	Net Plant	Total Revenues	Net Income	Main Access Lines
<u>(Gross Operating Revenue less than \$1,000,000)</u>				
Bush-Tell, Incorporated	\$ 1,911,480	\$ 663,813	\$ 14,081	347
Mukluk Telephone Company, Inc.	2,861,082	952,095	44,782	-Not Reported-
Whittier Telephone Company ⁽³⁾	---	---	---	---
Yukon Telephone Company	<u>806,633</u>	<u>804,934</u>	<u>(151,792)</u>	<u>533⁽⁴⁾</u>
Subtotal	<u>\$ 5,579,197</u>	<u>\$ 2,220,842</u>	<u>\$ (92,929)</u>	<u>680</u>
TOTAL	<u>\$860,562,669</u>	<u>\$513,939,681</u>	<u>\$75,860,609</u>	<u>186,517</u>

⁽³⁾ Whittier Telephone Company was purchased by Yukon Telephone Company in 1985.

⁽⁴⁾ Number of main telephones.

MEMORANDUM

State of Alaska

TO: Marvin R. Weatherly, Chairman
Alaska Public Utilities Commission
420 "L" Street #100
Anchorage, Alaska 99501

DATE: February 18, 1987

FILE NO: 663-87-0365

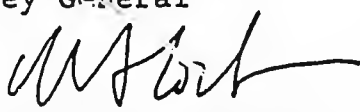
TELEPHONE NO: (907)465-3600

THRU:

SUBJECT: Power purchase contract between Alaska Power Authority and Municipal Light & Power

FROM: Grace Berg Schaible
Attorney General

By:


Richard D. Monkman
Assistant Attorney General

You have asked for our opinion on whether a power purchase contract between the Alaska Power Authority (Authority) and Municipal Light & Power (ML&P) is subject to approval by the Alaska Public Utilities Commission (Commission) under AS 42.05.431(b). In brief, our review indicates that the analysis in the Commission's Order No. 3 in Case U-86-96 is correct, and that this contract is subject to review by the Commission under AS 42.05.431(b).

First, it appears undisputed that the Authority is a "public utility" as that term is defined in AS 42.05.720(4)(A). The Authority is a public corporation empowered to operate and maintain power projects and "to enter into contracts with any person . . . for the purchase, sale, exchange, transmission, or use of power from a project[.]" AS 44.83.020; AS 44.83.080(5), (11). This fits squarely within the definition of a public utility: a corporation (including a public corporation) "that owns, operates, manages or controls any plant, pipeline or system for . . . furnishing, by generation, transmission or distribution, electrical service to the public for compensation[.]" AS 42.05.720(4)(A). 1/

The Authority is an unregulated public utility, exempt from the Commission's jurisdiction by operation of

1/ The "public" is defined in AS 42.05.720(3)(B) as including "any utility" which resells power to a group of 10 or more consumers, a definition which would include Anchorage's Municipal Light & Power.

Marvin R. Weatherly, Chairman
Power Purchase Contract Between Alaska Power
Authority and Municipal Light & Power
Our File: 663-87-0365

February 18, 1987
Page 2

AS 44.83.090(b). The exemption was apparently intended to enhance the ability of the Authority to obtain bond financing for its projects. See 1984 Memorandum to Larry Crawford (July 31; C. Jones, AAG) ("APUC jurisdiction over APA power sales agreements"), attached, and legislative history cited therein.

However, while the Authority is exempt from Commission jurisdiction by AS 44.83.090(b), ML&P is not. ML&P is a regulated public utility and is subject to the Commission's jurisdiction. The exemption provided to the Authority by AS 44.83.090(b) specifically states that:

Nothing in AS 44.83.101 -- 44.83.425 [the Alaska Power Authority statutes]. . . diminishes or otherwise alters the jurisdiction of the Alaska Public Utilities Commission with respect to any public utility, including any right the commission may have to review and approve or disapprove contracts for the purchase of electricity by a public utility.

AS 44.83.090(b) (emphasis supplied).

The question posed, therefore, is whether the Commission has "any right . . . to review and approve or disapprove contracts for the purchase of electricity" by ML&P, including the contract at issue.

Our 1984 memorandum concluded that the Commission did not have authority at that time to review, approve, or disapprove electric power purchase contracts by a public utility. 1984 Memorandum, supra (attached). 2/ Since the Commission did not have "any right . . . to approve or disapprove contracts for the purchase of electricity" by a public utility, electric power purchase contracts between regulated public utilities and the Authority were not subject to the Commission's review.

However, as you note, the legislature has since passed AS 42.05.431(b), sec. 5, ch. 104, SLA 1986. This section states

2/ "[W]e can find no authority in AS 42.05 which would permit the Commission to review these wholesale purchase agreements from the point of view of the utility as a purchaser" (emphasis in original).

that a "wholesale power agreement between public utilities is subject to advance approval" of the Commission. The new statute gives the Commission the "right" to review electric power purchase contracts by regulated public utilities which was lacking at the time of our 1984 opinion.

The primary guide in statutory interpretation is "the language used, construed in light of the purpose of the enactment." Commercial Fisheries Entry Commission v. Apokedak, 680 P.2d 486, 489-90 (Alaska 1984). The proposed power purchase contract is "for the purchase of electricity by a public utility." AS 44.83.090(b). It is a contract between "public utilities," and all such contracts are "subject to advance approval of the commission." AS 42.05.431(b). The plain words of these statutes indicate that the proposed agreement would be subject to review and prior approval by the Commission.

The "purpose of the enactment" in this instance does not conflict with the plain language. The 1986 enactment of AS 42.05.431(b) was in House Bill 314, which began as a short "sunset" re-authorization bill for the Commission. HB 314 grew into a complex, lengthy, and controversial package of amendments to the Commission statute, see, e.g., 1986 House J. 3181-90, 3197-209, but was drastically shortened again before final passage. Compare HB 314 with CSHB 314(Fin) and SCS HB 314(Fin). AS 42.05.431(b) surfaced without comment in the House Finance Committee version of the bill, and remained unchanged in all material respects from the date of its introduction until final passage.

The only comment we have found on the purpose of this section is in a letter from Attorney General Brown to Governor Sheffield, reviewing HB 314 after it was passed by the legislature. The letter states, "The commission's authority to approve wholesale power agreements would be made explicit" by AS 42.05.431(b). Letter, June 4, 1986, A.G. File No. 883-86-0135. This is in accord with our conclusion that the plain meaning of the statute gives the Commission authority to review the contract at issue.

We note also that the powers of the Commission are to be "liberally construed." AS 42.05.141. Review of a ten-year electric power purchase contract by a regulated public utility appears to be within the authority of the Commission under AS 42.05.431(b). Therefore, we conclude that the Commission does have the authority to review this contract.

Marvin R. Weatherly, Chairman
Power Purchase Contract Between Alaska Power
Authority and Municipal Light & Power
Our File: 663-87-0365

February 18, 1987
Page 4

We are informed by the Authority that Commission review of its contract with ML&P will adversely affect the Authority's ability to obtain bond financing for the Bradley Lake hydroelectric dam project in a timely manner. We suggest that the Commission promptly contact the Authority and discuss possible legislative action which would resolve the situation in the best interests of the public.

RDM:nb

attachment

cc: Alaska Power Authority

MEMORANDUM

TO: Sen. Don Bennett
Sen. John Binkley
Co-Chairmen
Senate Finance Committee

Date: April 2, 1987

Through: Becky Bear
Information Officer
DC & ED

From: Ted Moninski
Executive Director
Alaska Public Utilities Commission

Subject: Impact Analysis - SSSB22

Attached is the APUC's impact statement for the above referenced bill. Also attached is a copy of the Commission's reply to a letter from Rep. Kay Brown which addresses some of the same substantive issues evaluated in the impact statement. The Commission had previously submitted separate fiscal notes for the original bill and the sponsor substitute. To avoid confusion, I have merged these two notes and have included the new, combined fiscal note with this impact statement.

It is my understanding that the Senate Finance Committee will consider SSSB22 during a Committee hearing now scheduled for Tuesday, April 7, 1987, at 9:00 a.m. This hearing will, I am advised, be teleconferenced through the Legislative Teleconference Network. I would appreciate your distributing this memorandum and its attachments to the other members of the Finance Committee at your earliest convenience.

In light of the fact that a formal case touching upon many of the same issues to be considered in SSSB22 is now pending before the Commission, no Commissioner will provide testimony on Sections 1,2,4,5 and 6 of the Bill. Prior testimony on Section 3 has been given and further comment on Section 3 is included with this impact statement.

The Commission has asked that I be present to provide any necessary testimony or clarification for the attached materials. I will, therefore, be available for comment at the Anchorage LIO at the date and time referenced above. Please inform me of any schedule changes or any other information you may require prior to the Committee meeting.

Impacts of Sections 1,2,4;5,6 of SSSB22

The following is an evaluation of the probable impacts of adopting or not adopting the policies contained in the above referenced sections of SSSB22. The Commission's comments are directed at its own regulatory responsibilities and are not intended to reflect a comprehensive consideration of all issues.

