

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

4846 HLAB SB 357 - SB 461

18

AFFIDAVIT OF JACK W. JOHNSON

STATE OF ALASKA )  
 )  
THIRD JUDICIAL DISTRICT ) ss.

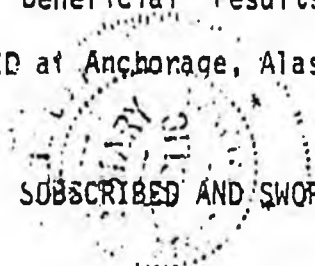
I, JACK W. JOHNSON, being duly sworn upon his oath, deposes and says:

1. I am a resident of Anchorage, Alaska, residing at 3434 Wentworth Street, 99507. I am 67 years of age, and have lived in Alaska 42 years.
2. I have known Mr. Jack Moore since 1969 when he was on a contract with Trans Alaska Pipeline Service Company and was working on establishing the pipeline route and the terminal site at Valdez.
3. In 1980 I worked with Mr. Moore on two projects authorized by Legislative Affairs to study the feasibility of extending the railroad from Eielson Air Force Base through Canada to the Eastern United States and the utilization of North Slope natural gas.

In the course of these studies I found Mr. Moore to be extremely abundant with facts, figures and people's names. Regarding oil, gas and other national resources, I assumed that his accuracy level was above average, but probably not correct on all counts. After traveling through Canada and meeting with the Government Representatives and their in house experts on hard and soft minerals and discussing by name the key people in various mining and gas and oil development in the Yukon Territory, British Columbia and then Ontario, I was amazed that not once was Mr. Moore's figures, locations or key people's positions ever corrected or challenged and I developed a tremendous respect for his retentive memory and past accomplishments in pipeline construction.

4. As a friend, I have continued a relationship with Mr. Moore over the years and have witnessed his efforts to establish privately held gas distribution systems in several potential areas in Alaska that would create employment and reduce basic living costs.
5. If Mr. Moore's recommendations on the railroad and utilization of North Slope natural gas had been effected as proposed, their beneficial results to Alaska would be very evident at this time.

DATED at Anchorage, Alaska this 29th day of April, 1988.



JACK W. JOHNSON

SUBSCRIBED AND SWORN to before me this 29th day of April, 1988.

Notary Public in and for Alaska  
Commission Expires: 6/27/90

# NORTH SLOPE BOROUGH LAW OFFICE

P.O. Box 69  
Barrow, Alaska 99723

Phone: (907) 852-2811, Ext. 218

Harold J. Curran, Attorney

OCT 9 1986

October 3, 1986



Mr. D. J. Moore  
D. J. Moore Corporation  
1406 Zarvis Place  
Anchorage, AK 99508

Dear Mr. Moore:

This letter will memorialize our telephone conversation of October 3, 1986. In that conversation I read you Informal Opinion 86-11 with regard to your request for a franchise. That opinion is enclosed herewith.

The basic conclusion of the opinion is that if D. J. Moore Corporation serves the Service Area #10 Facility at Prudhoe Bay, it will be a public utility subject to the requirement that it obtain a Certificate of Public Convenience and Necessity from the Alaska Public Utilities Commission. If such a permit is required, the Borough may not grant a franchise to D. J. Moore Corporation to perform the services covered by the Certificate of Public Convenience and Necessity. It is my opinion and the Borough's position that operation of the gas distribution system you propose, in the manner you proposed, will require the participation and approval of the Alaska Public Utilities Commission.

You indicated that you have received opinions to the contrary on this point. The Borough would certainly be interested in reviewing any legal memoranda addressing this point.

I hope this letter and the attached opinion answer the questions you have raised and help form the basis for future planning on your part. If you have any questions or wish to discuss this matter further, please do not hesitate to call or write.

Sincerely,

David R. Weber  
Assistant Borough Attorney  
North Slope Borough

DRW/kl  
Enclosure  
L17



March 5, 1985

Mr. D.J. Moore, President  
 D.J. MOORE CORPORATION  
 1574 "G" Street  
 Anchorage, Alaska 99501

Dear Mr. Moore:

Pursuing an alternative energy source to meet the increasing fuel needs here on the North Slope is high priority in this administration.

I would like to thank you for the time that you have spent in meetings and on the phone with the staff of the Utility Department. I can assure you that all the information that has been supplied has been of great value.

Any further information that is needed regarding this subject will be from Mr. Rex Okakok, Special Assistant, Mayor's Office.

Sincerely,

JOHNNY ADAMS  
 Acting Manager, Public Utilities

/bc

cc: Rex Okakok, Mayor's Office  
 Jerry Cogdill, Acting Asst. Manager, Public Utilities  
 Files (3)

*Joe (phonetic) Ufiksonu Mayor, Utilities  
 Margaret ...  
 Buts I will get going on knowing  
 Joe Ufiksonu meet with me re natl gas*

**NORTH SLOPE BOROUGH**

6

filed and there are significant differences in the construction costs, expenses, and revenues of the competing applicants. NGI appears to have a much lower construction cost than does Polestar. Schedule 3, page 2 of 2, shows NGI's original cost of \$1,240,000, while Polestar shows an original cost of \$2,860,000. It would be in the Commission's interest to have both applicants able to explain the differences. This requires research by both applicants. NGI has undertaken that research. The results, however, will not be available in time to file prefiled testimony and application amendments on April 29, 1988. In addition, there are many other significant differences in the two applications that NGI is presently studying and needs more time to review in order to determine whether its application needs to be amended and to inform the Commission of the reasons for NGI's conclusions. These include: the estimated revenues which Polestar shows at \$2,342,000 and NGI shows at \$781,000; the level of operating expenses which Polestar shows at \$1,580,000 and NGI shows at \$523,000 and many other differences. Essentially the timeframes set by Order No. 5 are unrealistic under the present circumstances to ensure that the Commission has an appropriate record and that all parties are treated fairly with respect to their burden of convincing the Commission that their application should be approved.

NGI is reluctant to file this Petition for Continuance because it has generally taken the position that this Commission should grant a certificate for this service area as soon as

Petition for Continuance  
Page 3 of 5

STATE OF ALASKA

THE ALASKA PUBLIC UTILITIES COMMISSION

Before Commissioners: Susan M. Knowles, Chairman  
Carolyn S. Guess  
Louis E. Agi  
Kathleen L. Whiteaker  
Peter Sokolov

In the Matter of the Filing of an )  
Application by NORGASCO, INC., for )  
a Certificate of Public Convenience) U-87-70  
and Necessity to Operate as a )  
Natural Gas Utility In and Around )  
the Prudhoe Bay/Deadhorse Area )  
\_\_\_\_\_)

AFFIDAVIT OF RAYMOND R. LATCHEM

I, RAYMOND R. LATCHEM, being first duly sworn, depose and state as follows.

1. I am the Vice President of Operations of Norgasco, Inc. ("NGI"), the applicant in the above-captioned matter.

2. It is NGI's opinion that it is not possible to complete construction of the proposed natural gas system in the service area this construction season. In order to have completed that construction it would have been necessary for the Commission to have granted a Certificate before April 1, 1988. This appeared possible to NGI if no other competing application was filed by February 22, 1988, the date the Commission set as a deadline for competing applicants. Since that date was continued to April 1, 1988, it appeared that if a competing application was filed on that date the Commission could not possibly issue a

LAW OFFICES OF  
B. RICHARD EDWARDS  
120 WEST 7TH AVENUE  
SUITE 1236  
ANCHORAGE, AK 99501  
(807) 276-9552

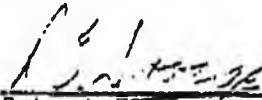
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## AFFIDAVIT OF ROBERT E. DROEGE

I, Robert E. Droege, being first duly sworn upon his oath, deposes and says:

1. I am a resident of Anchorage, Alaska, residing at 2437 Ingra St., 99508. I am 63 years of age, and have lived in Anchorage since 1948.
2. I have known Mr. Jack Moore since the fall of 1975, when he was engaged as a consultant on a mining venture in which I was involved.
3. In January 1983, I went to Juneau, Alaska, as a Finance Committee Aide to Senator Josephson. During the years 1983 and 1984, Mr. Moore requested the assistance of Senator Josephson's office in the dissemination of information, relative to the possibilities of providing natural gas and resultant savings in various northern communities. Mr. Notti, then Commissioner of Community and Regional Affairs was especially interested since the then current costs of fuel oil could be reduced dramatically.
4. The interest by Senator Ferguson had led to Mr. Notti and was such that he arranged meetings with Gov. Sheffield who immediately recognized the benefits to the State and it's citizens. The Governor directed his Commissioner of Natural Resources to investigate the exciting potential. It may have been any number of factors, which occurred during this time frame, but the net result was no further contact with Commissioner Wunnicke.
5. Mr. Moore has a long history in Alaska, predating the building of the oil pipeline from Prudhoe Bay; on which he played no small part, since it was he who pioneered the eventual routing to Valdez, while under a consulting contract with Bechtel Corporation. He also has supplied an Energy Study with recommendations to the Legislature. His rapport with officials in Canada paved the way for acquiring information and tentative agreement to the then desired extension of the Alaska railroad, for a tie-in to State-side markets and less expensive freight costs.
6. Mr. Moore is no Johnny-come-lately to the Alaskan scene; and no stranger to the Natural Gas Pipeline business, since he has had the experience of installing and operating over twenty-five systems in Northern Climates.

Dated at Anchorage, Alaska this 28th day of April 1988.

  
Robert E. Droege

SUBSCRIBED AND SWORN to before me this 29th day of April, 1988.

  
Notary Public in and for Alaska

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: Exempting utilities with no more than 100 subscribers from regulation  
Sponsor: Falks  
Requestor: \_\_\_\_\_

Agency Affected: Commerce & Economic Development  
BRU: APIC  
Components: Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
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
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REVENUE	0	0	0	0	0	0
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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)

If enacted, this bill appears only to impact one specific gas distribution service area application currently pending and it is not anticipated to generate any long term workload reduction.

Prepared by: T.S. Moninski, II Executive Director Phone: 276-6222  
Division: Alaska Public Utilities Commission Date: 2/23/88

Approved by Commissioner: [Signature] Date: 2/25/88  
Agency: Commerce & Economic Development

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



# Alaska State Legislature

SENATE

Office of the President

P.O. Box V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-3755

## MEMORANDUM

March 18, 1988

TO: Representative Dave Donley, Chairman  
House Labor and Commerce Committee

FROM: Senator Jan Faiks  
President of the Senate

SUBJECT: SSSB 357 "An Act exempting certain utilities with no more than 100 subscribers from regulation by the Alaska Public Utilities Commission or a municipality and providing that the most extensive exemption from regulation applies when more than one exemption is applicable to a utility."