If Passed:

Wholesale power sales transactions between regulated utilities and the APA are exempt from Commission oversight. The public interest responsibility for evaluating these transactions would reside solely with the APA and the various review mechanisms used to evaluate specific project proposals. Regardless of its other merits/demerits, this approach would lack the broader overview of power supply decisions which could be provided by the Commission.

Also, this Bill does not purport to alter the Commission's authority to judge the prudence of a utility's purchased power costs at the time of a specific rate case, under AS 42.05.511(a).¹ However, even if the Commission continues to have the authority to make case-specific adjustments, ratepayers and utility owners of cooperative and municipal utilities are one and the same, making any after-the-fact disallowance of APA-related costs for these entities relatively meaningless.

The proposed jurisdictional changes would effectively remove from Commission review a substantial percentage of a utility's costs which, as stated above, might be directly passed through to the ratepayers by operation of law. For retail utilities under the four-dam pool arrangement, for example, there are instances of APA-supplied power costs which account for as much as 50 percent or more of a utility's rates for service. Even under first-cut and conservative projections for Bradley Lake-supplied power, the range of impact, assuming sign-up of the full complement of railbelt utilities, appears to be between 8 percent and 20 percent of a utility's rates.

The Commission believes that this issue needs further consideration and clarification to determine whether the Commission can, in fact, disallow APA contract costs in rates after the contracts are in place, or whether all APA-related costs must be included in rates without any Commission review or adjustment.

To the extent that the purpose of this bill is to eliminate all Commission oversight for contractual transactions involving an APA project, that objective may not be achieved. Under the federal Public Utilities Regulatory Policies Act (PURPA), a utility is required to purchase power from a "Qualifying Facility" (QF). By Congressional delegation, the Commission is responsible for enforcing that obligation. Because of this, even if the authority over APA-utility contracts is removed by legislative action in Alaska, the Commission may still be required to act under federal law to prohibit purchases by regulated utilities where such purchases would threaten to subvert the intent of the federal statutes. QF's could also seek a remedy in the federal courts or before the Federal Energy Regulatory Commission to ensure that their rights are protected. Thus, the jurisdictional limits on the Commission established by this bill do not guarantee that there will be no impediments to APA contracting or financing.

If Not Passed:

The Commission would have to approve all future wholesale power contracts between regulated utilities and the APA.

The contract review process would entail a public notice period of thirty days, preliminary Staff investigation of the contract and Commission action based on any public comment and the initial Staff analysis. The Commission may approve, reject or suspend the contract, stating its findings and conclusions for taking action. Assuming the request for approval contains sufficient information, the Commission could take action within 45 days of the date of filing. In the event a party objects to Commission approval of the contract, procedures to effect an adjudicatory proceeding would ensue.

COMMISSION POSITION STATEMENT RE: SECTION 3 OF SSSB22

Under Section 3 of the bill (the original SB22 as amended), which would deregulate certain electric and telephone utilities, the Commission continues to believe that as a matter of public policy, the statutory procedure already in place is superior to automatic deregulation. AS 42.05.711(f) gives consumers a choice of what level of regulatory protection best serves their individual circumstances through an election. Consumers of five utilities affected by this bill have held deregulation elections. Of the five, the consumers of two utilities, Tanana Power and Iliamna-Newhalen Electric Cooperative, Inc., have voted to retain regulation. If Section 3 is adopted, it is not clear what continuing effect the previous vote to continue APUC jurisdiction would have in light of the "blanket" deregulation provided for in this proposal. However, if adoption of this section results in their deregulation, it will be in direct conflict with a democratic vote of the affected consumers.

THE COMMISSIONER OF THE PUBLIC UTILITIES COMMISSION
 STATE OF ALASKA
 1400 EAST BROADWAY
 ANCHORAGE, ALASKA 99501
 TELEPHONE: 277-6112
 FAX: 277-6113
 COMMISSIONER, PUBLIC UTILITIES COMMISSION

STATE OF ALASKA

STEVE COWPER, GOVERNOR

ALASKA PUBLIC UTILITIES COMMISSION

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

420 "L" STREET
SUITE 100
ANCHORAGE, ALASKA 99501
(907) 276-6222

March 31, 1987

Representative Kay Brown
Alaska State Legislature
Pouch V
Juneau, AK 99811Re: APUC authority over APA Power Sales; Proposed Qualifying
Facilities in Alaska.

Dear Representative Brown:

In a recent inquiry you asked for: 1) additional information concerning Qualifying Facilities under PURPA which have been proposed for the Railbelt, and 2) comment on the legal status of Qualifying Facilities under federal law.

The Commission is aware of four private sector power projects proposed in the Railbelt. AEM Corp. proposes a 25 MW project located at the Healy coal mine and fired by "waste coal." Power from the AEM proposed facility would be sold to Golden Valley Electric Association, Inc., in the Fairbanks area. SGI International, Inc., proposes a 50 MW project, also fired by waste coal, with the output to be sold to Anchorage Municipal Light and Power. Mat-Su Energy Corporation proposes a 20 MW facility fired by peat from the Mat-Su Valley, with the output to be sold to Matanuska Electric Association, Inc. Valley Energy Corporation proposes a 15 MW facility fired by wood chips from forests in the Mat-Su Valley, with the output sold to MEA.

The developers of all four of these projects have filed complaints with the Commission against the utility to which they seek to sell power. Each complaint seeks to have the Commission determine the "avoided cost" which, under federal law (PURPA), the utility must pay for power generated by Qualifying Facilities.¹ The complaints, and particularly the SGI complaint, also seek to prohibit the utilities from making other power purchases, such as from the Bradley Lake Hydroelectric Project, which would eliminate the need for power from the private project. In the SGI case, ML&P disputes whether the SGI project is actually a Qualifying Facility under PURPA.

¹AEM's proposal has been before the Commission since November 1, 1984, much longer than the other three proposals.

PURPA requires a public utility to purchase electric power and energy from Qualifying Facilities at the utility's "avoided cost." Avoided cost means, in essence, the costs which the utility will avoid by purchasing power from the Qualifying Facility rather than generating the power itself or purchasing the power elsewhere.

PURPA also requires the Commission to enforce the obligation of regulated utilities to purchase power from Qualifying Facilities at avoided cost. Thus, whether or not state statutes exempt APA power project sales from Commission jurisdiction, federal law still requires the Commission to enforce the obligation of utilities to purchase power from Qualifying Facilities. In its case, SGI contended that it has a priority over other potential sellers of power to ML&P and that, based on PURPA, the Commission should prohibit ML&P from purchasing any other power, particularly from the APA's Bradley Lake Hydroelectric Project. Although properly before this Commission, the PURPA argument has not yet been addressed because the issue was resolved based on State law. It is highly probable that SGI will be able to continue to advance its position before the APUC based on the federal statutes even if SSSB22 is enacted. Federal law would require the Commission to decide the issue based on the rights granted by PURPA.


One final point needs clarification. The reason that SGI wishes to prevent ML&P from purchasing power from Bradley Lake concerns, in part, the "avoided cost" determination. A cost is an "avoided cost" only if it can actually be avoided by a utility. Thus, for example, a utility cannot avoid the cost of generating facilities which have already been installed; then, if the utility needs no further generating facilities, there is no avoided capacity cost of an additional generating plant (there might still be an avoided cost for the fuel the plant would burn). Similarly, after ML&P has signed a contract which requires it to pay for power from Bradley Lake, that cost is no longer an avoided cost.

In this sense it is not entirely correct that SGI feels it "can't compete" with a subsidized project such as Bradley Lake. SGI may be willing to sell its electricity for the same price as the APA would sell electricity from Bradley Lake. However, once ML&P is already committed to purchase from Bradley Lake, ML&P may need no further capacity and the avoided cost would then be less than the price of power from Bradley Lake.

I have also attached a copy of our impact statement concerning SSSB22, which addresses some of the same issues which you have raised.

Sincerely,

ALASKA PUBLIC UTILITIES COMMISSION



T.S. Moninski II
Executive Director

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST:

Revision Date: April 2, 1987
 Title: An Act exempting certain telephone and electric utilities and certain transactions from regulation by the APOC
 Sponsor: _____
 Requestor: _____

BUI Version: 555B22

Publish Date: _____

Agency Affected: Commerce & Economic Development, Alaska Public Utilities Commission

BRU: APUC

Components: Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
	0	0	0	0	0	0

REVENUE	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

(See Attachment I)

Prepared by: T.S. Mninski, II Executive Director
 Division: Alaska Public Utilities Commission Phone: 276-6222
 Date: _____

Approved by Commissioner: _____
 Agency: Commerce & Economic Development Date: _____

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

PREFACE:

This fiscal note replaces all previous fiscal notes for Senate Bill 22 and Sponsor Substitute for Senate Bill 22. Specifically as it relates to Section 3 of the Bill, the Commission notes that while there may be some minimal workload reduction associated with deregulating certain electric and telephone utilities, the APUC has lost 13 of its 53 authorized positions during the last three fiscal years and the relatively small reduction in caseload will be used to assist in the Commission's attempt to cope with the reduction in force.

Sections 1,2,4,5 6 and 7:

Passage of these sections will have no workload impact upon the Commission and, therefore, no fiscal impact.

Section 3. AS 42.05.711(e) and Amendment to Line No. 28 (as shown on page 576 of the legislative journal).

The number of utilities affected by this section were 13 before the amendment to line 28. The amendment raised that number by 4 to a new total of 17. This is a very insignificant number of utilities (17 of 307) and there will be a very minor decrease in workload if this section is passed.

Impacts of Section 1,2,4,5,6 of SSSB22

The following is an evaluation of the probable impacts of ^{or not including} adopting ^{ies} the policy ~~considerations~~ contained in the above referenced sections of SSSB22. The ~~focus of the~~ Commission's ^{are} comments ~~is~~ directed at its own regulatory responsibilities and ^{are not intended to} ~~does not~~ reflect a comprehensive consideration of all issues.

If Passed:

Wholesale power sales transactions between regulated utilities and the APA are exempt from Commission oversight. The public interest responsibility for evaluating these transactions would reside solely with the APA and the various review mechanisms used to evaluate specific project proposals. Regardless of its other merits/demerits, this approach would lack the broader overview of power supply decisions which could be provided by the Commission.

Also, this Bill does not purport to alter the Commission's authority to judge the prudence of a utility's purchased power costs at the time of a specific rate case, under AS 42.05.511(a).¹ However, even if the Commission continues to have the authority to make case-specific adjustments, ratepayers and utility owners of cooperative and municipal utilities are one and the same, making any after-the-fact disallowance of APA-related costs for these entities relatively meaningless.

[✓] The Commission believes that this issue needs further consideration and clarification to determine whether the Commission can, in fact, disallow APA contract costs in rates after the contracts are in place, or whether all APA-related costs must be included in rates without any Commission review or adjustment.

COMMISSION ACTION			
Referred to	Officer NO	Initials	Date
Monthly	OK	[Signature]	4/2/87
Graces	OK	[Signature]	4/2/87
Kirkwood	OK	[Signature]	4-2-87
Agri	OK	[Signature]	4-2-87
Unrecovered	[Signature]	[Signature]	4-2-87

The proposed jurisdictional changes would effectively remove from Commission review a substantial percentage of a utility's costs which, as stated above, might be directly passed through to the ratepayers by operation of law. For retail utilities under the four-dam pool arrangement, for example, there are instances of APA-supplied power ^{costs which} ~~accounting~~ for as much as 50 percent or more of ^{a utility's} rates for service. Even under first-out and conservative projections for Bradley Lake-supplied power, the range of impact, assuming sign-up of the full complement of railbelt utilities, appears to be between 8 percent and 20 percent of a utility's rates.

To the extent that the purpose of this bill is to eliminate all Commission oversight for contractual transactions involving an APA project, that objective may not be achieved. Under the federal Public Utilities Regulatory Policies Act (PURPA), a utility is required to purchase power from a "qualifying facility" (QF). By Congressional delegation, the Commission is responsible for enforcing that obligation. Because of this, even if the authority over APA-utility contracts is removed by legislative action in Alaska, the Commission may still be required to act under federal law to prohibit purchases by regulated utilities where such purchases would threaten to subvert the intent of the federal statutes. QF's could also seek a remedy in the federal courts or before the Federal Energy Regulatory Commission to ensure that their rights are protected. Thus, the jurisdictional limits ^{or} ~~established~~ ^{established} for the Commission by ~~this bill~~ do not guarantee that there will be no impediments to APA contracting or financing.

If Not Passed:

The Commission would have to approve all future wholesale power contracts between regulated utilities and the APA.

The contract review process would entail a public notice period of thirty days, preliminary Staff investigation of the contract and Commission action based on any public comment and

the initial Staff analysis. The Commission may approve, reject or suspend the contract, stating its findings and conclusions for taking action. Assuming the request for approval contains sufficient information, the Commission could take action within 45 days of the date of filing. In the event a party objects to Commission approval of the contract, procedures to effect an adjudicatory proceeding would ensue.

ELECTRIC AND TELEPHONE UTILITIES IMPACTED BY SB 22

I. 250 OF FEWER SUBSCRIBERS

Name of Electric Utility	Number of Users
Andreanof Electric Corporation	37
Aniak Light & Power Company, Inc.	170
Arctic Utilities, Inc.	25
Bettles Light & Power, Inc.	50
Egegik Light and Power Homer Lee Leonard d/b/a	65
I-N-N Electric Cooperative, Inc.	226
Levelock Electric Cooperative, Inc.	57
Manley Utility Company, Inc.	70
McGrath Light & Power Company ¹	220
Northway Power & Light, Inc.	91
Pelican Utility Company ²	76
Tanana Power Company, Inc.	178
Teller Power Company ¹	73

Name of Telephone Utility	Number of Main Access Lines
Whittier Telephone Company	178

II. 251 TO 750 SUBSCRIBERS

Name of Electric Utility	Number of Users
Gwitchyaa Zhee Utility Company	296
Haines Light & Power Company, Inc.	740
Yakutat Power, Inc.	298

Name of Telephone Utility	Number of Main Access Lines
Bristol Bay Telephone Cooperative, Inc.	730
Bush-Tell, Incorporated	347
Yukon Telephone Company	333

Information derived from the Alaska Public Utilities Commission's 1985 Annual Report.

¹ Based on 1984 information

² Based on 1983 information

Sent to Becky Bean
2/13/87

To: Becky Bear
Information Officer
Dept. of Commerce

Date: February 10, 1987

From: T.S. Moninski II
Executive Director
Alaska Public Utilities
Commission

Subject: Position Statement SB22

The Commission opposes SB22. From a public policy perspective, the Commission believes its current statute AS 42.05.711(f) is superior to the proposed legislation because it enables consumers of small electric and telephone utilities to decide whether or not the benefits of regulation; i.e., public protection, outweigh the costs of regulation by providing for a deregulation election to be held.¹

In addition, the proposed legislation appears to have the effect of deregulating Alaska Electric Generation and Transmission Cooperative, a generation electric utility which has two customers but provides wholesale power to potentially all the ratepayers of the railbelt utilities. It is also not clear what effect this legislation would have on Alascom, which may directly provide service to less than 250 subscribers but through the local exchange telephone utilities provides long distance service throughout Alaska.

In its fiscal note, the APUC stated that this proposal, if adopted, would affect only 13 of 307 certificated utilities. Given the relatively small number of impacted utilities and the nearly 25% reduction in staff resources already absorbed by the Commission over the past three fiscal years, a further reduction in staffing would not be expected as a result of the changes proposed in this bill.

¹Note that this legislation does not address the impact on utilities which have previously held deregulation elections and their consumers have voted to maintain economic regulation of their utilities by this Commission; i.e., Tanana Power Company and Iliamna-Newhalen Electric Cooperative.

STATE OF ALASKA
THE LEGISLATURE

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JUNEAU, ALASKA 99811
907.465-3800

May, 1988

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

Mary Van Nimwegen

HL+C

5-5-87

1:30 p.m.

S B

36

HOUSE COMMITTEE REPORT

(7)

Date referred: 4/1/87

FURTHER REFERRALS:

DATE: 5/15/87
SB 36

The Labor & Commerce Committee has considered

"An Act relating to Amateur Radio Week."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published 2/3/87
- zero with analysis

SIGNING DO PASS:

[Signature]
[Signature]
[Signature]

SIGNING OTHER RECOMMENDATIONS:

[Signature] NO REC
[Signature] NO REC

[Signature]
 Chairman's signature

HOUSE COMMITTEE REPORT

4/1
Labor & Commerce

(5)

Date referred: 3/20/87

FURTHER REFERRALS:

Labor & Commerce

DATE: 3/31/87

The House Special Committee on Telecommunications Committee has considered

SB 36

"An Act relating to Amateur Radio Week."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

Hudson Bill Hudson
 Pettyjohn [Signature]
 Collins [Signature]

SIGNING OTHER RECOMMENDATIONS:

Bill Hudson
 Vice-Chairman's signature

HOUSE COMMITTEE REPORT

3/20

(7)

Date referred: 2/13/87

FURTHER REFERRALS: Telecommunications, Labor & Commerce

DATE: 3-18-87

The State Affairs Committee has considered SB 36

"An Act relating to Amateur Radio Week."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published 2/3/87
- zero with analysis

SIGNING DO PASS:

MEMBER Wm. McManus

Cliff Davidson

Lynne Hoffman

Terry Martin

John Ulmer

SIGNING OTHER RECOMMENDATIONS:

John Ulmer
Chairman's signature

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

SENATE
BILL VERSION: SB 36
PUBLISH DATE: 2/3/87

REQUEST

Revision Date: _____
Title: An Act relating to Amateur Radio Week
Sponsor: P. Fischer
Requestor: P. Fischer

Agency Affected: All
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
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	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

Prepared By: Michael P. Fischer *Michael P. Fischer* Phone: 465-2200
Division: Commissioner's Office Date: 1/30/87
Approved by Commissioner: Garrey Peska *Garrey Peska* Date: 1/31/87
Agency: Department of Administration

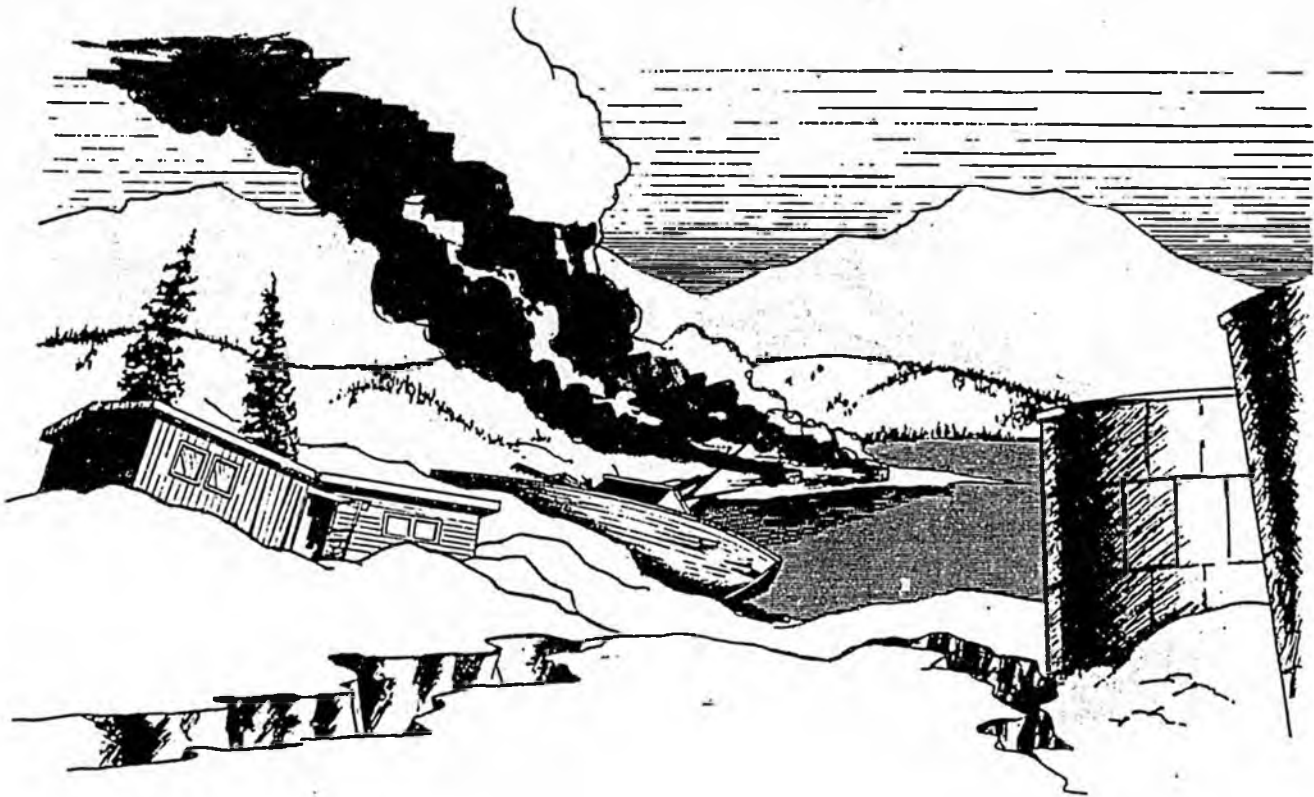
Distribution (by preparer):
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Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)
Senate Secretary

REFERENCE

ALASKA
REFERENCE

4

THE ALASKAN EARTHQUAKE



A PRELIMINARY REPORT CONCERNING THE GREAT EARTHQUAKE THAT
STRUCK SOUTH-CENTRAL ALASKA ON GOOD FRIDAY, MARCH 27, 1964,
AND SUBSEQUENT CIVIL DEFENSE EMERGENCY OPERATIONS

PREPARED BY THE OFFICE OF CIVIL DEFENSE
OFFICE, SECRETARY OF THE ARMY • DEPARTMENT OF DEFENSE

MAY 1964

on the list. At this time, health officials looked ahead and advised the establishment of typhoid inoculation centers, and hundreds of citizens took the safety precaution. The U. S. Army provided hot meals and water tankers to many neighborhoods, provided police reinforcement, town and outlying patrols, and heavy equipment while workmen were already busy repairing vital roads to immediate use. Fourteen qualified inspection teams made up of engineers and architects began the job of appraising and evaluation. An irksome and trying sewage problem developed with an almost impossible volume of problems to be fought through. Wednesday morning the downtown district opened to the public except for unsafe areas.

"Wednesday afternoon municipal power and light said the power situation was no longer on emergency basis. The two gas turbines in the city plant had provided electricity through one of the most trying times any city has ever known. Just 2 days before the earthquake hit, the city put the second turbine into operation -- and it has been going full tilt ever since.

"Wednesday afternoon public works restored sewer service to the downtown areas south of 4th Avenue and announced that Thursday morning they were to tackle the Turnagain area and open the Hood Crack outfall and provide service from Sondstrom Drive all the way to the inlet. All this time the Anchorage fire department was patrolling, checking, keeping ahead. Fire was not a problem to us (only one minor blaze reported in the first hours of the emergency); but the Anchorage fire department did more than their share in the overall. City policemen are still working 12-hour shifts. Cooperation was running high and coordination was running at a better percentage of effectiveness than anyone ever had hoped for.

"The Anchorage Port, with its four huge cranes completely immobilized, received the new van ship 'Tonsina' loaded with supplies. Northstar Stevedoring moved in a mobile crane and the supplies were on their way for our use. Trash and garbage disposal went on. Distribution of chemical toilets and all of the related problems. These were a busy 5 days, but things were moving back to normal at a fantastic rate. Even the 50 thousand volumes at the Loussac Library were in their rightful places again.

"To top it all off, we ended the day by announcing that the neon lights could again be turned on.

"A busy 5 days, but worth it! And the job has just begun."

Communications -- State radio nets immediately operational after the earthquake included those of the Fish and Game Service, the State Police, and the Department of Highways. Members of the State of Alaska Radio Amateur Civil Emergency Services, known as

"RACES", were among the first to establish any serviceable communications between key emergency control points. RACES is a part of State and local civil defense.

Within minutes, under the direction of Ernest Hewett, Alaska State RACES Officer, mobile shortwave units had been positioned at various critical points around Anchorage. RACES continued to provide 'round-the-clock service through the emergency -- not only in the emergency operations network, but in handling messages to and from "the outside," and traffic from outlying damaged areas.

Hewett parked his mobile short wave unit at State Civil Defense Headquarters in Anchorage. He describes his operations this way:

"By my watch, when I first went on the air it was 47 minutes past the hour (11 minutes after the earthquake hit). On putting the station on the air ... I called for any mobile units ... and raised approximately three. I continued to operate mobile at the time and tried to get someone to go ahead and hook up the emergency power generator which we had in the building, but had not been wired into the system after overhaul.

"Operating from the car, I dispatched mobiles as they came on the air to previously selected positions on a basis of a possible requirement, such as hospitals, the Anchorage City Civil Defense, State Police, Alaskan Command

"My Deputy RACES Officer happened to be the chief engineer of the first radio station that came on the air and he was on the air in the radio station with a communicator -- so we established communications immediately with the radio stations. As soon as the next station came on the air -- they happened to be two compatible stations -- they tied together in a simulcast ..."

Radio, TV Stations --- All local radio stations and both television stations were knocked off the air immediately when the earthquake occurred. One 10,000 watt radio station -- the Emergency Broadcast Station (Civil Defense) for Anchorage -- was, with the help of an emergency generator, back on the air within 20 to 30 minutes.

The station engineer, Deputy RACES Officer for Alaska, made the first announcements: They reportedly were these:

"There has been an earthquake."

"Don't use your telephone."

"Stay tuned for official civil defense emergency information."

Although RACES and State-agency radio nets provided early essential communications, the military quickly supplemented these with mobile microwave units. One was parked outside State Civil Defense Headquarters. Military personnel manned the microwave circuits and also the State CD Teletype circuits. The State-agency radio nets were particularly helpful in relaying information to and from remote areas.

The military airlift by the U. S. Air Force of equipment, supplies, and personnel, at the request of State civil defense, was the greatest in any peacetime disaster. The largest item airlifted was a Bailey Bridge, used to replace a bridge knocked out on the highway between Kenai and Soldatna. The Bailey Bridge, which weighed 330,000 pounds, was airlifted within 3 days in 9 loads on a C-123 aircraft, and in 6 loads on a C-124. The Air Force also provided aerial reconnaissance photographs of earthquake damage.