SSSB 357 has been referred to the House Labor and Commerce Committee for consideration.

As you know, most utilities operating in the State of Alaska are subject to regulation by the Alaska Public Utilities Commission (APUC). However, AS 42.05.711 provides for various types and sizes of utilities to be exempted from regulation.

SSSB 357 extends this exemption to certain gas distribution utilities. It provides that a gas distribution utility that has no more than 100 subscribers, all of whom are commercial subscribers, is exempted from regulation by the APUC. However, a majority of the subscribers may petition the APUC for regulation if they so desire.

The purpose of this legislation is to facilitate the construction of a gas distribution system in Deadhorse. The construction of a gas distribution utility in that town has substantial public benefit. Over 40 construction workers will be required to build the system, and six to eight to operate it once it is completed. The state will receive in excess of \$20,000,000 in royalties alone over the life of the project. Pollution from the many diesel generators which currently supply power in Deadhorse will be reduced.

A problem with requiring APUC regulation of this project is financing. The project would only serve 40 to 50 customers, all of whom are in an economically distressed industry. Banks view this as a high risk project, which requires the system builders to seek venture capital. These investors do not consider the potential return on a utility regulated by the APUC to outweigh the downside risk of project failure.

In this case, as in the other situations where APUC regulation does not occur except by petition of the utility customers, the public benefits of regulation are outweighed by the advantages which would result only if regulation is waived.

Please contact my office if you have any questions or comments.



SB357

ARCTIC UTILITIES, INC.  
4706 Harding Drive  
Anchorage, Alaska 99517  
(907) 248-3030

April 20, 1988

Honorable Dave Donley  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Representative Donley:

Thank you for your inquiry regarding SSSB 357. To our knowledge this would apply only to a proposed gas utility at Prudhoe Bay. More specifically, it is directed to the application of one of the competing proposals for this gas utility, Norgasco, Inc.

There has been some confusion regarding the position of the Alaska Support Industry Alliance on this legislation. Norgasco is represented by Mr. Ray Latchem. Mr. Latchem is a Board member of the Alliance, and is active in their Legislative Affairs activities. Therefore, he is frequently in contact with Legislators regarding Alliance issues. At the same time, Mr. Latchem is independently pursuing legislative support for SSSB 357.

One individual who wrote to the Alaska Public Utilities Commission supporting Norgasco's application was William F. Webb. Since Mr. Webb is paid staff of the Alliance, his support of the Norgasco application, and the assumption that he might also support SSSB 357 caused several Alliance Board members a great deal of concern. Following a telephone conversation with the President of the Alliance, Mr. Webb contacted me to apologize for taking action to support the Norgasco proposal. I have enclosed a copy of Mr. Webb's letter to me.



Honorable Dave Donley

Page 2

April 20, 1988

I have also attached a copy of correspondence from Norgasco to Senator Zharoff regarding SSSB 357. Mr. Latchem concedes that without deregulation, he will be unable to obtain financing, even from traditionally high risk sources of venture capital.

NANA is an organization with several service companies in Prudhoe Bay. One of these is a regulated electric utility, Arctic Utilities, Inc. We have serious concerns regarding the feasibility of a Natural Gas Utility as proposed by Norgasco. We have had an opportunity to discuss with Mr. Latchem (as well as with the other potential applicant) the shrinking demand for energy at Prudhoe Bay, as well as the significant decrease in the cost of alternative energy at Prudhoe. Diesel prices are now approximately 50% lower than in 1980, and the number of active contractors has fallen at least 50%.

With these basic economic factors working against the project, we maintain that a thorough review of the Norgasco application by the Alaska Public Utilities Commission is appropriate. Perhaps such a review will uncover factors which are not apparent at this time, proving that this project is viable. Absent review by the APUC, we are concerned that this project could be initiated and never completed, or completed only to fail later. There are enough distressed properties and uneconomic facilities already at Prudhoe Bay without rushing into another one.

For these reasons we respectfully request that SSSB 357 not be passed. Thank you for your consideration.

Sincerely,

Thomas M. Dow  
Vice President of Operations

TMD/mc



# THE ALLIANCE

4220 'B' Street, Suite 200 / Anchorage, Alaska 99503-5911 / (907) 563-2228 / FAX 561-8870

Val Molyneux - President  
Veco, Inc.

Chuck Becker  
Vice President - Public Policy  
MIA Consultants

Ann Curtis  
Vice President - Events  
Alaska Controls, Inc.

Craig Duncan - Treasurer  
Price Waterhouse

David Haugen  
Vice President - Membership  
Lyndan, Inc.

Patrick Sizer - Secretary  
Financial Resources Group

Larry Anderson - Director  
MarkAir, Inc.

Milton Byrd - Director  
Charter College

David Dorsey - Director  
Sea-Land Service, Inc.

Tom Dow - Director  
NANA Development Corp.

Robert Garoner - Director  
NORTEC/ERT

Randy Goodrich - Director  
Executive Travel Service

Scott Hawkins - Director  
Anch. Economic Dev. Corp.

Randall Kowalke - Director  
Alaska Industrial Hardware

Raymond Latchem - Director  
Norgasco, Inc.

James Linxwiler - Director  
Guss & Rudd

Joe Mathis - Director  
Sustina Recreational Camps, Inc.

William McLaughlin - Director  
Cold Weather Contractors, Inc.

Patrick Rumley - Director  
Attorney at Law

Mary Shields - Director  
Northwest Technical Services

Connie Yoshimura - Director  
Fortune Properties, Inc.

William Webb  
Manager - Member Services

Barbara Webb  
Administrative Assistant

March 28, 1988

Mr. Tom Dow  
Vice President Operations  
NANA Development Corp.  
4706 Harding  
Anchorage, Alaska 99503

Dear Tom:

The purpose of this letter is to clarify The Alliance's position as regards the proposed gas line project in Deadhorse / Prudhoe Bay advocated by NORGASCO, Inc.. As of this date The Alliance has not taken any position regarding this project.

I apologize that actions taken by myself may have led others to a different impression as to The Alliance's position on this matter.

Sincerely yours,

  
William F. Webb  
Manager - Member Services

cc: Val Molyneux  
Ray Latchem



## NORGASCO, INC.

8740 Hartzell Rd. Anchorage, Alaska 99507 (907)344-6742

March 9, 1988

Senator Fred Zharoff  
P. O. Box V  
Juneau, AK 99811

Dear Senator Zharoff,

I would like to express my strong support of SSSB 357. Under the current statutes the APUC has jurisdiction over all utilities with ten or more customers. This legislation will exclude only natural gas utilities with fewer than 100 subscribers all of whom are commercial customers from their jurisdiction.

The APUC is a fine organization for larger utilities and obviously the legislature had this in mind when they exempted those utilities with less than ten customers. We believe in the check and balance system of government and industry, and SSSB 357 allows for the regulation of a utility under this category by a simple petition (AS 42.05.712) of the customers. This will prevent the utility from taking unfair advantage of its' customers.

As you can tell, the bill was drafted so that it would not concern any of the Bush areas, only Deadhorse.

The problem boils down to project financing. This is not a bankable project because there are only 40-50 customers, they are all in the same business, and they are all suffering financially, so the banks see the project as high risk. This leaves us looking for venture capital. After the venture capitalist has reviewed the project they all come to the same conclusion, if the project fails they lose everything and if the project succeeds, you have the APUC there to limit your return on investment. Needless to say they don't spend much time seriously reviewing the project after they understand how the APUC works.

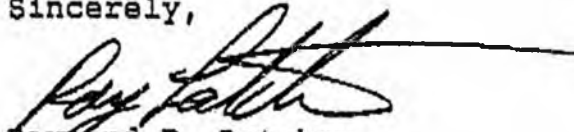
We hear a lot of talk about less government, creating jobs, finding new sources of revenue for the State, cutting down on air pollution, and stimulating the economy, this legislation accomplishes all of these by creating construction and permanent jobs, State royalties collected on the gas sold, reduced NOx emissions from the numerous diesel generators, and will substantially reduce the overhead of the Companies operating at Deadhorse.

The State will receive in excess of \$20,000,000.00 from royalties alone over the life of the project. It will take over 40 construction workers to build the system and will employ 6-8 people full time once it is in operation. The State will also receive severance taxes from the producer and added corporate income taxes from ARCO Alaska and Norgasco.

The Department of Natural Resources, in issuing our land use permit, has reserved the for the State the right to use the pipeline to transport the States royalty gas to the State facilities that we intend to serve. Recently I met with Commissioner Brady to begin negotiations to purchase some of the States royalty gas to supply our customers. But first the pipeline has to be built.

Myself and several other Board Members of The Alliance are planning a trip to Juneau on March 21, 1988. I look forward to visiting with you then. If you have any questions please feel free to call.

Sincerely,



Raymond R. Latchem  
Vice President, Operations

SB357



# NORGASCO, INC.

8740 Hartzell Rd. Anchorage, Alaska 99507 (907)344-6742

April 22, 1988

Honorable Dave Donley  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Representative Donley:

In a recent meeting with Mr. Tom Dow representing Arctic Utilities, Inc. Norgasco was provided with a copy of a letter addressed to you concerning SSSB 357.

We appreciate the concerns that are stated in the letter of April 20, 1988. It is important for you to realize that Arctic Utilities is a supplier of energy in the Deadhorse market and views Norgasco as a competitive threat. Currently Arctic Utilities sells electrical energy in the market for approximately \$.22 per kilowatt hour or \$64.51 per million Btus. Norgasco proposes to sell energy in the form of natural gas for approximately \$4.00 per million Btus.

Current cost of electrical energy in the Anchorage area is approximately \$.06 per kilowatt hour. The majority of the electrical consumers in the Arctic Utilities service area elect to generate their own electricity due to the high rates charged by Arctic Utilities. Currently diesel fuel sells for approximately \$.80 per gallon or \$5.86 per million Btus. If a cheaper form of fuel is made available to the customers in the area, more of them may elect to generate their own electricity instead of buying from Arctic Utilities, or Arctic Utilities will have to become competitive in the market place.

It is obvious why Arctic Utilities opposes Norgasco or any other firm from entering the market.

We would like to clarify a point made by Mr. Dow in his letter of April 20, concerning Mr. Webb's affidavit to the APUC. This affidavit simply objected to a request for an extension of time to file a competing Application for a Certificate of Public Convenience and Necessity filed by a competing applicant and not Arctic Utilities. SSSB 357 is not even mentioned in the affidavit and the Alliance has never taken a position on the bill, nor have I or anybody else to my knowledge, ever represented that they have.

Rep. Dave Donley  
April 22, 1988  
page 2

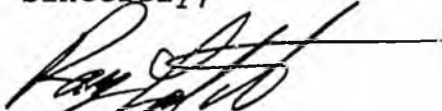
Mr. Webb does have extensive previous experience in owning and operating various camps in the market area and that is why I ask for his affidavit.