The California Air National Guard airlifted several thousand pounds of irrigation pipe from California for use in supplying pure water to homes in the Turnagain area of Anchorage. This was at the request of Anchorage Civil Defense, through Alaska State Civil Defense. The California Air National Guard also airlifted a complete redwood house for Governor Egan's use as a temporary emergency headquarters in Anchorage.

Civil Air Patrol -- The Civil Air Patrol Group based in Anchorage went into service almost immediately following the earthquake, in close cooperation with State Civil Defense. This Group airlifted critically needed equipment, personnel, and supplies to hard-hit outlying areas. The Air Force provided a liaison officer (Maj. Karl Kenyon, USAF) from nearby Elmendorf Air Force Base, and also provided gasoline and oil for operation of the CAP airplanes. Ten pilots of the Group flew scores of relief missions to outlying areas, and delivered trained specialists and thousands of pounds of critically needed supplies. CAP Lt. Col. J. Vic Brown, Group Commander, suffered severe personal loss to his home and business in the 'quake, but nevertheless put in long hours day after day on duty with the Group. Many of the pilots worked around the clock.

Emergency Communications -- Amateur radio was indispensable in this disaster. One of the reasons for this capability is that amateur radio is an integral part of many Alaskans' daily communication with other places.

Emergency Information -- Emergency public information was a major problem. A statewide capability for broadcasting official, accurate information was created by using civil defense RACES Gonset sets located in commercial radio and TV stations, the Armed Forces Radio Service, and the Alaska Communications System.

FEDERAL CIVIL DEFENSE

There could, of course, be no advance warning of the earthquake. The National Warning System, however, operated by the Office of Civil Defense, was immensely useful as an emergency communications medium during the first hours of the disaster. Robert Risley, OCD Warning Officer for Alaska, stationed at Elmendorf Air Force Base, was able to provide valuable initial communications through use of the National Warning System Circuit. Within minutes after the earthquake occurred, a RACES communications officer parked his mobile shortwave rig just outside the door of the Alaska Air Command combat operations center where Risley has his warning post. Emergency messages could then be passed back and forth to the OCD Warning Officer, from both Anchorage and State civil defense headquarters, and from Fort Richardson, and other outlying areas. Risley provided the first civilian situation report to the Pentagon in Washington, D. C. -- through the Office of Civil Defense Public Information -- to the Joint Chiefs of Staff, and the Defense News Room.

OCD Region 8, Everett, Washington -- Tidal wave warnings received from the Hawaii Magnetic Observatory through the 28th and 25th warning centers in California, and in Washington State, were relayed by OCD Region 8 to State Civil Defense headquarters in Washington, Oregon, and California. Those States, in turn, warned localities along their coastlines.

Immediately following the earthquake, Charles Ralls, Director of OCD Region 8, directed that OCD personnel assist the Office of Emergency Planning staff on radio and landline communications to Alaska.

The next day, Ralls directed that his Director of Field Operations, the OCD Field Officer for Alaska, and the Region 8 Warning Officer leave for Alaska on the morning of March 30 to assist the Alaska State Civil Defense staff and personnel of the Office of Emergency Planning (OEP) in Alaska.

A Region 8 staff member was also sent to Elmendorf Air Force Base for 2 weeks to work in the OEP office there.

The OCD field staff worked with Alaska State Civil Defense personnel during the most hectic period of the disaster.

In the early emergency period, Director Ralls had advised both State and Anchorage Civil Defense that OCD shelter supplies were available to be used in the emergency. He also advised that surplus property could be used if necessary. The OCD Regional personnel sent to Alaska also provided that information upon arrival. A total of seven OCD Region 8 staff members eventually provided assistance in Alaska.

HOUSE COMMITTEE REPORT

(7)

Date referred: 2/13/87

FURTHER REFERRALS: Telecommunications
Labor & Commerce

DATE: 3-18-87

The State Affairs Committee has considered SB 36

"An Act relating to Amateur Radio Week."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published 2/3/87
- zero with analysis

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

 Chairman's signature

Alaska State Legislature

Senator Paul A. Fischer
Senate District D
Box 784
Soldotna, Alaska 99669
(907) 262-9420 W
262-9269 H



While in Juneau
Pouch V
Juneau, Alaska 99811
(907) 465-3791

State Senate

April 8, 1987

To: Representative Dave Donley, Chairman
House Labor & Commerce Committee

From: Senator Paul Fischer *PF*

Subject: SB 36, Amateur Radio Week

SE 36 will mark the observance of amateur radio week in Alaska annually. It will coincide with the nationwide "Field Day" activities that the American Radio Relay League sponsors annually on the fourth Saturday of June. It will recognize the important role amateur radio has and will continue to play in Alaska.

The primary reason for the introduction of this legislation is to recognize the important role that amateur radio operators, better known as "hams", have played in Alaska. Amateur radio operators have in many cases provided the only link between Alaska and the world during natural disasters. A notable example of their service to the citizens of this State was during the disastrous 1964 Alaska Earth Quake. During this catastrophe, amateur radio operators provided the first report that Kodiak had survived the earthquake. They also provided for a time the only communication between Alaska and the lower 48 states.

During local emergencies such as fires and automotive accidents, amateur radio operators will often relay information that is vital to Public Safety. In emergencies, amateur radio operators often relay the status of victims and messages to their next of kin. On holidays, amateurs send free messages for servicemen to their loved ones.

The State Affairs Committee was the only committee assignment this bill received in the House last year. The Committee passed it onto H. Rules on April 15, 1986 with 6 "Do Pass" recommendations. This year, House State Affairs approved it again with 5 "Do Pass" recommendations and the Special Committee on Telecommunications signed 3 "Do Pass" recommendations.

For these reasons, I would greatly appreciate the scheduling of SB 36 for a hearing before your committee sometime soon.

Alaska State Legislature

POUCH V
JUNEAU, ALASKA 99811
(907) 465-4931

DISTRICT 10
BOX 111038
ANCHORAGE, ALASKA 99511
(907) 349-2192



CHAIRMAN
Special Committee on
Telecommunications

MEMBER
Labor and Commerce
State Affairs
Finance—Subcommittee Administration

Representative H. A. "Red" Boucher

HOUSE SPECIAL COMMITTEE ON TELECOMMUNICATIONS

SENATE BILL 36

FILE CONTENTS

1. SB 36: AN ACT RELATING TO AMATEUR RADIO WEEK
2. FISCAL NOTE: DEPARTMENT OF ADMINISTRATION; - 0 -
3. MEMORANDUM FROM SENATOR FISCHER TO REPRESENTATIVE BOUCHER,
DATED MARCH 24, 1987.
4. "THE ALASKAN EARTHQUAKE," PREPARED BY THE OFFICE OF CIVIL
DEFENSE, SECRETARY OF THE ARMY, DEPARTMENT OF DEFENSE, MAY 1964.

Alaska State Legislature

Senator Paul A. Fischer
Senate District D
Box 784
Soldotna, Alaska 99669
(907) 262-9420 W
262-9269 H



While in Juneau
Pouch V
Juneau, Alaska 99811
(907) 465-3791

State Senate

March 24, 1987

To: Representative H.A. Red Boucher, Chairman
House Special Committee on Telecommunications

From: Senator Paul Fischer *Paul*

Subject: SB 36, Amateur Radio Week

SB 36 will mark the observance of amateur radio week in Alaska annually. It will coincide with the nationwide "Field Day" activities that the American Radio Relay League sponsors annually on the fourth Saturday of June. It will recognize the important role amateur radio has and will continue to play in Alaska.

The primary reason for the introduction of this legislation is to recognize the important role that amateur radio operators, better known as "hams", have played in Alaska. Amateur radio operators have in many cases provided the only link between Alaska and the world during natural disasters. A notable example of their service to the citizens of this State was during the disastrous 1964 Alaska Earth Quake. During this catastrophe, amateur radio operators provided the first report that Kodiak had survived the earthquake. They also provided for a time the only communication between Alaska and the lower 48 states.

During local emergencies such as fires and automotive accidents, amateur radio operators will often relay information that is vital to Public Safety. In emergencies, amateur radio operators often relay the status of victims and messages to their next of kin. On holidays, amateurs send free messages for servicemen to their loved ones.

The State Affairs Committee was the only committee assignment this bill received in the House last year. The Committee passed it onto H. Rules on April 15, 1986 with 6 "Do Pass" recommendations. This year, House State affairs approved it again with 5 "Do Pass" recommendations.

For these reasons, I would greatly appreciate the scheduling of SB 36 for a hearing before your committee sometime soon.



Official Business

Alaska State Legislature

House

P.O. BOX V
State Capitol
Juneau, Alaska 99811

STATE AFFAIRS COMMITTEE

SENATE BILL 36

FILE CONTENTS

1. SENATE BILL 36: AN ACT RELATING TO AMATEUR RADIO WEEK
2. FISCAL NOTE, DEPARTMENT OF ADMINISTRATION: -0-
3. MEMORANDUM FROM SENATOR FISCHER TO REPRESENTATIVE ULMER,
DATED 2/20/87
4. "THE ALASKAN EARTHQUAKE," PREPARED BY THE OFFICE OF CIVIL
DEFENSE, SECRETARY OF THE ARMY, DEPARTMENT OF DEFENSE,
DATED MAY 1964

Alaska State Legislature

3

Senator Paul A. Fischer
Senate District D
Box 784
Soldotna, Alaska 99669
(907) 262-9420 W
262-9269 H



While in Juneau
Pouch V
Juneau, Alaska 99811
(907) 465-3791

State Senate

February 20, 1987

To: Representative Fran Ulmer, Chairwoman
House State Affairs Committee

From: Senator Paul Fischer *PF*

Subject: SB 36, Amateur Radio Week

SB 36 will mark the observance of amateur radio week in Alaska annually. It will coincide with the nationwide "Field Day" activities that the American Radio Relay League sponsors annually on the fourth Saturday of June. It will recognize the important role amateur radio has and will continue to play in Alaska.

The primary reason for the introduction of this legislation is to recognize the important role that amateur radio operators, better known as "hams", have played in Alaska. Amateur radio operators have in many cases provided the only link between Alaska and the world during natural disasters. A notable example of their service to the citizens of this State was during the disastrous 1964 Alaska Earth Quake. During this catastrophe, amateur radio operators provided the first report that Kodiak had survived the earthquake. They also provided for a time the only communication between Alaska and the lower 48 states.

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The State Affairs Committee was the only committee assignment this bill received in the House last year. The Committee passed it onto H. Rules on April 15, 1986 with 6 "Do Pass" recommendations.

For these reasons, I would greatly appreciate the scheduling of SB 36 for a hearing before your committee sometime soon.

S

B

3

9

DATE: 9/14/87

The Labor & Commerce Committee has considered CSSB 39(L&C)

"An Act relating to the Real Estate Commission; and providing for an effective date."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published 4/7/87
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

Cliff Davidson

SIGNING OTHER RECOMMENDATIONS:

Walt Furnace

David Kelley

Dave Douley

Chairman's signature

1.242

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: SSSB 39 (Loc)
Publish Date: 4/7/87

REQUEST: _____
Revision Date: _____
Title: An Act relating to the
Real Estate Commission.
Sponsor: Senator Zharoff
Requestor: _____

Agency Affected: Commerce and Economic Dev.
BRU: Real Estate Commission/Occupational
Licensing
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	0	[62.0]	0	0	0	0
TRAVEL	0	[15.1]	0	0	0	0
CONTRACTUAL	0	[75.7]	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	[152.8]	0	0	0	0

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	[152.8]	0	0	0	0
TOTAL	0	[152.8]	0	0	0	0

POSITIONS:

FULL-TIME	0	[1]	0	0	0	0
PART-TIME	0	1	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS :

(See Attached)

Prepared by: Kathy Marshall
Division: Occupational Licensing

Phone: 465-2534
Date: April 9, 1987

Approved by Commissioner: J. Malbon Smith
Agency: Commerce and Economic Development

Date: _____

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

es SSSB 39 (240)

SSSB 39 amends the statutes to transfer the semiautonomous Real Estate Commission within the Department of Commerce and Economic Development to the Division of Occupational Licensing within the same department. As a result, the reorganization will create a cost savings of \$152,800.00 as a one-time impact in FY 88.

The decrement of \$62,000.00 in personal services result through reclassification of certain positions currently providing support to the Real Estate Commission. In addition, one position is being reduced from full-time to part-time.

The attached forms document the costs associated with the transfer.

SSSB 39: An Act relating to the Real Estate Commission.

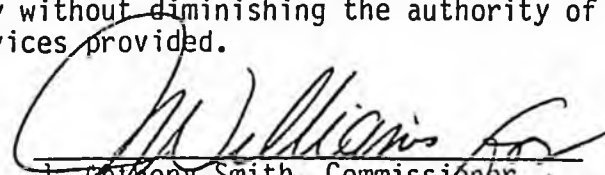
SSSB 39 transfers the Real Estate Commission in the Department of Commerce and Economic Development to the Division of Occupational Licensing, also within the Department of Commerce and Economic Development, and extends the commission to June 30, 1991. In September 1985, Legislative Audit issued a performance report on the commission which recommended it be reestablished.

The department maintains its support for continuation of the Real Estate Commission and recognizes the important functions it provides. However, the department concurs with the proposal to reestablish the commission within the Division of Occupational Licensing.

There are a number of advantages to the plan for both the State of Alaska and licensed realtors.

1. The regulation of the occupation would be more cost effective. The number of licensed realtors has decreased by approximately 50% since the Real Estate Commission became semiautonomous which has increased the cost of service provided per licensee while decreasing the commission's ability to be self-supporting. The commission was unable to generate sufficient program receipts for FY 87 to maintain its current level of expenditures. The department believes the commission can be as effectively administered under the Division of Occupational Licensing at a much lower cost. The transfer of the commission to the Division of Occupational Licensing would save approximately \$150,000.00 per year and would enable the commission to be supported by the licensing fees.
2. As indicated in the Legislative Audit, the Real Estate Commission is in dire need of regulatory and statutory revision. The Division of Occupational Licensing employs both a legislative and a regulations specialist who could more effectively assist the commission in its efforts to improve regulations and statutes.
3. The transfer of administrative responsibilities, such as budget preparation and fiscal monitoring, to the division would enable the commission and staff to concentrate their efforts on increasing services to licensees including auditing of trust accounts, recovering surety fund claims, coordinating with the Real Estate Association, and improving functions.

In summary, the department believes the transfer of the Real Estate Commission will increase efficiency without diminishing the authority of the commission or the level of services provided.


J. Anthony Smith, Commissioner
Department of Commerce & Economic
Development

DATE: 4/9/87

STATE OF ALASKA
 Office of Management & Budget
 Division of Budget Review

REVISED PROGRAM SUMMARY
 by
 BUDGET COMPONENT

CATEGORY Public Protection
 PROGRAM Consumer Protection
 AGENCY Commerce & Economic Dev
 DIVISION Real Estate Commission
 BRU Real Estate Commission
 COMPONENT

	FY '88 REQUEST	SSSB 39 Note	ADJUSTED AUTH	ADN	ADJUSTED AUTH	ADN	ADJUSTED AUTH	ADN	ADJUSTED AUTH	ADN	ADJUSTED AUTH
70010 UNALLOCATED											
71000 PERS SVCS	300.5	-300.5	0.0								
72000 TRAVEL	36.1	-36.1	0.0								
73000 CONT SVCS	166.9	-166.9	0.0								
74000 SUPPLIES	10.3	-10.3	0.0								
75025 LAND/STRCT											
75690 EQUIPMENT											
77000 GRANTS											
78000 DEBT SVC											
TOTAL	513.8	-513.8	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
68515 GEN FUND											
68510 GF MATCH											
51010 FED REC											
51015 IA REC											
51060 PRG REC	513.8	-513.8	0.0								
51200 CIP REC											
FULL TIME	6.0	-6.0	0.0								
PART TIME	2.0	-2.0	0.0								
TEMPORARY MONTHS	82.0	-82.0	0.0								

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

STATE OF ALASKA
Office of Management & Budget
Division of Budget Review

REVISED PROGRAM SUMMARY
by
BUDGET COMPONENT

CATEGORY Public Protection
PROGRAM Consumer Protection
AGENCY Commerce & Economic Dev
DIVISION Real Estate Commission
BRU Real Estate Commission
COMPONENT

	FY '88 REQUEST	SSSB 39 Note	ADJUSTED AUTH	ADN	ADJUSTED AUTH	ADN	ADJUSTED AUTH	ADN	ADJUSTED AUTH	ADN	ADJUSTED AUTH
70010 UNALLOCATED											
71000 PERS SVCS	300.5	-300.5	0.0								
72000 TRAVEL	36.1	-36.1	0.0								
73000 CONT SVCS	166.9	-166.9	0.0								
74000 SUPPLIES	10.3	-10.3	0.0								
75025 LAND/STRCT											
75690 EQUIPMENT											
77000 GRANTS											
78000 DEBT SVC											
TOTAL	513.8	-513.8	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
68515 GEN FUND											
68510 GF MATCH											
51010 FED REC											
51015 IA REC											
51060 PRGG REC	513.8	-513.8	0.0								
51200 CIP REC											
FULL TIME	6.0	-6.0	0.0								
PART TIME	2.0	-2.0	0.0								
TEMPORARY MONTHS	82.0	-82.0	0.0								