Arctic Utilities concern regarding the feasibility of our project or our "rushing into" another uneconomic facility at Prudhoe Bay as stated in the letter is totally unfounded and probably not genuine. Norgasco has spent three years analyzing the market and has successfully acquired all the permits necessary to construct the system as well as executed a gas supply contract and gas sales agreements with some of the end-users.

For these reasons we ask that you discount the letter from Arctic Utilities concerning SSSB 357. If this project is allowed, it will create jobs for Alaskans, generate royalty and severance tax income, and have a beneficial impact on the environment of the North Slope.

Please feel free to call me if you have any questions.

Sincerely,



Raymond R. Latchem  
Vice President, Operations

cc: T. M. Dow  
W. F. Webb  
V. Malyneux

Alaska Public Utilities Commission

Comments on SS for SB357

February 22, 1988

(Revised April 19, 1988)

Under SS for SB357, gas distribution utilities serving fewer than 100 commercial customers would be exempt from certification and economic regulation by the Commission unless the subscribers elected to be regulated. The Commission is not aware of any compelling reasons for exempting a special class of gas distribution utilities from regulation while fully regulating all other gas distribution utilities. The Commission also believes that commercial customers in groups of less than 100 are entitled to the same level of public protection as residential customers and as commercial customers in groups of more than 100. In addition, there are some unique safety considerations associated with natural gas service, which would not be monitored under the proposed exemption scheme. (See 3 AAC 52.010 - .080.)

The Legislature should also be aware that SS for SB357 directly affects a proceeding currently pending before the Commission. Two companies, (Norgasco, Inc. and Polestar Energy, Inc.) have filed competing applications to provide gas distribution service to commercial customers in the Prudhoe Bay/Deadhorse area. Norgasco has also requested that it be exempt from economic regulation upon any Commission action granting its request for certification. Two other companies (Arctic Utilities, Inc. and North Slope Gas Cooperative, Inc.) expressed intent to file

competing applications but did not actually make a filing by the prescribed deadline. Arctic Utilities, a certificated electric utility, has petitioned the Commission for intervenor status which, if approved, would allow it to directly participate in the comparative proceeding to consider which of the two active applicants is the most fit, willing and able to provide the proposed service.

In addition, the Commission has received a letter (copy attached) from the North Slope Borough, one of the prospective customers of the proposed gas distribution utility, stating that:

There is a legitimate public interest concerning rates, quality of service, management practices, and customer complaints associated with the operation of a natural gas utility in Deadhorse. For this reason the Borough feels that Norgasco, Incorporated should be subject to all appropriate regulations governing the certification and operation of a natural gas utility.

Thus, if this legislation is passed, the established Commission procedure of evaluating competitive applications to determine which company is the most fit and able to serve an area would be interrupted. Instead, any or all of the potential gas distribution utilities would be free to enter the market under terms, conditions, and rates that would not be subject to regulatory oversight unless the subscribers petitioned for a regulation election. The Commission does not believe that this approach is in the public interest; specifically, it cannot assure that the best company is necessarily the one which serves the area; it allows for potentially uneconomic duplication of facilities by two or more providers; and it gives commercial customers a second-class level of protection from monopoly or oligopoly pric-

ing practices. Furthermore, it is possible to exempt a certified gas distribution utility from economic regulation under the existing statute; this option is preferable in that it allows the Commission to evaluate on a case-by-case basis whether such an exemption is in the public interest.

If, however, this bill is endorsed by the Legislature as good public policy, the Commission suggests that the reference to "subscriber petitions" be modified for clarification and for conformance with other exemptions in AS 42.05.711. Thus, the exemption would state "unless 25 percent of the subscribers petition the commission for regulation under procedure described in AS 42.05.712."

CHAPTER 52.  
OPERATION OF PUBLIC UTILITIES

Article

1. Gas Utilities  
(3 AAC 52.010-3 AAC 52.080)
2. Allocation of Facilities and Services  
Between Competing Electric Utilities  
(3 AAC 52.110-3 AAC 52.150)
3. Telephone Utilities  
(3 AAC 52.200-3 AAC 52.340)
4. Electric Utilities  
(3 AAC 52.400-3 AAC 52.500)

procedures to enhance the public safety. (Eff. 2/21/69, Reg. 30; am 1/13/73, Reg. 44)

Authority: AS 42.05.141 AS 42.05.691  
AS 42.05.151 AS 42.05.711  
AS 42.05.541

3 AAC 52.020. COMPLIANCE WITH  
MINIMUM FEDERAL SAFETY STANDARDS  
FOR GAS LINES. Each utility shall construct

ARTICLE 1.  
GAS UTILITIES

Section

10. Application
20. Compliance with Minimum Federal  
Safety Standards for Gas Lines
30. Records, reports and inspection for  
compliance
40. Pipeline locating service
50. (Repealed)
60. Record of nonscheduled interruptions
70. Accidents or incidents
80. Definitions

3 AAC 52.010. APPLICATION. (a) 3 AAC 52.010 - 3 AAC 52.080 of this chapter apply to all utilities either now or hereafter subject to the regulatory jurisdiction of the Alaska Public Utilities Commission.

(b) Upon acceptable showing by a utility, the commission may waive, as to that utility, the provisions of any regulation in 3 AAC 52.010 - 3 AAC 52.080 or any provision of the Minimum Federal Safety Standards for Gas Lines with approval of the Secretary of Transportation.

(c) No utility may deviate from the regulations in 3 AAC 52.010 - 3 AAC 52.080 or the standards cited in (b) of this section without the commission's prior written approval.

(d) If nonjurisdictional entities at their discretion elect to conform to 3 AAC 52.010 - 3 AAC 52.080, the commission will cooperate with them in maintaining records and developing

and maintain gas transmission and distribution facilities in accordance with the Minimum Federal Safety Standards for Gas Lines, as defined in 3 AAC 52.080(c). (Eff. 2/21/69, Reg. 30; am 1/13/73, Reg. 44)

Authority: AS 42.05.291

**3 AAC 52.030. RECORDS, REPORTS, AND INSPECTION FOR COMPLIANCE.** (a) Each utility shall establish and maintain records, make reports and provide information required by the commission to enable it to determine whether the utility has acted or is acting in compliance with the Natural Gas Pipeline Safety Act of 1968 and the standards adopted in 3 AAC 52.020. The records, reports and information shall be kept in accordance with AS 42.05.491.

(b) Each utility shall file with the commission a plan for inspection and maintenance of each pipeline facility owned or operated by the utility, and any changes in the plan. If the commission finds that the plan is inadequate to achieve safe operation, the commission shall, after notice and opportunity for a hearing, require the plan to be revised. (Eff. 2/21/69, Reg. 30; am 1/13/73, Reg. 44)

Authority: AS 42.05.141  
AS 42.05.461  
AS 42.05.501

**3 AAC 52.040. PIPELINE LOCATING SERVICE.** Each utility shall offer "line locating" service to any individual or utility requiring such service. The utility shall make a reasonable effort to assure that the availability of this service is made known throughout its area of operation. If a charge is made for this service, it shall be based on the cost to the utility of the personnel required to operate the equipment and shall not afford the utility any allowance for the utilization of equipment. (Eff. 2/21/69, Reg. 30; am 1/13/73, Reg. 44)

Authority: AS 42.05.291

**3 AAC 52.050. DISTRIBUTION PIPELINE MAINTENANCE.** Repealed 1/13/73.

**3 AAC 52.060. RECORD OF NON-SCHEDULED INTERRUPTIONS.** Each gas utility shall keep a record of each nonscheduled interruption to service, showing the location, date, time, duration and cause of each interruption. This record shall be retained by the utility

for three years and may be inspected by any person after meeting the requirement of AS 42.05.440. (Eff. 2/21/69, Reg. 30; am 1/13/73, Reg. 44)

Authority: AS 42.05.141

**3 AAC 52.070. ACCIDENTS OR INCIDENTS.** (a) Each utility shall cooperate with the commission to promote a reduction in hazard within the industry and to the public.

(b) Each utility shall report each accident immediately by the most expeditious means available, preferably by telephone or in person, to the commission at the commission's office in Anchorage, Alaska, or to a person designated by the commission. The notification shall include the location and time of the accident, a brief description of what occurred, and names of the individual(s) in charge of the repair operation and the individual(s) to be contacted by the commission for additional information.

(c) A written report of each accident shall be filed with the commission within 20 days after each accident. The report shall be made on the commission's "Gas Distribution Pipeline Accident or Incident Report" form or the United States Department of Transportation's Form DOT-F-7100.2 for transmission and gathering systems. If the accident investigation is not completed within the 20-day period, the utility shall file an additional written report with the commission upon the completion of the investigation and a written report of the progress of the investigation every 90 days until the investigation is complete. (Eff. 2/21/69, Reg. 30; am 1/13/73, Reg. 44)

Authority: AS 42.05.141  
AS 42.05.291

**3 AAC 52.080. DEFINITIONS.** Unless the context indicates otherwise, in 3 AAC 52.010 - 3 AAC 52.070

(1) "accident" means an accident or incident occurring in the state involving escape of gas from gas gathering, transmission or distribution facilities resulting in personal injury requiring hospitalization, fatality, or property damage exceeding \$1,000;

(2) "commission" means the Alaska Public Utilities Commission;

(3) "Minimum Federal Safety Standards for Gas Lines" or "standards" means the Minimum Federal Safety Standards for Transportation of Natural Gas and other gas by pipeline, 49 C.F.R. Part 192 revised as of January 1, 1972. A copy of these standards may be obtained from or reviewed at the commission office located in Anchorage, Alaska; and

(4) "utility" means a public utility that owns, operates, manages or controls a plant or system of facilities used for the transmission or distribution of natural or manufactured gas or other inflammable gas, to the extent such system plant or facilities are included in the term "public utility" as defined by AS 42.05.701. (Eff. 2/21/69, Reg. 30; am 1/13/73, Reg. 44)

Authority: AS 42.05.141  
AS 42.05.291  
AS 42.05.701

## ARTICLE 2. ALLOCATION OF FACILITIES AND SERVICES BETWEEN COMPETING ELECTRIC UTILITIES

### Section

- 110. Purpose
- 120. Authority to construct facilities or serve customers
- 130. Hearing
- 140. Appeals
- 150. Definitions

3 AAC 52.110. PURPOSE. The purpose of 3 AAC 52.110 - 3 AAC 52.150 is to prevent duplication of electric facilities and services in those geographical areas of the state in which two or more electric utilities compete. (Eff. 8/11/76, Reg. 59; am 6/29/84, Reg. 90)

Authority: AS 42.05.141  
AS 42.05.151  
AS 42.05.221

3 AAC 52.120. AUTHORITY TO CONSTRUCT FACILITIES OR SERVE CUSTOMERS. (a) No electric utility operating in direct competition with one or more electric utilities within the same geographical area may construct or install electric facilities or provide a service connection for a customer located within a disputed service area without the approval of the commission.