STATE OF ALASKA
Office of Management & Budget
Division of Budget Review

REVISED PROGRAM SUMMARY
by
BUDGET COMPONENT

CATEGORY Public Protection
PROGRAM Consumer Protection
AGENCY Commerce & Economic Dev
DIVISION Occupational Licensing
BRU Occupational Licensing
COMPONENT Administration

	FY '88 REQUEST	SSSB 39 Note	ADJUSTED AUTH	ADN	ADJUSTED AUTH	ADN	ADJUSTED AUTH	ADN	ADJUSTED AUTH	ADN	ADJUSTED AUTH
70010 UNALLOCATED											
71000 PERS SVCS	713.3	271.5	984.8								
72000 TRAVEL	14.1	21.0	35.1								
73000 CONT SVCS	311.9	91.2	403.1								
74000 SUPPLIES	10.4	10.3	20.7								
75025 LAND/STRCT											
75690 EQUIPMENT											
77000 CRANTS											
78000 DEBT SVC											
TOTAL	1049.7	394.0	1443.7	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
50515 GEN FUND											
50510 GF MATCH											
51010 FED REC											
51015 IA REC											
51000 PROG REC	1049.7	394.0	1443.7								
51200 CIP REC											
FULL TIME	19.0	5.0	24.0								
PART TIME	1.0	3.0	4.0								
TEMPORARY MONTHS	254.0	76.0	310.0								

FOR SB-39 (1987)
MEMORANDUM

State of Alaska

TO: Michael Thill, Staff Assistant
Senate Labor & Commerce Committee

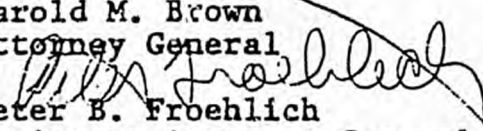
DATE: April 30, 1986

FILE NO:

TELEPHONE NO: 465-3600

FROM: Harold M. Brown

SUBJECT: Proposed amendment
to SB 487 concern-
ing general regula-
tion adoption
authority

At
By: Harold M. Brown
Pe Attorney General
As 
Peter B. Froehlich

As I mentioned to you by telephone yesterday, there is an additional clarifying amendment that should be included in SB 487 on the Real Estate Commission. That amendment would correct an apparent oversight which has resulted in the absence of an explicit grant to the commission of general regulation adoption authority. Currently, AS 08.88 includes two explicit grants to the commission of specific regulation adoption authority, but no grant of the typical general regulation adoption authority usually given to occupational licensing boards and commissions.

The commission has the following explicit specific regulation adoption authority:

Sec. 08.88.081. COMMISSION REGULATIONS. The commission shall adopt regulations pertaining to the responsibilities of persons licensed under this chapter and the grounds for revoking or suspending a license.

Sec. 08.88.111. COMMISSION REGULATIONS. The commission shall adopt procedural regulations describing

- (1) how it conducts an examination;
- (2) how a person applies to take an examination, applies for a license, and registers that person's office.

I propose that AS 08.88.081 be amended to add a general regulation adoption authorization and at the same time consolidate the two specific authorities as follows:

* Sec. 2. AS 08.88.081 is amended to read:

Sec. 08.88.081. COMMISSION REGULATIONS. The commission shall adopt regulations necessary to carry out the purposes of this chapter including regulations

- (1) pertaining to the responsibilities of persons licensed under this chapter and the grounds for

revoking or suspending a license;

(2) describing how it conducts an examination;
and

(3) describing how a person applies to take an examination, applies for a license, and registers that person's office.

Renumber the following sections of the bill accordingly.

Of course, AS 08.88.111 should then be repealed.

This additional amendment would clarify that the Real Estate Commission has the same general regulation adoption authority as do other agencies. We believe that the commission has this authority implicitly, even without this amendment but it would be better to make the authority explicit.

Concerning SB 487 as a whole, we believe that the bill includes both some desirable housekeeping amendments and some amendments that may not be desirable, or that at least may require more study.

Please let me know if I can provide you or the committee any further information on this proposed amendment to SB 487, or on the entire bill.

PBF:md

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

James Magowan, Director
Real Estate Commission

Arthur H. Peterson
Assistant Attorney General
Legislation/Regulations Section

S B

6 1

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907.465.3800

LEGISLATIVE AFFAIRS AGENCY LEGISLATIVE REFERENCE LIBRARY

May, 1988

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

Mary Van Nimwegen

HL+C

4-26-88

1:30p.m.



Official Business

HOUSE ENDOUR & COMMERCE
DATE: April 26, 1988

SIGN-IN

- HB 300 Contractor bonds/public buildings and works
- HB 544 Civil liability for plane inspection
- SB 61 Rehire of injured state employees
- SB 309 Definition of commercial fisherman
- SB 211 Civil liability
- SB 461 Liability of hospitals for nonemployees

PLEASE PRINT
NAME & TITLE

REPRESENTING

ADDRESS & ZIP

PHONE

DO YOU WANT
TO TESTIFY?

SUBJECT:
BILL #

Sharon Anderson	Humana Hospital		H W 276-1131	Yes	SB 461
Adrienne Anderson	Nat'l Campaign Against Toxic Hazards	1266 Cook St. Denver Colorado 80206	H W 303-333-9714	YES	SB 211 SB 461
Jeff Osteren	DOT & PF	P.O. Box 2 Juneau	H W 465-2151	IF NEEDED	HB 558
Karl Ohls	Sen. Zharoff	P.O. Box V, Juneau	H W 465-4922	Yes, if needed	SB 309
David McGuire	Citizens Coalition for reform	4001 Laurel	H 349-1752 W 562-4142	yes	SB 211 SB 461
AN GROSS	ATL	8470 N. D. Douglas	H W	yes	SB 211
Paul Roller	D.O.I		H W 465-2514	Yes	
RICHARD RITTER	AMERICAN INST. of ARCHITECTS	800 GLACIER AVE., JUNEAU	H W 586-1371	YES, IF NEEDED	SB 211
MARY KANCEWICK	AFL	Assembly Bldg	H W	yes	SB 211
			H W		

NEEDS TO TESTIFY TODAY WON'T BE IN JUNEAU '11a'

Must also testify today before S



Official Business

HOUSE LABOR & COMMERCE

DATE: April 26, 1988

SIGN-IN

- SB 223 Civil liability of zoos/zoo operators
- HB 558 Contractor bonds/public buildings and works
- HB 544 Civil liability for plane inspection
- SB 61 Rehire of injured state employees
- SB 309 Definition of commercial fisherman
- SB 211 Civil liability
- SB 461 Liability of hospitals for nonemployees

PLEASE PRINT
NAME & TITLE

REPRESENTING

ADDRESS & ZIP

PHONE

DO YOU WANT
TO TESTIFY?

SUBJECT:
BILL #

PLEASE PRINT NAME & TITLE	REPRESENTING	ADDRESS & ZIP	PHONE	DO YOU WANT TO TESTIFY?	SUBJECT: BILL #
SHERRIE GOLL	ALASKA WOMEN'S LOBBY	419 Kennedy Street, Jno 99511	H W 586-4788	YES	SB 211
Bob Davitt	AARP State Legis- lative Comm.	130 Dewad St # 205 - 99801	H W 586-2066	yes	211/461
John Chase	Providence Hosp	3200 Prov Dr.	H 261 3101 W	yes	211/461
John Vowell	Wrangell Hospital	P.O. 80 Wrangell	H W 874-3356	yes	211/461
Kent Dawson	AK Trial Lawyers	Juneau	H W 586-2667	NO	211/461
			H W		
			H W		
			H W		
			H W		
			H W		

HOUSE COMMITTEE REPORT

(7)

Date referred: 4/7/88

FURTHER REFERRALS: State Affairs

DATE: 4/26/88

The Labor & Commerce Committee has considered SB 61

"An Act relating to rights of injured state employees."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published 3/23/88
- zero with analysis

SIGNING DO PASS:

Cliff Peirce

Sammy Wynn

SIGNING OTHER RECOMMENDATIONS:

W. A. Broun

Dave Douley (no rec)

Dave Douley
Chairman's signature



Alaska State Legislature

Senator Mike Szymanski

While in Session:
P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-4978/4979

Interim:
3111 C Street
Suite 150
Anchorage, AK 99503
(907) 276-6739

M E M O R A N D U M

To: Representative Dave Donley, Chair
House Labor and Commerce Committee

From: Senator Mike Szymanski

Date: April 7, 1988 *MS*

Subject: Scheduling of Committee hearing for SB 61

165 E. Parks Hwy.
Suite 104
Wasilla, AK 99687
(907) 376-MIKE

I am sponsor of Senate Bill #61, "An Act relating to the rights of injured state workers," which passed the Senate on an 18-0 vote on April 6, and was referred today to two House Committees, Labor and Commerce and State Affairs.

I would therefore like to formally request a hearing be scheduled on this bill for House Labor and Commerce Committee at your earliest convenience.

The bill has a zero fiscal note, but that is only because there will be an unprojectable savings in the bill in lessened disability payments and training time by getting experienced workers back on the job as soon as possible.