(b) The commission will grant approval to provide a service connection for a customer located within a disputed area if

(1) the utility requesting approval receives the concurrence of the competing utility and submits to the commission a signed "Waiver of Objection" on a form provided by the commission; or

(2) a determination is made by the commission, after hearing, that one or the other of the utilities is the appropriate one to provide the service. (Eff. 8/11/76, Reg. 59)

Authority: AS 42.05.151(a)  
AS 42.05.221(d)

3 AAC 52.130. HEARING. (a) If an applicant utility is unable to obtain concurrence from a competing utility, the commission will appoint a member of its staff as an examiner to conduct a hearing.

(b) The staff examiner shall

(1) notice the hearing for a time convenient to all interested parties;

(2) hear all relevant evidence;

(3) record the testimony presented;

(4) within 24 hours after the close of the hearing, issue a decision as to which utility is the most appropriate one to serve the customers;

(5) stay the decision if, within 24 hours after the decision is announced, a party appeals the decision.

(c) The criteria to be weighed by the staff examiner in making a decision include

(1) the cost to the utility to provide the service connection;

(2) the cost to be assessed to the customer by the applicant utility;

(3) the proximity of the service connection point to each of the competing utilities' electric distribution facilities; and

4-87-70  
Dirig  
RECEIVED  
A.P.U.C.

1987 DEC 22 PM 12:21

**NORTH SLOPE BOROUGH**

Service Area #10  
Pouch 340044  
Prudhoe Bay, AK 99734  
Telephone: (907) 659-2645

December 16, 1987

T.S. Moninski II, Executive Director  
ALASKA PUBLIC UTILITIES COMMISSION  
420 L Street, Suite 100  
Anchorage, Alaska 99501-1987

SUBJECT: NOTICE OF UTILITIES APPLICATION BY NORGASCO, INC.

Dear Mr. Moninski:

The North Slope Borough's Service Area Ten is encouraged to see Norgasco, Inc. continue their development of a natural gas utility for Deadhorse. All businesses operating in Deadhorse and especially our solid waste disposal, sewage treatment and water treatment operations could benefit significantly if a dependable source of competitively priced natural gas were made available to us over the long term. We appreciate the opportunity to provide comments on the Norgasco, Incorporated application for exemption from APUC regulations regarding rates, quality of service, management practices, and customer complaints.

Since the North Slope Borough's Solid Waste Facility is a public owned operation, the Borough has an obligation to its residents to operate their Deadhorse solid waste facility in a cost effective manner which includes purchasing of natural gas from a utility which is required to follow the regulatory laws established to protect the public. There is a legitimate public interest concerning the rates, quality of service, management practices, and customer complaints associated with the operation of a natural gas utility in Deadhorse. For this reason the Borough feels that Norgasco, Incorporated should be subject to all appropriate regulations governing the certification and operation of a natural gas utility.

Our Service Area Ten Plant Engineer calculates that the prices of the natural gas quoted in the Notice will provide Service Area Ten with a 20% to 25% savings over the present fuel costs for our incinerator and boilers. Since the Application suggests the rates would not be controlled by the APUC, the NSB may have little control over future rate increases. A 10% rate increase each year for two years would eliminate any cost benefit of natural gas assuming a stable price for heating oil.

December 16, 1987

Page 2

The quantity and quality of the gas provided to us can have some significant effects on our operation. If the distribution system is under designed or if the quality of gas varies significantly we may experience problems of inadequate delivery. Normal operation of our incinerator requires us to be able to immediately add heat in a specified quantity when needed. Failure to do so could result in Service Area Ten violating the Air Quality Regulations established by the State of Alaska, Department of Environmental Conservation resulting in a fine being assessed on Service Area Ten. If Norgasco was exempt from regulation by the APUC, SA #10 would have little recourse if Norgasco's service did not meet our requirements.

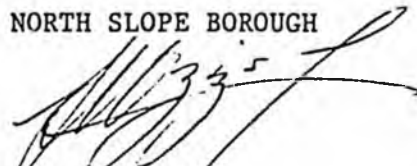
Norgasco is requesting that the APUC keep confidential for five years technical documents and other pertinent information about their design, construction and maintenance of their project. Such a request could affect SA #10's planning efforts for future energy usages and costs.

Documents relating to the gas contract with ARCO and tariffs should be made public so that the stability of the utility and its pricing structure can be evaluated. These items can directly affect our decision to become a consumer.

The North Slope Borough requests that we be kept informed on the progress of this application and the Norgasco, Incorporated project. We feel a natural gas utility will greatly enhance the Deadhorse area and all the businesses operating there.

Sincerely,

NORTH SLOPE BOROUGH

  
John E. Davis  
Manager, Service Area Ten

JED/JET/el

cc: Norgasco, Incorporated  
Dennis Roper, Coord., Ind. Dev.  
Files

POLESTAR ENERGY, INC.  
1406 Zarvis Place  
Anchorage, Alaska 99508  
(907) 272-9009

April 26, 1988

FAX TO: (907) 586-9548

Labor and Commerce Committee

Re: S.B. 357

Attn: Dave Donnelly, Chairman

Polestar Energy Incorporated, an Alaskan corporation, 1406 Zarvis Place, Anchorage, Alaska 99508, Phone (907) 272-9009, has an opposing application before the APUC, April 1, 1988. Docket #U-88-20 to supply the Deadhorse area with natural gas.

Polestar's efforts to supply the North Slope Borough communities with cheaper energy date from 1983 resulting in a contract to purchase gas from Standard Alaska Production Company dated February 23, 1988.

Polestar has all the APUC requirements including financing in place, can supply gas to the consumer at a lesser rate than its opposition and is ready, willing and able to construct the distribution system and deliver gas to consumers this season.

Title 42, Public Utilities and Carriers, Chapter 05-711(d) of the Alaska Statutes states "(d) The commission on finding that no legitimate public interest will be served, may exempt a utility from all or any portion of this chapter." Senate Bill 357 is therefore redundant in its intent to exempt as the commission has that power and are best able through their professional advisory staff to serve the best interest of the public.

Respectfully yours,

DJM/D

D. J. Moore, President


Please deliver copies to: Jan Faiks  
Johnny Ellis  
Milo Kapoyen  
Red Boucher  
Cliff Davidson  
Curt Menard  
Walt Furnace  
Ben Grussendorf

cc: Commission (APUC)

MEMORANDUM

To: Hon. Dave Donley  
Representative  
Alaska Legislature

Date: April 29, 1988

From:  Ted Moninski  
Executive Director  
APUC

Subject: SSSB357

At yesterday's House Labor and Commerce Committee meeting considering the above referenced bill, Rep. Boucher asked a series of questions regarding the progress of the pending application of Norgasco, Inc., to provide gas distribution utility service to Deadhorse, Alaska. In response to Rep. Boucher and for the information of the Committee, attached is brief chronology of events associated with the Norgasco application, APUC Docket U-87-70.

The Commission had originally scheduled a public hearing to consider this, and the competing application of Polestar Energy, Inc., beginning June 9, 1988. As you will note from the chronology, Norgasco submitted a request for a sixty day extension of time. As a preliminary response, the Commission has granted a two week extension while it considers Norgasco's request and any opposition that may be submitted. The exact "new" hearing date will be determined after Commission review of all parties' pleadings.

If I can respond to any other questions relating to this matter, please contact me.

U-87-70

In the Matter of the Filing of an Application by NORGASCO, INC., for a Certificate of Public Convenience and Necessity To Operate as a Natural Gas Public Utility in and Around the Prudhoe Bay/Deadhorse Area

9/4/87 Recd Apln & PETITION FOR PROPRIETARY AND PRIVILEGED STATUS (fee paid 9/4/87)

9/28/87 ORDER NO. 1 - ORDER EXTENDING PERIODS FOR (126-234) CONSIDERATION OF PETITION FOR PROPRIETARY STATUS AND FOR INTERIM PROPRIETARY TREATMENT OF APPLICATION

10/5/87 Ltr frm R. R. Latchem, Norgasco, ENCL: cy of ltr dtd 5/11/87 to Commission

10/14/87 By Direction Ltr to R. Latchem, Norgasco, RE: Comm Order for add'l information to complete review of apln

10/26/87 Ltr frm R. Latchem, Norgasco, RE: response to Comm by direction ltr order of 10/14/87 for additional information

11/12/87 Ltr frm R. R. Latchem, Norgasco, ENCL: PETITION TO GRANT AN EXTENSION OF TIME FOR THE FILING OF INFORMATION ORDERED BY THE COMMISSION (until 1/15/88, 63 day extension)

11/16/87 Memo frm Commission Staff stating Staff's non-opposition to Norgasco's request for an extension of time to file information ordered by the Commission, until 1/15/88

11/19/87 NOTICE OF UTILITIES APPLICATION (comment period ends 12/20/87) Notice of competing applications ends 12/20/87, competing application's due 2/20/88

11/25/87 ORDER NO. 2 - ORDER GRANTING EXTENSION (128-83) OF TIME

11/30/87 Recd proof of publication frm The Anchorage Times

12/17/87 Ltr frm D. J. Moore, D. J. Moore Corp., RE: opposes Norgasco's apln, requests permission to review apln & notice of intent to file a competing apln

12/18/87 Ltr frm T. F. Klinkner, Wohlforth, Flint & Gruening, Attys f/ North Slope Gas Co-op., Inc., RE: intent to file a competing apln

12/22/87 Ltr frm J. E. Davis, North Slope Borough, RE: comments

1/11/88 PETITION FOR AN EXTENSION OF TIME IN WHICH TO FILE INFORMATION ORDERED BY THE COMMISSION by R. Latchem, Norgasco

1/11/88 Ltr frm R. Latchem providing proposed service rates

1/20/88 ORDER NO. 3 - ORDER GRANTING EXTENSION OF (129-294)  
TIME IN WHICH TO FILE INFORMATION REQUIRED  
BY THE COMMISSION'S 10/14/87 LETTER ORDER

2/4/88 Ltr to T. F. Klinkner, Atty f/ North Slope Gas & AUI,  
ENCL: Senate Bill No. 357

2/12/88 Ltr frm D. J. Moore, Richards Petroleum Resources Ltd,  
requesting a 90 day extension of requirement to file competing  
apl

2/22/88 Ltr frm R. Latchem, Norgasco, RE: objection to request  
by D. J. Moore for an extension of time

2/22/88 Ltr frm R. Latchem, NORGASCO, RE: response to Staff  
request for add'l info, ENCL: financial information, funding  
sources

2/22/88 ORDER NO. 4 - ORDER STAYING COMPETING (130-147)  
APPLICATION DEADLINE TO ALLOW OPPORTUNITY  
FOR RESPONSE TO EXTENSION REQUEST

3/4/88 OPPOSITION TO MOORE'S REQUEST FOR EXTENSION OF TIME IN  
WHICH TO FILE AN APPLICATION by B. R. Edwards, Atty f/ Norgasco

3/4/88 STAFF'S OPPOSITION TO MOORE'S REQUEST FOR EXTENSION OF  
TIME by T. S. Moninski, APUC Staff

3/4/88 Ltr frm P. Argetsinger, Wohlforth, Flint & Gruening,  
Attys f/ Arctic Utilities, Inc., RE: AUI will not file a  
competing apl

3/11/88 ORDER NO. 5 - ORDER DENYING EXTENSION (130-284)  
REQUEST; ESTABLISHING NEW DEADLINE FOR  
FILING COMPETING APPLICATION; AND  
ESTABLISHING FILING AND HEARING SCHEDULES

4/6/88 PETITION TO INTERVENE OF ARCTIC UTILITIES, INC., by  
T.F. Klinkner, Wohlforth, Flint & Gruening, Attys f/ AUI

4/7/88 STAFF COMMENTS ON REQUEST FOR PROPRIETARY STATUS by  
W.E. Marshall, APUC Staff

4/7/88 ARCTIC UTILITIES, INC. OPPOSITION TO REQUEST FOR  
PROPRIETARY STATUS by T.F. Klinkner, Wohlforth, Flint & Gruening,  
Attys f/ AUI

4/12/88 AMENDMENT TO PETITION TO INTERVENE OF ARCTIC UTILITIES,  
INC., AND MOTION FOR EXTENSION OF TIME TO FILE PREFILED TESTIMONY  
by T. F. Klinkner, Wohlforth, Flint & Gruening, Attys f/ AUI

4/19/88 OPPOSITION TO PETITION TO INTERVENE by B.R. Edwards,  
Atty f/Norgasco

4/20/88 PETITION FOR EXPEDITED TREATMENT; PETITION FOR  
CONTINUANCE by B.R. Edwards, Atty f/ Norgasco

4/26/88 MOTION TO STRIKE by M.G. Briggs, Guess & Rudd, Attys  
f/Polestar

4/26/88 OPPOSITION TO PETITION FOR CONTINUANCE by M. Briggs,  
Guess & Rudd Attys/ f/Polestar

4/26/88 ORDER NO. 6 - ORDER AFFIRMING ORAL EXTENSION (132-95)  
OF FILING AND HEARING SCHEDULES AND SETTING  
OF FILING DEADLINE

4/27/88 WAIVER OF PROPRIETARY STATUS AND OPPOSITION TO MOTION  
TO STRIKE by B.R. Edwards, Atty f/ Norgasco

4/28/88 REPLY TO OPPOSITION TO PETITION FOR CONTINUANCE by B.R.  
Edwards, Atty f/Norgasco

# 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

4-29-88

4:50 p.m.

HL+C

4-28-88

3:00 p.m.



Official Business

**COMMITTEE:**

HOUSE LABOR & COMMERCE

**DATE:** April 28, 1988

**SIGN-IN**

**Subject of meeting:**

- SB 357 APUC regulation of small utilities
- SB 414 Foreign trade zones
- SB 438 Common interest community managers
- SB 392 Purchase of loans by AIDEA
- SB 471 Business loan guarantee/refinance program
- HB 544 Aircraft inspection program

PLEASE PRINT  
**NAME & TITLE**

**REPRESENTING**

**ADDRESS & ZIP**

**PHONE**

**DO YOU WANT  
TO TESTIFY?**

**SUBJECT:  
BILL #**

NAME & TITLE	REPRESENTING	ADDRESS & ZIP	PHONE	DO YOU WANT TO TESTIFY?	SUBJECT: BILL #
Ray Latchew	Norgasco	8740 Hartzell Anch AK 99507	H 344-8439 W 344-6742	yes	SSSB 357
Bill CULINANE	DOWNTOWN BUSINESS ASSOC JUNEAU ECON DEV. COUNCIL	455 S. FRANKLIN JUNEAU, AK 99801	H 586-2050 W 586-3800	yes	SB 471
BOB MARTIN	JUNEAU CHAMBER OF COMMERCE	Juneau AK	H W 586-1512	Yes	SB 471
Susan Knowles	A.P.U.C.	420 L St, #100 Anch 99501	H W 276-6222	yes	SSSB 357
Theresa Maser	Sen. Rick Halford	Capital 516	H W 465-4958	yes	SB 471
			H W	NO	
ANCHORAGE CIO Jan Sieberts	Not Home as yet		H W	Yes	SB 471
Mike Freeman	Michas Mufflers		H W	Yes	SB 471
John Williams Dep Comm	<del>XXXXXX</del> DCED		H W	Yes	SB 471
Tom Dow D.J. Moore	VA VA Kalestar		H W	Yes	SB 357



S B

3 6 8

# HOUSE COMMITTEE REPORT

(7)

Date referred: 5/2/88

FURTHER REFERRALS: Judiciary

DATE: 5/8/88

The Labor & Commerce Committee has considered CSSB 368 (L&C)

"An Act relating to simplified regulation by the Alaska Public Utilities Commission of certain public utilities; 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:**  Senate letter of intent

**ATTACHES NEW FISCAL NOTE(s):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note
- zero with analysis  same as previous zero fiscal note published 4/7/88

**SIGNING DO PASS:**

**SIGNING OTHER RECOMMENDATIONS:**

Bill Kopana  
Ed. G. Pugh  
David Douley  
J. J. Elliot

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

David Douley  
Chairman's signature

Senator John B. (Jack) Coghill  
Alaska State Legislature

Box V  
Juneau, Alaska 99811  
(907) 464-4797

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



M E M O R A N D U M

To: Members of the Senate Resources Committee  
From: Senator John B. Coghill  
Re: SB 368, simplified regulation of small utilities  
Date: April 13, 1988

For years I have felt that the Alaska Public Utilities Commission has overregulated small utilities and as a result has caused undue expense for these utilities. This is why in 1987 I sponsored SB 22, which exempted small utilities from regulation.

SB 368 will achieve much of what I have tried to accomplish. This bill mandates that the APUC set up a streamlined system of regulation for utilities that gross less than \$1,000,000. A system such as this is already in place for cooperatives. According to the Alaska Rural Electric Cooperative Association, cooperatives are satisfied with the APUC regulations.

Also the APUC supports this approach.

ALASKA STATE SENATE



SENATOR TIM KELLY  
ANCHORAGE/EAGLE RIVER  
CHAIRMAN

SENATOR DICK ELIASON  
SITKA  
VICE CHAIRMAN

LABOR AND COMMERCE COMMITTEE

MEMBERS  
SENATOR BETTYE FAHRENKAMP  
FAIRBANKS

SENATOR RICK UEHLING  
ANCHORAGE

SENATOR MIKE SZYMANSKI  
ANCHORAGE

SB 368 (L&C) Letter of Intent

It is the intent of the Legislature that the exemptions currently existing in this chapter are not eliminated by the simplified rate filing procedure established in this bill.

A handwritten signature in cursive script that reads "Tim Kelly".

TIM KELLY, Chairman

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Commerce & Econ. Development  
 Title: Standards for construing regulatory powers of the APUC and public utility exemptions  
 Sponsor: Coghill Components: Operations  
 Requestor: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
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)

While enactment of this bill will streamline procedures to the benefit of small utilities, it is not expected to reduce APUC Staff resource requirements necessary to process the new "simplified rate filing".

Prepared by: T.S. Moninski, II Executive Director Phone: 276-6222  
 Division: Alaska Public Utilities Commission Date: 4/6/88

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
 Agency: Commerce & Economic Development

Distribution (by preparer):

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

Alaska Public Utilities Commission  
Comments on CS for SB368 (Work Draft)

April 4, 1988

Section 1:

The Commission has previously raised questions about the desirability of this statutory change and indicated that the existing language is preferable to the proposed language for a number of reasons. Specifically, it is neither practical nor possible to identify every duty or delegation of authority to the Commission in AS 42.05. Therefore, the statute must be sufficiently flexible to allow the Commission to apply legislative policies to specific situations in a manner which ultimately benefits both utilities and consumers. However, by implicitly reducing the Commission's discretion, the language change limits that flexibility, creates judicial confusion regarding the scope of the Commission's authority, and does not directly address areas where existing regulation may have been inconsistent with legislative intent.

Section 2:

The Commission supports the proposal set forth in this section to establish simplified filing procedures for small utilities and proposes that the language be expanded to include all utilities that gross \$1,000,000 or less annually (rather than just telephone and electric utilities of this size). A list of the utilities which would be impacted by this legislation, as proposed or as expanded, is appended to these comments.

The Commission has long recognized that the complexities of the regulatory process present unique challenges both for the small, unsophisticated utilities in the State and for regulators. For this reason, it has informally encouraged extensive Staff assistance in rate filings for these utilities in the past. This legislation presents an opportunity to institutionalize alternatives to current ratemaking procedures which will reduce the cost and complexity of regulation while preserving a level of consumer protection which would not be present with exemption from economic regulation.

LIST OF ELECTRIC AND TELEPHONE UTILITIES WITH GROSS ANNUAL  
REVENUES OF \$1,000,000 OR LESS

<u>Electric Utility</u>	<u>Gross Annual Revenues</u>
Andreanof Electric Corporation	93,378
Aniak Light and Power Company, Inc.	\$594,764
Bettles Light & Power, Inc.	402,472
Far North Utilities	80,248
G & K, Inc.	727,206
Gwitchyaa Zhee Utility Company	681,783
I-N-N Electric Coop- erative, Inc.	694,254
Levelock Electric Cooperative, Inc.	146,234
Manley Utility Company, Inc.	80,338
McGrath Light & Power Company	983,718
Middle Kuskokwim Electric Cooperative, Inc.	324,701
Napakiaak Ircinaq Power Company	206,829
Northway Power & Light, Inc.	372,237
*Pelican Utility Company	
*Sand Point Electric, Inc.	
Tanana Power Company, Inc.	626,895
Teller Power Company	303,036
Yakutat Power, Inc.	680,413

<u>Telephone Utility</u>	<u>Gross Annual Revenues</u>
Yukon Telephone Company, Inc.	660,193

\*Gross Annual Revenues not reported but believed to be less than \$1,000,000.



STATE OF ALASKA  
THE LEGISLATURE

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JUNEAU, ALASKA 99811  
907-465-3800

May, 1988

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Mary Van Nimwegen

HL+C

5-8-88

2:00 p.m.

S B

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# HOUSE COMMITTEE REPORT

(7)

Date referred: 5/4/88

FURTHER REFERRALS:

DATE: 5/5/88

The Labor & Commerce Committee has considered CSSB 391(Jud)am

"An Act relating to the sale of wine by wineries and breweries and to the provision of wine samples by wineries."

**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 4/14/88
- zero with analysis

**SIGNING DO PASS:**

Dave Douley

Cliff Davidson

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**SIGNING OTHER RECOMMENDATIONS:**

W. J. ... no rec

Cliff Davidson no rec

Cliff Davidson no rec

J. Ellis (no rec)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Dave Douley

Chairman's signature

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

Bill Version: CSSB 391 (Jud)  
Publish Date: 4/14/88 SENATE

REQUEST: \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: An Act relating to the sale of wine by wineries. of Agency Affected: Revenue  
Sponsor: \_\_\_\_\_ BRU: \_\_\_\_\_  
Requestor: \_\_\_\_\_ Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES							
TRAVEL							
CONTRACTUAL							
SUPPLIES							
EQUIPMENT							
LAND & STRUCTURES							
GRANTS, CLAIMS							
MISCELLANEOUS							
TOTAL OPERATING			0	0	0	0	0
CAPITAL			0	0	0	0	0
REVENUE			0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: \_\_\_\_\_ Phone: 465-3717  
Division: Senate Judiciary Committee Date: 4/14/88

Approved by ~~Commissioner~~: Senator Jay Kerttula Date: \_\_\_\_\_  
Agency: J. Kerttula

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

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

**REQUEST:** \_\_\_\_\_

Bill Version : SB391  
Publish Date : 3/7/88

Revision Date: \_\_\_\_\_

Agency Affected: Revenue

Title: An Act relating to the sale of wine by wineries.

BRU: \_\_\_\_\_

Sponsor: Sen. Rodey

Components: \_\_\_\_\_

Requestor: \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES							
TRAVEL							
CONTRACTUAL							
SUPPLIES							
EQUIPMENT							
LAND & STRUCTURES							
GRANTS, CLAIMS							
MISCELLANEOUS							
<b>TOTAL OPERATING</b>			0	0	0	0	0
<b>CAPITAL</b>			0	0	0	0	0
<b>REVENUE</b>			0	0	0	0	0

**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

Prepared by: J. A. [Signature] Phone: \_\_\_\_\_  
Division: SSA LABOR & Unemployment Committee Date: 3/7/88

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
Agency: \_\_\_\_\_

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

Patrick M. Rodey  
Senator

# Alaska State Legislature

3111 C. St., Suite 510  
Anchorage, Alaska 99503  
(907) 561-7618



## Senate

During Session:  
P.O. Box V  
Juneau, Alaska 99811  
(907) 465-3793

DATE: May 4, 1988

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

FROM: Senator Patrick M. Rodey

RE : Scheduling of CSSB 391 (Jud) am - An Act relating to the sale of wine by wineries and breweries and to the provision of wine samples by wineries.

I would appreciate your assistance in getting this bill scheduled for consideration as quickly as possible. I am hopeful we will be successful in getting it to the House floor before we adjourn.

The following sectional analysis will help bring you up-to-date on the current version of the bill:

Section 1 - permits the holder of a brewery license to sell their product in quantities of less than 5 gallons to individuals who are present on the licensed premises. It also expands current law to allow the holder of the license to sell in another state or country.

As you know, current law prohibits selling in quantities of less than 5 gallons and permits selling of the product only to other individuals licensed under Title 4. We did not address breweries in the original SB 391. However, I have since learned of efforts underway to open a brewery late this summer in the port area of Anchorage and was contacted by the owners who wish to have the existing statutory restriction removed.

Section 2 - permits the holder of winery license the same opportunity as set forth in Sec. 1.

This section was essentially the original version of SB 391. The only change was adding the authority for the holder of a winery license to sell the product in another state or country. As noted above, this is also extended to the brewery.

Section 3 - permits the holder of a winery license to offer off-premises sampling, which is currently allowed to a holder of a brewery license.

In view of the efforts underway to open a winery this fall in the Sperard area, in addition to the plans to open a brewery in the port area of Anchorage, this is a timely proposal. By expanding the marketing techniques for these businesses, we will broaden tourism interests in our district. As mentioned before, the winery plans to specialize in the production of Alaska grown berry and fruit wines so this bill will also be a positive step toward promoting Alaskan grown produce.

There is no fiscal impact on the state.

# STATE OF ALASKA THE LEGISLATURE

POUCHY - 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            5-5-88            3:00 p.m.

HL+C            5-6-88            4:30 p.m.





Official Business

**COMMITTEE:**

HOUSE LABOR & COMMERCE

**DATE:** May 5, 1988

**SIGN-IN**

**Subject of meeting:**

- SB 471 "An Act establishing a program in the AIDEA to guarantee business loans, and limiting the Authority's ability to issue bonds; and providing for an effective date."
- SB 498 "An Act relating to certain plumbing installations and repairs; and providing for an effective date."
- SB 391 "An Act relating to the sale of wine by wineries and breweries and to the provision of wine samples by wineries."

PLEASE PRINT  
**NAME & TITLE**

**REPRESENTING**

**ADDRESS & ZIP**

**PHONE**

**DO YOU WANT TO TESTIFY?**

**SUBJECT: BILL #**

NAME & TITLE	REPRESENTING	ADDRESS & ZIP	PHONE	DO YOU WANT TO TESTIFY?	SUBJECT: BILL #
Amy Kyle Deputy Commissioner	Dept. of Environmental Conservation	PO Box 0 Juneau 99811	H W 465-2600	yes	SB 498
ROBERT M. ERICKSON Deputy Commissioner	Dept. of Labor	P.O. Box 1149 Juneau, AK 99802	H W 465-2700	Yes	SB 498
✓ Amy Smith	DEED	State Office Bldg	H W 465-2300	Yes	SB 471
✓ Frank Cox	Small Business Administration		H W	Yes	SB 471
			H W		
			H W		
			H W		
			H W		
			H W		
			H W		





S B

3 9 2

# HOUSE COMMITTEE REPORT

(7)

Date referred: 3/2/88

FURTHER REFERRALS: Judiciary

DATE: 5/6/88

The Labor & Commerce Committee has considered CSSB 392(R1s)

"An Act relating to the Alaska Industrial Development and Export Authority; 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 \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published 2/29/88
- zero with analysis

**SIGNING DO PASS:**

\_\_\_\_\_  
*David Dewley*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**SIGNING OTHER RECOMMENDATIONS:**

*[Signature]*  
*[Signature]*  
*J. L. Ellis (no rec)*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

*David Dewley*  
 \_\_\_\_\_  
 Chairman's signature

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: AIDEA  
 Title: An Act relating to the AIDEA BRU: Same as above  
 Sponsor: Halford, Faiks, Kelly, et al. Components: Same as above  
 Requester: Senate Rules

EXPENDITURES / REVENUES : (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
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-
---------	-----	-----	-----	-----	-----	-----

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

Passage of this legislation will have no fiscal impact upon the Authority's budget.

Prepared by: Bertram L. Wagon, Executive Director Phone: 274-1651  
 Division: AK Industrial Dev. and Export Authority (AIDEA) Date: February 26, 1988

Approved by Commissioner: J. Anthony Smith *Kathy Newell* Date: 2/25/88  
 Agency: Department of Commerce and Economic Development

Distribution (by preparer):

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



# Senator Rick Halford

Senate District 1  
Chugiak, Eagle River, East Anchorage, Fort Richardson

Senate Finance Committee  
Co-Chairman

March 31, 1988

RECEIVED  
APR 1 1 1987

MEMORANDUM

TO: Representative Dave Donley, Chairman  
House Labor and Commerce Committee

FROM: Senator Rick Halford, Co-Chairman  
Senate Finance Committee *Rick Halford*

SUBJECT: SB 392 - Repealing AIDEA's 2% Delinquency Rule

Senate Bill 392 is currently pending before your committee and I would appreciate a hearing on it at the committee's earliest convenience. The bill repeals the law that prohibits the Alaska Industrial Development and Export Authority from purchasing loans from a financial institution when more than two percent of the total outstanding balance of the loans which the Authority has purchased from the institution are delinquent for 90 days or more.

The bill replaces this requirement with a section instructing the authority to adopt regulations describing the circumstances under which it will discontinue purchasing loans from a financial institution because of excessive delinquencies. As a result, the 2% requirement will no longer be the rule and instead AIDEA will have the flexibility necessary to continue to do business with financial institutions in Alaska.

There are sixteen banks which currently have servicing agreements with the Authority. As of January 31, 1988 only three of those sixteen are eligible to do business with the Authority because of the 2% delinquency rule.

Should you need additional information, please contact Theresa Maser of my staff at 465-4958.

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

5-6-88

4:30 p.m.

S B

f f

# HOUSE COMMITTEE REPORT

(7)

Date referred: 4/13/88

FURTHER REFERRALS: State Affairs

DATE: 5/6/88

The Labor & Commerce Committee has considered SB 414

"An Act relating to foreign trade zones; 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 \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published 2/1/88
- zero with analysis

**SIGNING DO PASS:**

*W. K. ...*  
*...*  
*...*  
*Cliff Davidson*

**SIGNING OTHER RECOMMENDATIONS:**

*Whinnace*  
*...*  
*...*  
*...*  
*...*

*...*  
 Chairman's signature



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 11, 1988

The Honorable Jan Faiks  
President of the Senate  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Dear Senator Faiks:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to foreign trade zones. The bill repeals and reenacts AS 45.77.010 to make it more comprehensive and to remove certain ambiguities. The changes are intended to encourage establishment of foreign trade zones by clarifying the authority to apply for foreign trade zone privileges and to operate the zones.

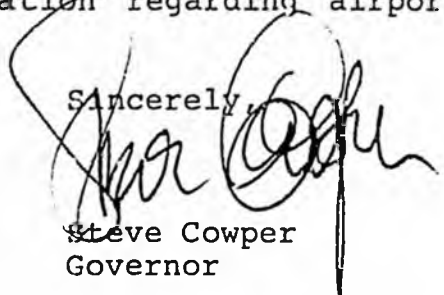
The bill improves on the existing statute by making clear (1) that public corporations may jointly apply for establishment of a foreign trade zone; (2) that both public and private corporations may apply for foreign trade zone privileges; and (3) if the application is approved, that they may operate the zone. For a private corporation, the present statute's requirement of approval from the commissioner of commerce and economic development is retained. Either a public or private applicant may operate the foreign trade zone by contracting with a private operator.

"Public corporation" is defined to include the state, a political subdivision of the state, and a board, commission, or other instrumentality of either, or any combination of these entities. For example, the bill would allow the state to work with a municipality, or several municipalities or their agencies, to apply together for the privilege of establishing or operating a foreign trade zone. The concept of defining "public corporation" to include the state itself is somewhat unusual, but it directly parallels federal law (19 U.S.C. 81a(e)).

Several other states, including Rhode Island, North Carolina, Maryland, and Tennessee, have a similar statute. This bill goes beyond their versions, however, by making clear the authority of various public entities to cooperate.

Several existing provisions of law provide authority for the state to cooperate with local entities. The Alaska Constitution, art. X, sec. 13, allows the state to agree with local governments for joint or cooperative administration of any functions. And AS 02.15.080 and 02.15.130 provide specifically for such cooperation regarding airport administration.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", written over the word "Sincerely,". The signature is stylized and somewhat cursive.

Steve Cowper  
Governor

STATE OF ALASKA 1988 LEGISLATIVE SESSION  
FISCAL NOTE

Bill Version: SB 414  
Publish Date: \_\_\_\_\_

REQUEST \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: Relating to Foreign Trade Zone

Agency Affected: DOT&PF  
BRU: \_\_\_\_\_

Sponsor: Rules Committee  
Requestor: Governor

Components: \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
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
REVENUE						

**FUNDING: (Thousands of Dollars)**

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

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** There is no fiscal impact to the Department of Transportation and Public Facilities

Prepared by: Robert G. Poe, Jr., Deputy Commissioner <sup>RGP</sup> Phone: 465-3900  
Division: \_\_\_\_\_ Date: 2/1/88

Approved by Commissioner: Mark S. Hickey <sup>M&H</sup> Date: 2/1/88  
Agency: DOT&PF

**Distribution (by preparer):**

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

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STEVE COWPER, GOVERNOR

REPLY TO:

1031 W 4th AVENUE  
SUITE 200  
ANCHORAGE, ALASKA 99501-1994  
PHONE: (907) 276-3550

1st NATIONAL CENTER  
100 CUSHMAN ST.  
SUITE 400  
FAIRBANKS, ALASKA 99701-4679

March 3, 1988

The Honorable Mitch Abood, Chair  
Alaska State Senate  
State Affairs Committee  
Alaska State Legislature  
P.O. Box V  
Juneau, Alaska 99811

RECEIVED

MAR 03 1988

DOT/PP  
COMMISSIONER'S OFFICE

P.O. BOX K—STATE CAPITOL  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-3600

Re: SB 414 (Foreign Trade Zones)

Dear Senator Abood:

The senate schedule shows that this bill will be taken up in your committee on Friday, March 4, 1988. Perhaps some comments in addition to the governor's February 11, 1988 transmittal letter (1988 Senate Journal page 2227) would be helpful.

Federal law (19 U.S.C §81a -- 81u) provides for the establishment of foreign trade zones. (See, in particular, 19 U.S.C. 81b(d), dealing with joint state/municipal facilities, and requiring state legislation.) Alaska's law on the subject, AS 45.77.010, is a sparse provision that contains several defects. Senate Bill 414 improves the current law in at least the following four ways:

1. The current law does not provide for a joint application by, for example, the state and a municipality. The bill remedies that by defining "public corporation" to include a combination of the state or its agencies and a political subdivision of the state or the political subdivision's agencies. See proposed AS 44.77.020(3), in sec. 2 of the bill.
2. The current law does not define terms such as "corporation," "state," or "municipality" to make clear whether subdivisions or agencies are authorized to apply for foreign trade zone privileges. The bill provides helpful definitions of the relevant terms, making clear what entities may apply. See proposed AS 45.77.020, in sec. 2 of the bill.

The Honorable Mitch Abood, Chair  
Alaska State Senate

March 3, 1988  
Page 2

3. In the current law, AS 45.77.010(1) and (3) are contradictory. The qualifications of a corporation which paragraph 1 leads you to expect in paragraph 3 are missing. In addition, paragraph 1 specifies that the commissioner of commerce and economic development applies on behalf of a corporation, but paragraph 3 provides that the corporation's officers do the applying ("through the commissioner"). The bill remedies these problems. See proposed AS 45.77.010(a) and (b), in sec. 1 of the bill.
4. The current law implies that the successful applicant is to be the entity that will "establish, operate, and maintain" the foreign trade zone, without indicating that operations may be handled by contract with a professional operator. The bill remedies this oversight. See proposed AS 45.77.010(c), in sec. 1 of the bill.

I hope that you and your committee will find this helpful, and I will leave to representatives of the Department of Transportation and Public Facilities a description of the benefits to be derived from establishing foreign trade zones in Alaska.

Thank you for this opportunity to comment.

Yours truly,

GRACE BERG SCHAIBLE  
ATTORNEY GENERAL

By: 

Arthur H. Peterson  
Assistant Attorney General

AHP/lg

cc: ✓ Robert Poe, Deputy Commissioner  
Department of Transportation and  
Public Facilities

Bob Evans, Legislative Liaison  
Office of the Governor

S B

4 3 8





# Alaska State Legislature

SENATE

*Office of the President*

P.O. Box V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-3755

## MEMORANDUM

April 14, 1988

TO: Representative Dave Donley, Chairman  
House Labor and Commerce Committee

FROM: Senator Jan Faiks  
President of the Senate

SUBJECT: CSSB 438 (Fin) "An Act relating to common interest  
community managers."

CSSB 438 (Fin) has been referred to the Labor and Commerce Committee for consideration. This bill adds a new chapter to Title 8 of the Alaska Statutes, requiring the licensing of common interest community managers.

Common interest communities are regulated in AS 34.07 (horizontal property regimes) and 34.08 (common interest communities). These communities include properties in which the owners of individual units in a building or other real property jointly own the common areas. The most common example is the condominium.

Common interest communities frequently employ a professional manager to handle the affairs of the community association, and various businesses bid to obtain these contracts. As you know, AS 34.07 and 34.08 are complex, and impose many legal requirements on the operation of common interest communities. Unfortunately, at the present time only a small percentage of persons working as professional managers are really qualified to do so.

Moreover, managers frequently have sole-signature authority over the reserve accounts of community associations. In Alaska, these accounts can total several hundred thousand dollars. There have already been cases of managers embezzling significant sums from local community associations.

To make certain that those who act as professional managers possess the minimum necessary level of knowledge, and to ensure that certain standards of integrity are maintained, I believe that the professional managers of community associations should be licensed by the state. CSSB 438 (Fin) accomplishes these goals.

Following are some commonly asked questions about this legislation, and the answers to them:

1. What does a common interest community manager do?

The manager is responsible for the day-to-day operation of the association. This includes collecting dues, dealing with mortgagors, arranging for maintenance and repair on the common areas, perfecting liens, and keeping the books.

2. Is an independent board created to regulate managers?

No, the Department of Commerce and Economic Development is given this authority.

3. Do all persons who manage community associations have to be licensed?

No, only persons who contract with community associations to act as professional managers. Smaller associations which are managed in-house by officers or board members of the association are unaffected by this bill, since those persons are exempted from licensure.

4. How many people does this bill effect?

At the present time, it is estimated that approximately 50 persons are acting as the professional managers of community associations in Alaska.

5. Are persons currently acting as managers required to take classes in the law of common interest communities before receiving their initial license?

No. Since no classes are yet approved by the department, it is impossible to require this. Education is only required for renewal of the the initial license. The department has the discretion, however, to require first-time licensees to take classes in the future, when this becomes practical.

Specifically, the bill makes the following changes and additions to current law:

Section 1        Makes AS 08.01, relating to centralized licensing, applicable to common interest community managers.

Section 2        Gives the Department of Commerce and Economic Development the authority to perform all necessary administrative duties with respect to the licensing of managers.

Section 3        Adds a new chapter to AS 08:

Sec. 08.15.010    (a) An individual, 18 years of age or older,

shall be licensed by the department on payment of a fee, on proof that the individual has not engaged in conduct that is grounds for imposing disciplinary sanctions under AS 08.15.040, and on meeting any additional requirements established by the department.

(b) An individual licensed under (a) may renew the license if the person takes 24 hours per year of approved classes in the law of common interest communities or in business or accounting.

Sec. 08.15.020 Exempts certain persons from licensing requirements, including (a) officers or employees of AHFC or of a bank or other financial institution; (b) an attorney licensed in the state; (c) an officer or member of the board of a common interest community who is managing that community; or (d) an employee of a common interest community other than the manager.

Sec. 08.15.030 Authorizes the department to set licensing fees.

Sec. 08.15.040 Specifies grounds for imposing disciplinary sanctions on a manager.

Sec. 08.15.050 Specifies the types of sanctions which may be imposed for committing an act under .040.

Sec. 08.15.060 Prohibits persons who are not licensed or exempted from licensure from managing a common interest community.

Sec. 08.15.070 Makes violations of 08.15.060 a class B misdemeanor.

Sec. 08.15.080 Authorizes the department to adopt regulations to implement this chapter.

Sec. 08.15.100 Defines "department" as the Department of Commerce and Economic Development.

Section 4 Makes a technical change to AS 34.03.490(b).

Please contact my office if you have any questions or comments.

Thank you.

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: "An Act relating to common interest community managers."  
Sponsor: Senator Faiks  
Requestor: Senate Finance Committee

Agency Affected: Dept of Commerce & Economic Development  
BRU: Occupational Licensing  
Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL		1.5	1.5	1.5	1.5	1.5
SUPPLIES		1.0	1.0	1.0	1.0	1.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		2.5	2.5	2.5	2.5	2.5

CAPITAL						
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REVENUE		5.0	.5	6.0	.5	7.0
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FUNDING: (Thousands of Dollars)

GENERAL FUND			2.0		2.0	
FEDERAL FUNDS						
OTHER Program Receipts		2.5	.5	2.5	.5	2.5
TOTAL		2.5	2.5	2.5	2.5	2.5

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary) This fiscal note is based on the assumption that 50 individuals will be licensed initially, with a growth rate of at least 5 new applicants each year. The revenues to be generated are assuming licensees will pay \$50 per year and renew on a biennial cycle. If expenditures are authorized by program receipts, program costs will be covered by the revenue generated.

Prepared by: *Rick Halford* Phone: 465-3753  
Division: Senator Rick Halford, Co-chairman Date: 4/7/88  
Senate Finance Committee

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
Agency: \_\_\_\_\_

Distribution (by preparer):  
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STATE OF ALASKA  
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY  
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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

4-28-88

3:00p.m.



Official Business

**COMMITTEE:**

HOUSE LABOR & COMMERCE

**DATE:** April 28, 1988

**SIGN-IN**

**Subject of meeting:**

- SB 357 APUC regulation of small utilities
- SB 414 Foreign trade zones
- SB 438 Common interest community managers
- SB 392 Purchase of loans by AIDEA
- SB 471 Business loan guarantee/refinance program
- HB 544 Aircraft inspection program

PLEASE PRINT  
**NAME & TITLE**

**REPRESENTING**

**ADDRESS & ZIP**

**PHONE**

**DO YOU WANT  
TO TESTIFY?**

**SUBJECT:  
BILL #**

NAME & TITLE	REPRESENTING	ADDRESS & ZIP	PHONE	DO YOU WANT TO TESTIFY?	SUBJECT: BILL #
Ray Latchew	Morgasco	8740 Hartwell Anch AK 99507	H 344-7439 W 344-6747	yes	SSSB357
Bill CULINANE	DOWNTOWN BUSINESS ASSOC JUNEAU ECON DEV. COUNCIL	455 S. FRANKLIN JUNEAU, AK 99801	H 586-2050 W 586-3800	YES	SB 471
BOB MARTIN	JUNEAU CHAMBER OF COMMERCE	Juneau AK	H W 586-1512	Yes	SB 471
Susan Knowles	A.P.U.C.	420 L St, #100 Anch 99501	H W 276-6222	yes	SSSB-357
Theresa Maser	Sen. Rick Halford	Capital 516	H W 465-4958	yes	SB 471
(Name illegible)	(Address illegible)	(Address illegible)	H W	NO	
JAN Sieberts	Not Bank of AK		H W	Yes	SB 471
Mike Freeman	Michas Mufflers		H W	Yes	SB 471
John Williams Dep Comm	<del>Michas Mufflers</del> DCED		H W	Yes	SB 471
Tom Dow	NA NA		H	Yes	SB 351
W.J. Moore	Polestar		W		

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STATE OF ALASKA  
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 28, 1988

SUBJECT:            Constitutionality of CSSB 461(Judiciary)  
TO:                 Representative H.A. "Red" Boucher  
FROM:               Terri Lauterbach *TML*  
                      Assistant Revisor

Kathy Anders of your office has requested a legal opinion on the constitutionality of CSSB 461(Judiciary), a bill that limits the liability of hospitals in relation to the acts of nonemployees. It is my understanding from her that you have no specific doubts about the bill but that others may be concerned about its general effect.

In my opinion, the bill's effect of limiting liability is constitutional. The court decision that the bill seeks to overturn is Jackson v. Power, 743 P.2d 1376 (Alaska 1987). After an extended discussion of the statutes and regulations governing hospitals in Alaska, the court found in Jackson that the hospital could "not shield itself from liability by claiming that it is not responsible for the results of negligently performed health care when the law imposes a duty on the hospital to provide that health care." Jackson, at 1385 (emphasis added). The court also founded its decision on some public policy arguments.

The Jackson court found that the duty of the hospital to provide nonnegligent health care was a nondelegable duty because the laws of the state and public policy place that duty on the hospital. In my opinion, there is nothing unconstitutional about changing the laws of the state to limit a liability that is founded primarily on the laws of the state. And the legislature's discretion to determine matters of public policy is clear, absent constitutional constraints.

It is important to note that CSSB 461(Judiciary) does not deprive any hospital patient of a cause of action against the nonemployee who may have been negligent. Nor does

Representative H.A. "Red" Boucher  
Page 2  
April 28, 1988

CSSB 461(Judiciary) deprive a patient of a cause of action against the hospital if it was negligent in contracting with the nonemployee. The hospital will still be liable if it negligently contracts with a person who is unfit to perform health care services and that person subsequently injures a patient.

CSSB 461(Judiciary) simply provides by law that even though the hospital is required by law to provide certain types of health care that this duty, by itself, is not enough to find the hospital liable for the negligence of its nonemployees. The legislature, by enacting CSSB 461(Judiciary), would be establishing a public policy in favor of this type of limited immunity for hospitals.

If you have more specific concerns not addressed by this memo, or if I can be of further assistance, please contact me.

TML:gc  
WKG3:043

WRITTEN TESTIMONY TO THE HOUSE LABOR AND COMMERCE COMMITTEE  
REGARDING SB 461

Submitted by Lawrence D. Weiss, Ph.D., M.S.  
May 3, 1988

Thank you for giving me the opportunity to provide testimony concerning SB 461. First, a word about myself. I am currently the Executive Director of Alaska Health Project, a private non-profit organization devoted to public health education. For the six years prior to my coming to Alaska I conducted social research, developed and presented lectures in industrial health, and wrote professional papers relating to my teaching and administrative positions at the University of New Mexico School of Medicine. I am by training a medical sociologist.

I would like to analyze SB 461 by applying a few simple questions about the Bill's impact on health, economics, and social issues. In this way we can focus in on the essential elements of the Bill.

WILL SB 461 IMPROVE HEALTH CARE FOR ALASKANS? No. There is nothing in this Bill that indicates that health care in Alaska will improve as a result of this Bill. The fact that hospitals will lose all incentive to take an active responsibility for the provision of high quality health care will result in the decline of medical standards. Hospitals will lose their incentive to rationally organize a health care system.

WILL SB 461 RESULT IN LOWER INSURANCE RATES FOR HEALTH CARE PROVIDERS? No evidence has been presented to indicate that SB 461 will result in lower insurance rates for providers. The opposite appears to be the case. Health care providers can expect larger premiums (if they chose to purchase insurance at all) since the hospital will no longer share liability with the providers.

WILL SB 461 RESULT IN LOWER HEALTH CARE COSTS FOR CONSUMERS? No aspect of this proposed legislation will result in lower health care costs for consumers. In fact the rate of rising health care costs will likely increase as a result of this legislation. Hospital-initiated cost containment efforts will be blunted by the dismantling of the hospitals' centralized authority over increasingly autonomous franchised cost centers.

IF SB 461 WILL NOT IMPROVE THE HEALTH OF ALASKANS, WILL RAISE INSURANCE RATES FOR HEALTH CARE PROVIDERS, AND WILL RAISE COSTS FOR CONSUMERS, THEN WHAT IS THE PURPOSE OF THIS BILL? The real purpose of SB 461 is to improve the profit margins of Alaskan hospitals by shifting the costs to health care providers associated with the hospitals' share of actual and potential liabilities. While there is nothing reprehensible in attempting to increase the hospitals' profit margins, SB 461 has a number of unintended consequences that are inappropriate if not dangerous

for Alaskan health care consumers.

IS THERE A BETTER WAY FOR HOSPITALS TO REDUCE THE COSTS OF LIABILITY WITHOUT THE NEGATIVE CONSEQUENCES ASSOCIATED WITH SB 461? From the point of view of the health of Alaskans, it is clearly a more rational, humane strategy for hospitals to actively take part in the elimination of the practice of bad medicine within their walls rather than to adopt the "devil may care" policy of simple shifting entirely to providers the costs associated with the practice of bad medicine.

Another approach that simultaneously reduces the practice of bad medicine and reduces the costs of malpractice insurance for good physicians is the concept of the self insured trust fund for medical malpractice claims. This approach also potentially reduces the number of claims made on hospitals, since it encourages the practice of better medicine within their walls. Self-insured trust funds have successfully operated in the United States for more than a decade.

IN SUMMARY, I URGE DEFEAT OF SB 461. It has the potential of encouraging the practice of sloppy medicine in all Alaskan hospitals. The Bill is against the interests of every Alaskan who will need health care in the coming years. SB 461 simply shifts the costs for bad medicine. In Alaska we should strive for responsible legislation that will result in better medicine and lower costs for all.

HEALTH ASSOCIATION OF ALASKA  
LIABILITY INSURANCE COSTS  
1986 TO 1988

<u>FACILITY</u>	<u>1986</u>	<u>1988</u>
Alaska Psych Institute	N/A	N/A
Alaska Surgery Center	N/A	N/A
Alaska Treatment Center	24,270	30,760
Bartlett Memorial	275,696	587,700
Central Peninsula Hospital	66,985	91,017
Charter North Hospital	128,756	192,000
Cordova Community Hospital		
Acute	11,757	36,171
Long Term Care	7,478	23,005
Non-Reimbursable	4,006	12,324
Denali Center	18,215	7,377
Fairbanks Memorial Hospital	430,236	346,190
Geneva Woods Surgical Center	99,600	N/A
Harborview Development Center	N/A	N/A
Heritage Place	2,766	4,800
Hope Cottages	72,619	70,714
Humana Hospital-Alaska	528,671	1,486,980
Ketchikan General Hospital		
Acute	45,452	147,973
Long Term Care	19,052	62,027
Kodiak Island Hospital		
Acute	33,989	48,573
Long Term Care	10,075	14,397
Norton Sound Regional Hospital		
Acute	182,205	306,114
Long Term Care	22,312	37,486
Our Lady of Compassion Care Center	16,500	18,000
Petersburg General Hospital		
Acute	11,028	21,947
Long Term Care	9,594	19,092
Providence Hospital	658,209	944,559
St. Ann's Nursing Home	66,890	116,500
Seward General Hospital	N/A	N/A
Sitka Community Hospital	49,343	195,995
South Feninsula Hospital		
Acute	59,787	164,932
Long Term Care	14,594	40,258
Valdez Community Hospital	5,524	5,623
Valley Hospital	273,653	455,424
Wesleyan Hospital	N/A	N/A
Wrangell General Hospital		
Acute	1,512	2,698
Long Term Care	19,226	34,304
	<hr/>	<hr/>
	\$3,147,262	\$5,377,918

Source: Medicaid Rate Commission

More Information: Harlan Knudson  
Health Association of Alaska  
586-1790

FISCAL NOTE

REQUEST:

Revision Date: 3/10/88 Agency Affected: Health & Social Service.  
Title: Liability of Hospitals for BRU: \_\_\_\_\_  
the Actions of Certain Non-Employees  
Sponsor: Jones, et. al. Components: \_\_\_\_\_  
Requestor: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
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-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Kimberly Busch *Kimberly Busch* Phone: 465-3355  
Division: Medical Assistance Date: 3/11/88

Approved by Commissioner: Myra K. McManis Date: 3/11/88  
Agency: Dept. of Health & Social Services

Distribution (by preparer):

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- Impacted Agency(ies)

FISCAL NOTE

REQUEST:

Revision Date: March 11, 1988  
Title: "An Act relating to liability of hospitals ... certain nonemployees."  
Sponsor: Senate Judiciary  
Requestor: Senate Judiciary

Agency Affected: Department of Law  
BRU: Legal Services  
Components: Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
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	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672  
Division: Administrative Services Date: March 11, 1988  
Approved by Commissioner: Richard I. Pegues (FOR) Date: March 11, 1988  
Agency: Department of Law

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