I originally submitted the bill as HB 318 in the 14th Legislature; where it went through extensive hearings, passed the House on a 38-0-1-1 voted, and died in the last days of session in Senate Rules in the last-minute logjam. This year, as SB 61, the bill went through 4 Senate Committees with unanimous "Do Passes," and no CS.

There is no opposition to the bill that I am aware of, but rather unanimous support from various state agencies (Division of Personnel, Division of Risk Management, and Division of Worker's Compensation) and APEA.

I think this bill is of great benefit to state workers, at no expense to the public. Any assistance you could give in speeding it's passage would be appreciated.



Alaska State Legislature

Senator Mike Szymanski
M E M O R A N D U M

Senate HESS Committee Members

From: Senator Mike Szymanski
Date: February 9, 1987
Subject: Overview of Senate Bill 61, " An Act relating to the Rights of Injured State Workers."

While in Session:
P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-4978/4979

Interim
11920 Johns Rd.
Anchorage, AK 99515
(907) 349-3373

1024 W. 6th
Anchorage, AK 99501
(907) 276-6739

During the past two years, it became clear to me in discussions with professionals in the field of vocational rehabilitation that the current state procedures for reemployment of injured state workers are grossly inadequate. In fact, some have even suggested that the state is the worst offender in this area. In most organizations, injuries received in the line of duty call for support and rewards from the organization, not punishment.

Senate Bill 61, which I introduced last year as HB 318, incorporates recommendations from several state agencies and professional organizations who specialize in vocational rehabilitation. The objective of the legislation is three-fold:

1) The legislation would require detailed position descriptions to be kept for every state job. Such descriptions, by spelling out the responsibilities and physical requirements of each position, would greatly aid in the reemployment of injured state workers. Although an injured employee may not be able to perform all of the tasks required of a job class, in many cases the employee could perform the essential duties of a particular position within the class. With detailed position descriptions the placement of partially disabled employees would be easier.

2) The bill would establish procedures for granting injured state workers employment preference. Under this legislation, an injured state employee returning to the work force would be given preference for employment in open positions for which the employee is qualified. Such preference would enable injured workers to resume full or modified employment much sooner, thus saving the state thousands of dollars in disability benefits.

3) The legislation would establish clear guidelines for refusing to rehire or continue the employment of a former employee if the employment would impose an undue hardship on the operation of an agency. The onus would be on the agency to prove that the employee could not reasonably perform the essential duties of the position. No longer could an injured employee be refused work without justification, as has happened on occasion.

In contrast to most legislation, SB 61 would not only not require a state financial investment, but would result in substantial savings to the state in lessened disability payments and in training time and expense saved by continuing to utilize experienced workers. Just as importantly, the human dignity and self-respect which is thus preserved is immeasurable.



Alaska State Legislature

Senator Mike Szymanski
M E M O R A N D U M

Senator Paul Fischer, Chair
Senate HESS Committee

From: Senator Mike Szymanski, Sponsor
Senate Bill 61

Date: February 9, 1987

Subject: Scheduling of Hearing for SB 61

While in Session:
P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-4973/4979

Interim
11920 Johns Rd.
Anchorage, AK 99515
(907) 349-3373

1024 W. 6th
Anchorage, AK 99501
(907) 276-6739

I would like to formally request that a hearing be scheduled for a bill of mine which is in your Committee as the Committee of first referral; that is, Senate Bill 61, "An Act Relating to Rights of Injured State Workers."

Passage of the bill would protect State employees who have been injured on the job in service to the state, by allowing them special consideration for return to their job once they have recovered from their injuries. It would also benefit the state (and could conceivably result in a negative fiscal note if research on it could be done in a cost-effective manner); because it would help to keep workers in the work force who bring depth of training and experience back to the job, so it is not lost.

The bill clearly spells out the rights and obligations for both the employer and employee, to ensure that particular cases are dealt with consistently.

During the 14th legislature, I submitted this bill in the House as HB 318. As you can see from the attached, this bill passed the House on a 38-0-1-1, and made it all the way through the Senate to Senate Rules, where it died in the logjam of bills in the final hours of last year's session.

The bill received the support of the Department of Labor and the Administration; and much work was done at the Committee level to take their requests and concerns, as well as the requests and concerns of many other groups, into account. As a result, SB 61 this year picks up the language of last year's bill and so the Department of Administration has come in with a zero fiscal note (see attached) and a position paper that is supportive.

I have a great deal of back-up information in my personal files from last year on this bill. If you need any more back-up, please feel free to contact my offices. Attached for your reference are:

- 1) Zero Fiscal Note from Dept. of Administration
- 2) Position paper of support from the DOA
- 3) A Sectional Analysis of the Bill
- 4) An Overview Letter to Senate HESS members on the bill
- 5) A House Research Agency paper on the subject
- 6) Last year's bill history on HB 318



Alaska State Legislature

Senator Mike Szymanski

While in Session:
P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-4978/4979

Interim
11920 Johns Rd.
Anchorage, AK 99515
(907) 349-3373

SECTIONAL ANALYSIS -- SB 61

SECTION 1. Adds a new section to AS 23.40 to state that terms contrary to the provision of this legislation may not be negotiated. (Added at the request of the Division of Personnel, Department of Administration).

1024 W. 6th
Anchorage, AK 99501
(907) 276-6739

SECTION 2.

Subsection 39.25.157

Requires the Division of Personnel, in consultation with the appropriate department or agency, to develop and maintain a detailed position description for each position within the classified service.

Also disallows the imposition of general physical ability requirements on a job class unless each position within the class requires the use of the physical ability.

Subsection 39.25.158

(a) Within 30 days after a physician's release to return to full or or modified work, an injured employee must request to return to work for the state in order to be eligible for reemployment rights.

(b) Once an employee requests to return to work, the employee will be certified as able to return under (c), (d), or (f) of this section by the Division of worker's compensation or the Director of Vocational Rehabilitation. Certification may be delayed until the employee is retrained under (f).

(c) Requires that a state agency offer an injured employee the employee's former position within 30 days, if the employee is certified able to perform the tasks assigned to the position and the position still exists. If another employee is employed in the position, the agency shall create a vacancy under AS 39.25.150(13).

(d) If an employee is not eligible for reemployment under (c), the agency is required to make efforts of reasonable accommodation (some examples of which are specified and defined in accordance with federal language) to the physical & mental limitations of the employee if they are no longer able to perform all of the tasks assigned to them.

(e) If the employee is not eligible under (c) or (d), and the agency has a vacant and comparable position, then the agency must offer that position to the employee. If the employee is no longer capable of filling that comparable position, then the employee is entitled to a similar and vacant position in another agency, if he is capable of performing the work.

(f) If the employee cannot be reemployed in a comparable position by an agency, then the employee may either i) request reemployment at a lower wage, or ii) accept retraining under AS 23.30.041. After retraining, the employee may request reemployment in his new field of training with the original agency, and if no positions are available, at a comparable position with another agency.

(g) Establishes guidelines for refusal by an agency to reemploy or continue the employment of a former employee, including undue hardship.

(h) Lists the factors the agency may take into consideration in determining undue hardship.

(i) Requires that an injured employee requesting and eligible for reemployment with an agency who is able to perform the essential functions of the position be the only person certified for that position (except employees in layoff status for that job class).

(j) Prevents collective bargaining agreements from negating any of the provisions of this bill;

(k) Definitions section.

SECTION 3

Prevents this Act from altering in any way collective bargaining agreements already in existence on the effective date of the Act.

Bill No. Senate Bill 61
Title "An Act relating to rights of injured state employees."

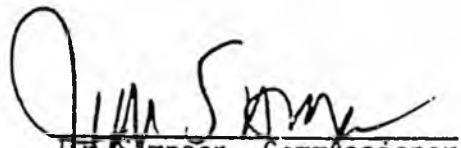
Date April 23, 1987
Contact: Jacque McClintock
465-2790

The Department of Labor supports this legislation which provides rehire rights for injured state employees.

Under the provisions of this bill, the state is required to reemploy an injured state employee in the former job position if the employee is medically able to perform the duties of the position or, if not medically able, to rehire the employee in a modified or comparable position. This bill applies to all state employees who have sustained an occupational injury or illness and who wish to return to work for the state.

This bill will afford return to work protection for injured state employees, and should, overall, reduce the state's costs of workers' compensation by returning injured and disabled employees to suitable gainful employment.

APPROVED:


Jim Sampson, Commissioner
Department of Labor

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version : SB 61
Publish Date : _____

Revision Date: _____

Agency Affected: Labor

Title: "An Act relating to rights of injured state employees."

BRU: Workers' Compensation

Sponsor: Szymanski & Kerttula

Components: Workers' Compensation

Requestor: Senate HESS

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Jacquelyn McClintock
Division: Workers' Compensation

Phone: 465-2790
Date: 02/02/87

Approved by Commissioner: Jim Sampson
Agency: Labor

Date: 02/02/87

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary