

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988

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5407 SLAB SB 358 - SB 368

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SENATOR FRED F. ZHAROFF
ALASKA STATE LEGISLATURE

P.O. BOX 405, KODIAK, ALASKA 99615 (907) 486-5259

DURING SESSION:

P.O. BOX V, JUNEAU, ALASKA 99811 • (907) 465-3473 • 465-3474

DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PRIBILOF ISLANDS • SHUMAGIN ISLANDS

18 March, 1988

MEMORANDUM:

TO: John Ringstad
Senate Labor and Commerce Committee

FROM: Michael Thill
Senator Zharoff's Staff

SUBJ: Proposed amendment to CSSB 358(C&RA)

Senator Zharoff has asked me to speak with you regarding an amendment to CSSB 358(C&RA) which would satisfy his concerns. We would like to know if an L&C CS could be developed which would exempt communities with a population of 5,000 or less from both the requirement to adopt the state procurement code or their own procurement code for A&E professional services. Of course all municipalities would be free to adopt the state procurement code if they so chose.

Additionally, we would like to require all municipalities to be subject to the state procurement code (A&E services) for those projects which exceed \$1,000,000.

Thank you for your consideration of this request.

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

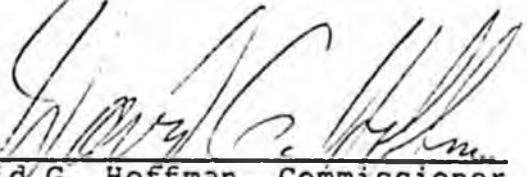
STEVE COWPER, GOVERNOR

- P.O. BOX B
JUNEAU, ALASKA 99811-2100
PHONE: (907) 465-4700
- 949 E. 38TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508-4302
PHONE: (907) 563-1073

December 18, 1987

Certification of Population

Under the authority vested in me by AS 29.45.080(e), I, David G. Hoffman, Commissioner of the Department of Community and Regional Affairs, do hereby certify the population of each municipality as of July 1, 1987 as shown on the "Municipal Tax Limitation Populations for Boroughs and Cities".



David G. Hoffman, Commissioner

12-18-87
Date

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS
MUNICIPAL TAX LIMITATION POPULATIONS FOR BOROUGHS AND CITIES
December 17, 1987

AKHIOK	109	FAIRBANKS	27,099
AKIACHAK	448	FAIRBANKS NORTH STAR BOROUGH	75,079
AKIAK	247	FORT YUKON	678
AKUTAN	271	GALENA	998
ALAKANUK	571	GAMBELL	522
ALEKNAGIK	180	GOLOVIN	139
ALEUTIANS EAST BOROUGH	2,091	GOODNEWS BAY	219
ALLAKAKET	197	GPAYLING	211
AMBLER	255	HAINES	1,151
ANAKTUVUK PASS	234	HAINES BOROUGH	1,991
ANCHORAGE	248,263	HOLY CROSS	276
ANDERSON	775	HOMER	4,020
ANGOON	639	HOONAH	906
ANIAK	518	HOOPER BAY	776
ANVIK	83	HOUSTON	821
ATMAUTLUAK	234	HUGHES	93
ATQASUK	248	HUSLIA	258
BARROW	3,075	HYDABURG	475
BETHEL	4,462	JUNEAU, CITY & BOROUGH	29,370
BETTLES	55	KACHEMAK	325
BREVIK MISSION	172	KAKE	665
BRISTOL BAY BOROUGH	1,326	KAKTOVIK	201
BUCKLAND	259	KALTAG	295
CHEFORNAK	329	KASAAN	80
CHEVAK	582	KASIGLUK	413
CHIGNIK	132	KENAI	6,546
CHUATHBALUK	123	KENAI PENINSULA BOROUGH	43,612
CLARK'S POINT	79	KETCHIKAN	7,601
COLD BAY	157	KETCHIKAN GATEWAY BOROUGH	12,982
CORDOVA	2,585	KIANA	434
CRAIG	1,167	KING COVE	713
DEERING	157	KIVALINA	285
DELTA JUNCTION	1,207	KLAWOCK	760
DILLINGHAM	2,153	KOBUK	65
DIOMEDE	178	KODIAK	6,681
EAGLE	198	KODIAK ISLAND BOROUGH	14,127
EEK	257	KOTLIK	432
EKWOK	110	KOTZEBUE	3,594
ELIM	257	KOYUKUK	131
EMMONAK	613	KOYUK	216

KUPREANOF	41
KWETHLUK	513
LARSEN BAY	217
LOWER KALSKAG	271
McGRATH	509
MANOKOTAK	318
MATANUSKA-SUSITNA BOROUGH	44,280
MARSHALL	270
MEKORYUK	173
MOUNTAIN VILLAGE	665
NAPAKIAK	353
NAPASKIAK	311
NENANA	552
NEWHALEN	172
NEW STUYAHOK	380
NEWTOK	213
NIGHTMUTE	153
NIKOLAI	119
NOME	3,876
NONDALTON	247
NOORVIK	560
NORTH POLE	1,640
NORTH SLOPE BOROUGH	10,904
NORTHWEST ARCTIC BOROUGH	6,696
NUIQSUT	320
NULATO	368
NUNAPITCHUK	365
OLD HARBOR	380
OUZINKIE	235
PALMER	3,116
PELICAN	273
PETERSBURG	3,282
PILOT STATION	419
PLATINUM	62
POINT HOPE	600
PORT ALEXANDER	131
PORT HEIDEN	114
PORT LIONS	302
QUINHAGAK	493
RUBY	241

RUSSIAN MISSION	231
SAINT GEORGE	216
SAINT MARY'S	458
SAINT MICHAEL	305
SAINT PAUL	466
SAND POINT	890
SAVDONGA	487
SAXMAN	273
SCAMMON BAY	326
SELAWIK	682
SELDOVIA	403
SEWARD	2,279
SHAGELUK	167
SHAKTOOLIK	187
SHELDON POINT	134
SHISHMAREF	444
SHUNGNAC	245
SITKA, CITY & BOROUGH	8,160
SKAGWAY	712
SOLDOTNA	3,818
STEBBINS	384
TANANA	418
TELLER	247
TENAKEE SPRINGS	123
THORNE BAY	475
TOGIAK	623
TOKSOOK BAY	396
TULUKSAK	321
TUNUNAK	337
UNALAKLEET	759
UNALASKA	1,331
UPPER KALSKAG	165
VALDEZ	3,686
WAINWRIGHT	542
WALES	150
WASILLA	3,977
WHITE MOUNTAIN	170
WHITTIER	333
WRANGELL	3,112
YAKUTAT	456

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IN THE HOUSE

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA
FIFTEENTH LEGISLATURE - SECOND SESSION

A BILL

for an Act entitled: "An Act making miscellaneous amendments and extending the termination date of the State Board of Registration for Architects, Engineers and Land Surveyors, and providing for an effective date."

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

*Section 1. AS 08.03.010(c)(15) is amended to read:

(15) State Board of Registration for Architects, Engineers and Land Surveyors (AS 08.48.011) - June 30, 1992 [1988].

*Sec. 2. AS 08.48.331 is repealed and reenacted to read:

Sec. 08.48.331. EXEMPTIONS. This chapter does not apply to:

- (1) a contractor of work designed by a professional architect, or engineer, or the supervision of the construction of this work as a foreman or superintendent for a contractor;
- (2) superintendents, foremen, inspectors, or building trades craftsmen in the performance of their customary duties;
- (3) an officer or employee of the United States Government practicing architecture, engineering or land surveying as required by that person's official capacity;

1 (4) an employee or a subordinate of a person legally
2 registered under this chapter, if the work or service is done under the
3 direct supervision of a person legally registered under this chapter;

4 (5) associates, consultants or specialists retained by a
5 registered individual, a partnership of legally registered individuals,
6 or a corporation authorized under this chapter, in the performance of
7 professional services if responsible charge of the work remains with the
8 individual, partnership or designated representative of the corporation;

9 (6) a person preparing plans, drawings, or specifications for

10 (A) farm or ranch buildings, unless the public health,
11 safety, or welfare is involved;

12 (B) a building intended to be used only as a residence
13 by not more than four families and not more than two stories high;

14 (C) a building not intended for public use with a total
15 of not more than 1,000 square feet of floor space, unless the
16 public health safety, or welfare is involved;

17 (7) a specialty contractor licensed under AS 08.18 while
18 engaged in the business of contracting or designing systems for work
19 within the specialty to be performed or supervised by the specialty
20 contractor, or any contractor preparing shop or field drawings for work
21 which the specialty contractor has contracted to perform;

22 (8) a person furnishing plans, drawings, specifications,
23 instruments of service, or other data for any alterations or repairs to
24 a building that do not change or affect the structural system, safety of
25 the building, or the public health, safety, or welfare.
26

1 *Sec. 3. AS 08.48.341 is amended to read:

2 Sec. 08.48.341. DEFINITIONS. In this chapter

3 (1) "architect" means a professional architect;

4 (2) "board" means the State Board of Registration for
5 Architects, Engineers and Land Surveyors;

6 (3) "certificate of authorization" means a certificate issued
7 by the board authorizing a corporation to provide professional services
8 in architecture, engineering or land surveying through individuals
9 legally registered by the board;

10 (4) "certificate of registration" means a certificate issued
11 by the board recognizing the individual named in the certificate as
12 meeting the requirements for registration under this chapter;

13 (5) "engineer" means a professional engineer;

14 (6) "land surveyor" means a professional land surveyor;

15 (7) "practice of architecture" means professional service or
16 creative work in the [FUNCTIONAL AND AESTHETIC] design of buildings
17 [STRUCTURES], the teaching of advanced architectural courses in
18 institutions of higher learning, consultation, investigation,
19 evaluation, planning, design and professional observation of
20 construction of public or private [STRUCTURES,] buildings, works or
21 projects, and architectural review of plans and specifications by
22 regulatory agencies; it may by regulation of the board include
23 mechanical, electrical or structural design of [RELATIVELY] minor
24 importance [TO THE PROJECT AS A WHOLE].

25 (8) "practice of engineering" means professional service or
26 creative work, the adequate performance of which requires the

1 [APPLICATION OF] specialized knowledge of applied mathematics and
2 sciences, dealing with the [FUNCTIONAL AND ECONOMIC] design of
3 [BUILDINGS,] structures, machines, equipment, utilities systems,
4 materials, processes, works or projects, public or private; the teaching
5 of advanced engineering courses in institutions of higher learning; [,]
6 the direction of or the performance of engineering surveys,
7 consultation, investigation, evaluation, planning, [DESIGN,] and
8 professional observation of construction of public and private
9 structures, [BUILDINGS,] works or projects and engineering review of
10 plans and specifications by regulatory agencies; it may by regulation of
11 the board include architectural building design of [RELATIVELY] minor
12 importance [TO THE PROJECT AS A WHOLE], but it does not include
13 comprehensive architectural services;

14 (9) "practice of land surveying" means any service or work
15 the adequate performance of which involves the application of special
16 knowledge of the principles of mathematics, the related sciences, and
17 the relevant requirements of law for adequate evidence of the act of
18 measuring and locating land, geodetic and cadastral surveys for the
19 location and monumentation of property boundaries, for the platting and
20 planning of land and subdivisions, and for the preparation and
21 perpetuation of maps, record plats, field note records and property
22 descriptions that represent these surveys;

23 (10) "professional architect" means a person who has been
24 legally registered as a professional architect by the board;

25 (11) "professional engineer" means a person who has been
26 legally registered as a professional engineer by the board;

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(12) "professional land surveyor" means a person who has been legally registered as a professional land surveyor by the board;

(13) "responsible charge" means the direct control and personal supervision of work;

(14) "building" means a structure used or intended for human occupancy;

(15) "structure" means a system of materials and components that resist horizontal and vertical loads.

*Sec. 4. AS 08.48.081 is repealed.

*Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

Alaska State Legislature



SENATOR
ARLISS STURGULEWSKI

Chairman, Senate Community and Regional Affairs Committee
Vice-Chairman, Senate Judiciary Committee
Member, Senate Resources Committee

2957 SHELDON JACKSON STREET
ANCHORAGE, ALASKA 99508

Walter Junzau
P. O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3118

Senate

M E M O R A D U M

26 January 1988

TO: Senator Tim Kelly
Chairman, Senate Labor & Commerce Committee

FROM: Senator Arliss Sturgulewski

RE: Senate Bill 358 - "An Act relating to municipal procurement of architectural, engineering, and land surveying services."

As you know, Senate Bill 358 has been referred to your committee. I appreciate your scheduling a hearing on this bill.

Current state statutes do not require municipalities to follow any particular procedure when contracting for architectural, engineering, or land surveying services. Senate Bill 358 adds a section to Title 29 outlining procedures for municipalities to follow in order to comply with AS 36.30.270 - that section of the procurement code outlining the process by which state agencies must select architects, engineers, and land surveyors.

That process includes negotiating a contract with the most qualified firm or individual and awarding the contract for fair and reasonable compensation after determining the value of the services, the scope and the complexity of the project. Also included in the section are procedures to follow when negotiations with the most qualified firm or person are not successful and when price may be included as an added factor.

Under the proposed statute, a municipality may exempt itself, or part of itself, from the requirements of AS 36.30.279 by adopting an ordinance that establishes a selection process.

Also attached is Resolution 88-37 of the Alaska Municipal League adopted in November during the Municipal League convention as well as a copy of AS 36.30.270.

This legislation is substantially similar in concept to SB 204, passed in 1986, which placed the same requirements on state agencies. It was also known as the "mini-Brooks bill".

This bill was heard before the Senate Community & Regional Affairs Committee on 28 January 1988. A committee substitute was required in order to incorporate language stating specifically that this legislation applies to home rule municipalities. The fiscal note is zero.

Sec. 36.30.270. Architectural, engineering, and land surveying contracts. (a) Notwithstanding conflicting provisions of AS 36.30.100 — 36.30.260, a procurement officer shall negotiate a contract for an agency with the most qualified and suitable firm or person of demonstrated competence for architectural, engineering, or land surveying services. The procurement officer shall award a contract for those services at fair and reasonable compensation as determined by the procurement officer, after consideration of the estimated value of the services to be rendered, and the scope, complexity, and professional nature of the services. When determining the most qualified and suitable firm or person, the procurement officer shall consider the

(1) proximity to the project site of the office of the firm or person unless federal law prohibits this factor from being considered in the awarding of the contract; and

(2) employment practices of the firm or person with regard to women and minorities.

(b) If negotiations with the most qualified and suitable firm or person under (a) of this section are not successful, the procurement officer shall negotiate a contract with other qualified firms or persons of demonstrated competence, in order of public ranking. The procurement officer may reject all or part of a proposal.

(c) This section does not apply to contracts awarded in a situation of public necessity if the procurement officer certifies in writing that a situation of public necessity exists.

(d) Notwithstanding the other provisions of this section, a procurement officer may include price as an added factor in selecting architectural, engineering, and land surveying services when, in the judgment of the procurement officer, the services required are repetitious in nature, and the scope, nature, and amount of services required are thoroughly defined by measurable and objective standards to reasonably enable firms or persons making proposals to compete with a clear understanding and interpretation of the services required. In order to include price as a factor in selection, a majority of the persons involved by the procurement officer in evaluation of the proposals must be registered in the state to perform architectural, engineering, or land surveying services.

(e) This section does not apply to a contract that incorporates both design services and construction. (§ 2 ch 106 SLA 1986)

Cross references. — For professional registration requirements for contracts under this section, see AS 36.90.100.

RESOLUTION OF THE ALASKA MUNICIPAL LEAGUE

RESOLUTION NO. 88-37

A RESOLUTION OF THE ALASKA MUNICIPAL LEAGUE SUPPORTING
SELECTION OF DESIGN PROFESSIONALS THROUGH
A QUALIFICATION-BASED PROCESS.

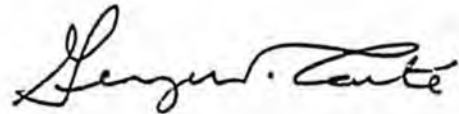
WHEREAS, this process attempts to assure that selection of design professionals based on qualifications (while providing for negotiation of fair and reasonable compensation) will obtain the best professional services for the most equitable fee, and

WHEREAS, the federal government implemented a procedure for selection of design professionals on the basis of qualifications, as set forth in Public Law 92-582, and

WHEREAS, the State of Alaska adopted a procedure for selection of design professionals based on qualifications, as set forth in A.S. 36.908.043;

NOW, THEREFORE, BE IT RESOLVED that the Alaska Municipal League supports the selection of design professionals through a qualification-based process as expressed in federal and state law and urges its members to support state legislation adopting this process for municipalities while at the same time providing for local option for those municipalities which choose to adopt their own ordinance addressing this selection process.

Adopted this 13th day of November 1987.



George W. Carta, President

ATTEST:



Scott A. Burgess, Executive Director

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act..municipal procurement..
engineering..land surveying services."
Sponsor: Sturgulewski, Hensley etc
Requestor: _____

Agency Affected: Community & Regional Affairs
BRU: _____

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						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
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)

Prepared by: Jim Plasman, Deputy Director
Division: Municipal & Regional Assistance Phone: 465-4750
Date: 1-27-88
Approved by Commissioner: [Signature] Date: 1-27-88
Agency: Community & Regional Affairs

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

Alaska State Legislature



SENATOR
ARLISS STURGULEWSKI

Chairman, Senate Community and Regional Affairs Committee
Vice-Chairman, Senate Judiciary Committee
Member, Senate Resources Committee

2957 SHELDON JACKSON STREET
ANCHORAGE, ALASKA 99508

While in Juneau
P. O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3818

Senate

M E M O R A D U M

26 January 1988

TO: Community & Regional Affairs Committee

FROM: Melissa Aber Fouse
Staff to Senator Arliss Sturgulewski *MAF*

RE: Senate Bill 358 - "An Act relating to municipal procurement of architectural, engineering, and land surveying services."

Current state statutes do not require municipalities to follow any particular procedure when contracting for architectural, engineering, or land surveying services. Senate Bill 358 adds a section to Title 29 outlining procedures for municipalities to follow in order to comply with AS 36.30.270 - that section of the procurement code outlining the process by which state agencies must select architects, engineers, and land surveyors.

That process includes negotiating a contract with the most qualified firm or individual and awarding the contract for fair and reasonable compensation after determining the value of the services, the scope and the complexity of the project. Also included in the section are procedures to follow when negotiations with the most qualified firm or person are not successful and when price may be included as an added factor.

Under the proposed statute, a municipality may exempt itself, or part of itself, from the requirements of AS 36.30.279 by adopting an ordinance that establishes a selection process.

Also attached is Resolution 88-37 of the Alaska Municipal League adopted in November during the Municipal League convention as well as a copy of AS 36.30.270.

This legislation is substantially similar in concept to SB 204, passed in 1986, which placed the same requirements on state agencies. It was also known as the "mini-Brooks bill".

A committee substitute is required in order to incorporate language stating specifically that this legislation applies to home rule municipalities. The fiscal note is zero.

Sec. 36.30.270. Architectural, engineering, and land surveying contracts. (a) Notwithstanding conflicting provisions of AS 36.30.100 — 36.30.260, a procurement officer shall negotiate a contract for an agency with the most qualified and suitable firm or person of demonstrated competence for architectural, engineering, or land surveying services. The procurement officer shall award a contract for those services at fair and reasonable compensation as determined by the procurement officer, after consideration of the estimated value of the services to be rendered, and the scope, complexity, and professional nature of the services. When determining the most qualified and suitable firm or person, the procurement officer shall consider the

(1) proximity to the project site of the office of the firm or person unless federal law prohibits this factor from being considered in the awarding of the contract; and

(2) employment practices of the firm or person with regard to women and minorities.

(b) If negotiations with the most qualified and suitable firm or person under (a) of this section are not successful, the procurement officer shall negotiate a contract with other qualified firms or persons of demonstrated competence, in order of public ranking. The procurement officer may reject all or part of a proposal.

(c) This section does not apply to contracts awarded in a situation of public necessity if the procurement officer certifies in writing that a situation of public necessity exists.

(d) Notwithstanding the other provisions of this section, a procurement officer may include price as an added factor in selecting architectural, engineering, and land surveying services when, in the judgment of the procurement officer, the services required are repetitious in nature, and the scope, nature, and amount of services required are thoroughly defined by measurable and objective standards to reasonably enable firms or persons making proposals to compete with a clear understanding and interpretation of the services required. In order to include price as a factor in selection, a majority of the persons involved by the procurement officer in evaluation of the proposals must be registered in the state to perform architectural, engineering, or land surveying services.

(e) This section does not apply to a contract that incorporates both design services and construction. (§ 2 ch 106 SLA 1986)

Cross references. — For professional registration requirements for contracts under this section, see AS 36.90.100.

RESOLUTION OF THE ALASKA MUNICIPAL LEAGUE

RESOLUTION NO. 88-37

A RESOLUTION OF THE ALASKA MUNICIPAL LEAGUE SUPPORTING
SELECTION OF DESIGN PROFESSIONALS THROUGH
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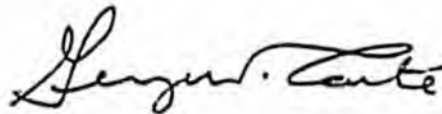
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WHEREAS, the federal government implemented a procedure for selection of design professionals on the basis of qualifications, as set forth in Public Law 92-582, and

WHEREAS, the State of Alaska adopted a procedure for selection of design professionals based on qualifications, as set forth in A.S. 36.908.043;

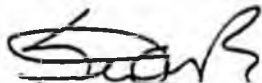
NOW, THEREFORE, BE IT RESOLVED that the Alaska Municipal League supports the selection of design professionals through a qualification-based process as expressed in federal and state law and urges its members to support state legislation adopting this process for municipalities while at the same time providing for local option for those municipalities which choose to adopt their own ordinance addressing this selection process.

Adopted this 13th day of November 1987.



George W. Carte', President

ATTEST:



Scott A. Burgess, Executive Director

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

- P.O. BOX B
JUNEAU, ALASKA 99811-2100
PHONE: (907) 465-4700
- 949 E. 38TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508-4302
PHONE: (907) 563-1073

January 28, 1988

POSITION PAPER

RE: Senate Bill 358

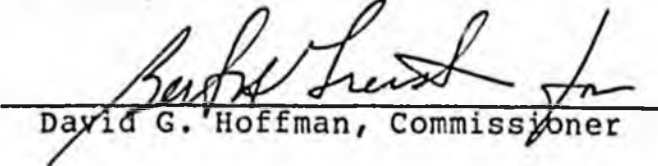
SPONSOR: Senator Sturgulewski, et. al.

Program Effects of Bill

This bill would make the provisions of AS 36.30.270, regarding the procurement of architectural, engineering and land surveying services applicable to municipalities and their administrative units, unless they choose to exempt themselves from coverage by ordinance.

Comments

Generally, the thrust of Title 29, as recodified in 1985, was to increase local determination of standards and requirements of this nature and to reduce reliance upon state standards. However, this bill provides that municipalities may choose to exempt themselves from the coverage of AS 36.30.270 by passage of an ordinance establishing a selection process. The department does not oppose this bill.



David G. Hoffman, Commissioner

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BOARD PRESENT - A.E. L.S.

P12 CONSIDER

1) DEFINITIONS

2) WANT TO REALIGN TIME

SO THAT $\frac{1}{2}$ OF TRAIL TIME
EXPIRE AT THE SAME TIME.

GET LANGUAGE & SEND

IT ALONG W/ BILL TO FINANC

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Commerce & Econ. Dev.
 Title: An Act extending the termination date of the State Board of Registration for Architects, Eng... & LS... BRU: Occupational Licensing
 Sponsor: Senators Kelly and Szymanski Components: _____
 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)

Funding for the State Board of Registration for Architects, Engineers and Land Surveyors is included in the department's FY 89 operating budget request.

Prepared by: Jennifer Strickler, Management Analyst Phone: 465-2144
 Division: Occupational Licensing Date: 2/8/88

Approved by Commissioner: J. Anthony Smith Date: 2/8/88
 Agency: Commerce and Economic Development

Distribution (by preparer):

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

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IN THE LEGISLATURE OF THE STATE OF ALASKA
FIFTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act making miscellaneous amendments and extending the termination date of the State Board of Registration for Architects, Engineers and Land Surveyors, and providing for an effective date."

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

*Section 1. AS 08.03.010(c)(15) is amended to read:

(15) State Board of Registration for Architects, Engineers and Land Surveyors (AS 08.48.011) - June 30, 1992 [1988].

*Sec. 2. AS 08.48.331 is repealed and reenacted to read:

Sec. 08.48.331. EXEMPTIONS. This chapter does not apply to:

- (1) a contractor of work designed by a professional architect, or engineer, or the supervision of the construction of this work as a foreman or superintendent for a contractor;
- (2) superintendents, foremen, inspectors, or building trades craftsmen in the performance of their customary duties;
- (3) an officer or employee of the United States Government practicing architecture, engineering or land surveying as required by that person's official capacity;

1 (4) an employee or a subordinate of a person legally
2 registered under this chapter, if the work or service is done under the
3 direct supervision of a person legally registered under this chapter;

4 (5) associates, consultants or specialists retained by a
5 registered individual, a partnership of legally registered individuals,
6 or a corporation authorized under this chapter, in the performance of
7 professional services if responsible charge of the work remains with the
8 individual, partnership or designated representative of the corporation;

9 (6) a person preparing plans, drawings, or specifications for

10 (A) farm or ranch buildings, unless the public health,
11 safety, or welfare is involved;

12 (B) a building intended to be used only as a residence
13 by not more than four families and not more than two stories high;

14 (C) a building not intended for public use with a total
15 of not more than 1,000 square feet of floor space, unless the
16 public health safety, or welfare is involved;

17 (7) a specialty contractor licensed under AS 08.18 while
18 engaged in the business of contracting or designing systems for work
19 within the specialty to be performed or supervised by the specialty
20 contractor, or any contractor preparing shop or field drawings for work
21 which the specialty contractor has contracted to perform;

22 (8) a person furnishing plans, drawings, specifications,
23 instruments of service, or other data for any alterations or repairs to
24 a building that do not change or affect the structural system, safety of
25 the building, or the public health, safety, or welfare.
26

1 *Sec. 3. AS 08.48.341 is amended to read:

2 Sec. 08.48.341. DEFINITIONS. In this chapter

3 (1) "architect" means a professional architect;

4 (2) "board" means the State Board of Registration for
5 Architects, Engineers and Land Surveyors;

6 (3) "certificate of authorization" means a certificate issued
7 by the board authorizing a corporation to provide professional services
8 in architecture, engineering or land surveying through individuals
9 legally registered by the board;

10 (4) "certificate of registration" means a certificate issued
11 by the board recognizing the individual named in the certificate as
12 meeting the requirements for registration under this chapter;

13 (5) "engineer" means a professional engineer;

14 (6) "land surveyor" means a professional land surveyor;

15 (7) "practice of architecture" means professional service or
16 creative work in the [FUNCTIONAL AND AESTHETIC] design of buildings
17 [STRUCTURES], the teaching of advanced architectural courses in
18 institutions of higher learning, consultation, investigation,
19 evaluation, planning, design and professional observation of
20 construction of public or private [STRUCTURES,] buildings, works or
21 projects, and architectural review of plans and specifications by
22 regulatory agencies; it may by regulation of the board include
23 mechanical, electrical or structural design of [RELATIVELY] minor
24 importance [TO THE PROJECT AS A WHOLE].

25 (8) "practice of engineering" means professional service or
26 creative work, the adequate performance of which requires the

1 [APPLICATION OF] specialized knowledge of applied mathematics and
2 sciences, dealing with the [FUNCTIONAL AND ECONOMIC] design of
3 [BUILDINGS,] structures, machines, equipment, utilities systems,
4 materials, processes, works or projects, public or private; the teaching
5 of advanced engineering courses in institutions of higher learning; [,]
6 the direction of or the performance of engineering surveys,
7 consultation, investigation, evaluation, planning, [DESIGN,] and
8 professional observation of construction of public and private
9 structures, [BUILDINGS,] works or projects and engineering review of
10 plans and specifications by regulatory agencies; it may by regulation of
11 the board include architectural building design of [RELATIVELY] minor
12 importance [TO THE PROJECT AS A WHOLE], but it does not include
13 comprehensive architectural services;

14 (9) "practice of land surveying" means any service or work
15 the adequate performance of which involves the application of special
16 knowledge of the principles of mathematics, the related sciences, and
17 the relevant requirements of law for adequate evidence of the act of
18 measuring and locating land, geodetic and cadastral surveys for the
19 location and monumentation of property boundaries, for the platting and
20 planning of land and subdivisions, and for the preparation and
21 perpetuation of maps, record plats, field note records and property
22 descriptions that represent these surveys;

23 (10) "professional architect" means a person who has been
24 legally registered as a professional architect by the board;

25 (11) "professional engineer" means a person who has been
26 legally registered as a professional engineer by the board;

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(12) "professional land surveyor" means a person who has been legally registered as a professional land surveyor by the board;

(13) "responsible charge" means the direct control and personal supervision of work;

(14) "building" means a structure used or intended for human occupancy;

(15) "structure" means a system of materials and components that resist horizontal and vertical loads.

*Sec. 4. AS 08.48.081 is repealed.

*Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

SB 365: "An Act extending the termination date of the State Board of Registration for Architects, Engineers, and Land Surveyors and providing for an effective date."

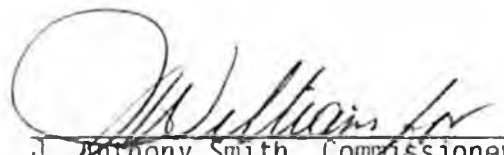
SB 365 proposes the continuation of the Board of Registration for Architects, Engineers, and Land Surveyors (hereinafter "AELS Board") for an additional four (4) years.

There are currently some 3,500 registered architects, engineers, and land surveyors in Alaska, with an additional 200 applicants seeking admission by examination or comity each year.

The Department of Commerce and Economic Development strongly endorses passage of this legislation.

The Legislative Budget and Audit Committee's performance report on the AELS Board, while not yet formally public, found no significant audit exceptions concerning the board, and has recommended that the board be continued. The AELS Board has clearly performed professionally on behalf of the public's health, safety, and welfare, and the department is unaware of any serious complaint concerning the board's operations. Indeed, the board recently adopted a system of voluntary disciplinary enforcement for consumers and members of the profession in Alaska which, if successful, will do much to further the public trust in the ability of AELS professionals to discipline themselves effectively and with due speed.

The department and the Division of Occupational Licensing ask the Legislature's support of SB 365 and the continuation of the State Board of Registration for Architects, Engineers, and Land Surveyors.



J. Anthony Smith, Commissioner
Department of Commerce and Economic
Development
2/8/88

Date

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020888a

ENFORCEMENT ADVISORY COMMITTEE

* * * PROCEDURES MANUAL * * *

A SYSTEM OF VOLUNTARY DISCIPLINE

FOR ALASKA-LICENSED

ARCHITECTS, ENGINEERS & LAND SURVEYORS

Adopted by the State Board of Registration for
Architects, Engineers and Land Surveyors

Wayne K. Jensen (Architect), President
Gordon S. Best (Land Surveyor)
Rajeev Bhargava (Mechanical Engineer)
Robert B. Boswell (Electrical Engineer)
Jacquelyn Luke (Public Member)
Malcolm A. Menzies (Civil Engineer & Land Surveyor)
Robert A. Perkins (Civil Engineer)
Sandra L. Sampson-Jones (Architect)
E. Odin Strandberg (Mining Engineer)

Published February, 1988
in Juneau, Alaska
By the Division of Occupational Licensing,
Department of Commerce and Economic Development

J. Anthony Smith, Commissioner
Randall P. Burns, Director

P. O. Box D-LIC
Juneau, Alaska 99811

907-465-2540

THE ENFORCEMENT ADVISORY COMMITTEE PROCEDURES

AN INTRODUCTION

Background

In the State of Alaska there are approximately 3,800 registered architects, engineers and land surveyors (AELS). These professionals are regulated by the state through the Board of Registration for Architects, Engineers, and Land Surveyors (hereinafter "Board") in conjunction with the Division of Occupational Licensing (hereinafter "Division") in the Department of Commerce and Economic Development. It is the responsibility of the Board to set minimum qualifications for persons applying to be registered in the profession and to discipline practitioners in order to safeguard the life, property, and welfare of the public.

Each year the Investigations Section of the Division receives approximately fifty complaints from consumers or members of the AELS profession itself concerning the work or conduct of Alaska's licensed AELS professionals. Each complaint is investigated to determine whether the allegations can be substantiated. The status of these investigations is reported to the Board at each of its meetings.

If an investigation provides the Division with sufficient evidence to substantiate the allegations contained in the complaint, the case is referred to the Attorney General's Office for its review. If the Attorney General's Office concurs with the findings of the Division, an accusation is filed against the AELS licensee, listing the allegations of illegal or unethical conduct.

If the licensee contests the charges, a hearing is scheduled at which the Division (represented by the Attorney General's Office) and the licensee (with or without counsel) appear before a hearing officer and present their cases. A decision in the matter is then written by the hearing officer and the officer's findings, conclusions, and recommendations are presented to the Board for its final determination.

The procedures governing the filing of an accusation and any subsequent administrative hearing or other related legal proceeding are found in AS 44.62, the Alaska Administrative Procedure Act (APA).

Findings of the Board

The Board finds that the present discipline system, from complaint and investigation through accusation, hearing, and the imposition of appropriate discipline, if any, is a very formal, lengthy, and expensive process for all concerned.

Currently, the person who files a complaint (hereinafter "Complainant") is not likely to see final action on the complaint for at least six months to a year, often even longer. Equally, the complaint and allegations against the AELS professional (hereinafter "Respondent") must be investigated, often resulting in protracted, expensive litigation. The Board finds that the present administrative procedures frequently benefit neither the Complainant nor the Respondent and that the public interest is not well-served by such a cumbersome and time-consuming disciplinary process.

Purpose of the Enforcement Advisory Committee System

The Board has therefore adopted the procedures detailed in this manual, which it believes will both considerably simplify and speed-up the hearing process on complaints filed, thereby increasing the credibility of the complaint process. These procedures involve and require the participation of a Respondent, a Complainant, and a newly created, community-based "Enforcement Advisory Committee" in a system of voluntary discipline.

The purpose of a voluntary discipline program is to provide for an expeditious handling of complaints involving less serious offenses by AELS professionals. If both the Complainant and the Respondent in a particular case agree to submit to these procedures, the Board believes that justice will no longer be delayed or denied.

GENERAL PRINCIPLES AND JURISDICTION

The license to practice architecture, engineering, or land surveying in Alaska is a continuing proclamation by the State of Alaska that the holder is fit to be entrusted with matters involving the practice of architecture, engineering, or land surveying. A certificate of registration sealed by the Board entitles the holder to all rights and privileges of a professional architect, professional engineer, or professional land surveyor, so long as the certificate remains unrevoked, unexpired, or unsuspended.

As a condition of the privilege to practice, it is the duty of every person duly registered under AS 08.48 to act at all times in conformity with the law and with the standards imposed by the Architects, Engineers, and Land Surveyors Registration Act in AS 08.48; the Code of Professional Conduct in 12 AAC 36.200 through 12 AAC 36.245; and the Disciplinary Guidelines in 12 AAC 36.300 through 12 AAC 36.330.

VOLUNTARY DISCIPLINE PROCEDURES

A. Complaint/Investigation/Referral to EAC

Complaints against architects, engineers, and land surveyors are made to the Investigations Section of the Division. If an investigation by the Division substantiates the allegations contained in the complaint, the Division will evaluate whether the matter should be referred to the Attorney General's Office or the Enforcement Advisory Committee (EAC). In making this determination, the division will evaluate the seriousness of the allegations contained in the complaint. Generally, the Division will not recommend a matter to the EAC if the conduct of a Respondent appears serious enough to justify revocation or a lengthy suspension of the Respondent's registration.

If, after review, the Division Director (hereinafter "Director") determines that the matter could appropriately and efficiently be handled by the Enforcement Advisory Committee, then the Director shall, with the concurrence of the Complainant, recommend to the Board that the case be referred to a local Enforcement Advisory Committee for its review and recommendation to the Board. (If a Complainant insists that the matter be referred to the Attorney General's Office, it will not be submitted to an EAC.)

On an annual basis, a member of the Board (hereinafter "designated Board member") shall be assigned by the full Board the responsibility of evaluating the cases recommended by the Director for referral to a local EAC. If the designated Board member agrees with the Director's recommendation that the case should be referred to the profession's voluntary discipline system, the Respondent will be notified of the complaint by the designated Board member and of the Board's desire to refer the matter to a local Enforcement Advisory Committee. Upon receipt of this notice, the architect, engineer, or land surveyor against whom the complaint has been filed must then decide whether he or she shall agree to participate in the Board's voluntary discipline procedures.

B. Consent to Participation

If, after due consideration, the Respondent consents to participate in the Board's voluntary discipline program, the Respondent shall so notify the designated Board member of his or her decision to participate. The Respondent must also complete a formal agreement provided by the designated Board member, consenting to the voluntary procedures, and stating his/her willingness to abide by the final decision of the Board in this matter.

C. Participation Declined

If the Respondent declines to participate in the voluntary discipline, the designated Board member shall return the case to the Division, where it will be referred to the Attorney General's Office for its review and appropriate action (including the possibility of a formal hearing under the Administrative Procedure Act).

D. Local Enforcement Advisory Committees

Upon receipt of a signed consent agreement, the designated Board member shall assign the case to the appropriate local Enforcement Advisory Committee. Committees are presently located in three communities: Fairbanks, Anchorage, and Juneau.

Appointed by the Board President (but with the concurrence of the full Board), each local EAC is made up of licensed architects, engineers, and land surveyors from the community, as well as members of the public who reside in the area. At least three engineers, architects, land surveyors, and public members serve on the Fairbanks and Juneau committees; at least four licensees from each profession and four public members serve on the committee in the Anchorage area. The term of appointment is three years.

E. EAC Hearing Panels

The members of these local EAC's serve as a "pool" from which the designated Board member will appoint a three-person panel to hear the referred complaint.

Two of the three EAC panelists appointed to hear a matter may come from the same professional discipline as the Respondent. The third member will be a public member. The designated Board member will name one of the three appointed panelists to serve as chair of the panel. The panel chair will contact the Respondent and the Complainant (or the Division) to set a mutually agreeable time and place for the hearing, but not later than thirty days from the date on which the Respondent signed the agreement to participate. The Complainant or Respondent may challenge for cause any panelist appointed to hear his or her matter; the designated Board member will rule on such challenges. If a panelist is removed for cause, the designated Board member will appoint another local EAC member to serve on the panel.

F. The Hearing

The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence will be admitted if it is the sort of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs. Irrelevant and unduly repetitious evidence will be excluded. The panel chair will preside at the hearing, and will rule on all matters related to procedure or evidence.

The Respondent may be represented by counsel. The Complainant may appear on his or her own behalf, or may request to be represented by the Division.

During the hearing, the Complainant (or the Division on behalf of the Complainant) and the Respondent, are entitled to:

- (1) present and examine witnesses;
- (2) cross-examine opposing witnesses;
- (3) present documentary evidence; and
- (4) rebut the evidence presented.

If the panel itself finds it needs additional expertise in order to render a proper judgment in a particular case, the panel, through its chair, may seek the testimony or review of such other professionals as it considers necessary.

G. Record of Proceedings

A complete electronic record of the hearing and any additional proceedings held before the hearing panel will be made and preserved for one year following the hearing. Either the Respondent or the Complainant may ask for a copy of the tape recording, which will be duplicated at their expense.

H. The Report of the Hearing Panel

The panel will make its report within 30 days of the close of the hearing. The findings and recommendations contained in the report will be based upon the standards imposed by the Architects, Engineers and Land Surveyors Registration Act (AS 08 48), the administrative regulations adopted under the Act, the Code of Professional Conduct (12 AAC 36.200 through 12 AAC 36.245), and the Disciplinary Guidelines (12 AAC 36.300 through 12 AAC 36.330).

The report of the hearing panel is the responsibility of the panel chair. The report must be in writing and need not be in any particular form; however, the report will include:

- (1) a brief statement of the dispute;
- (2) a statement indicating that the hearing was held with proper notice to all parties and that the parties were given the opportunity to testify, cross-examine witnesses, and present evidence;
- (3) the findings of the panel on all issues and questions which are necessary to resolve the dispute; and

- (4) a recommendation for appropriate discipline, if any, or a recommendation that the matter be returned to the Division for referral to the Attorney General's Office for its review and action.

The report must be signed by the members of the hearing panel. The panel chair will forward the report to the Director, together with the file, tapes, and any documents presented in evidence, who will then serve a copy of the signed report on the Complainant, the Respondent, and the Board. A separate dissent may be filed by a panel member and should be included with the majority report when it is forwarded to the Director.

I. Appropriate Discipline

A hearing panel may recommend to the Board any of the following disciplinary actions, singly or in combination:

- (1) dismissal of the complaint;
- (2) submission to peer review, in accordance with AS 08.01.075(a)(5);
- (3) the imposition of remedial professional education requirements, in accordance with AS 08.01.075(a)(6);
- (4) the imposition of a fine, in accordance with AS 08.01.075(a)(8);
- (5) the imposition of limitations or conditions on a licensee's practice, in accordance with AS 08.01.075(a)(4);
- (6) censure or a reprimand, in accordance with AS 08.01.075(a)(3);
- (7) the imposition of probation, in accordance with AS 08.01.075(a)(7) and (b); or
- (8) the suspension of a license, in accordance with AS 08.01.75(a)(2).

J. Confidentiality

Except for the Board's final decision in this matter, which shall be made public, the investigatory file and all records, tapes, documents, and files, as well as the proceedings, hearings, and deliberations pertaining to a voluntary discipline matter heard by an Enforcement Advisory Panel will be confidential and closed to the public.

K. Board Action

After receipt of the hearing panel's report, the Board shall consider imposition of the appropriate discipline in the case at its next regularly scheduled meeting. The designated board member is disqualified from the deliberations and vote on any case before the Board in which he or she concurred in a referral to voluntary discipline and appointed the hearing panel which heard the case. The panel's confidential report will be discussed by the Board in executive session, unless the Respondent requests that the deliberations be open to the public.

The Board may either accept or modify the panel's recommendation. The Board, in open session, must formally adopt its decision in the case. The Board's reported decision, in accordance with the consent agreement signed by the Respondent, is final and binding upon the Respondent. The decision must be in writing and include:

- (1) a brief statement of the dispute;
- (2) the findings of the Board; and
- (3) the decision of the Board as to the appropriate discipline, if any.

The Board's decision is a public document and will be kept in the Respondent's permanent file. The Respondent may petition the Board after one year to remove the report from his or her permanent file.

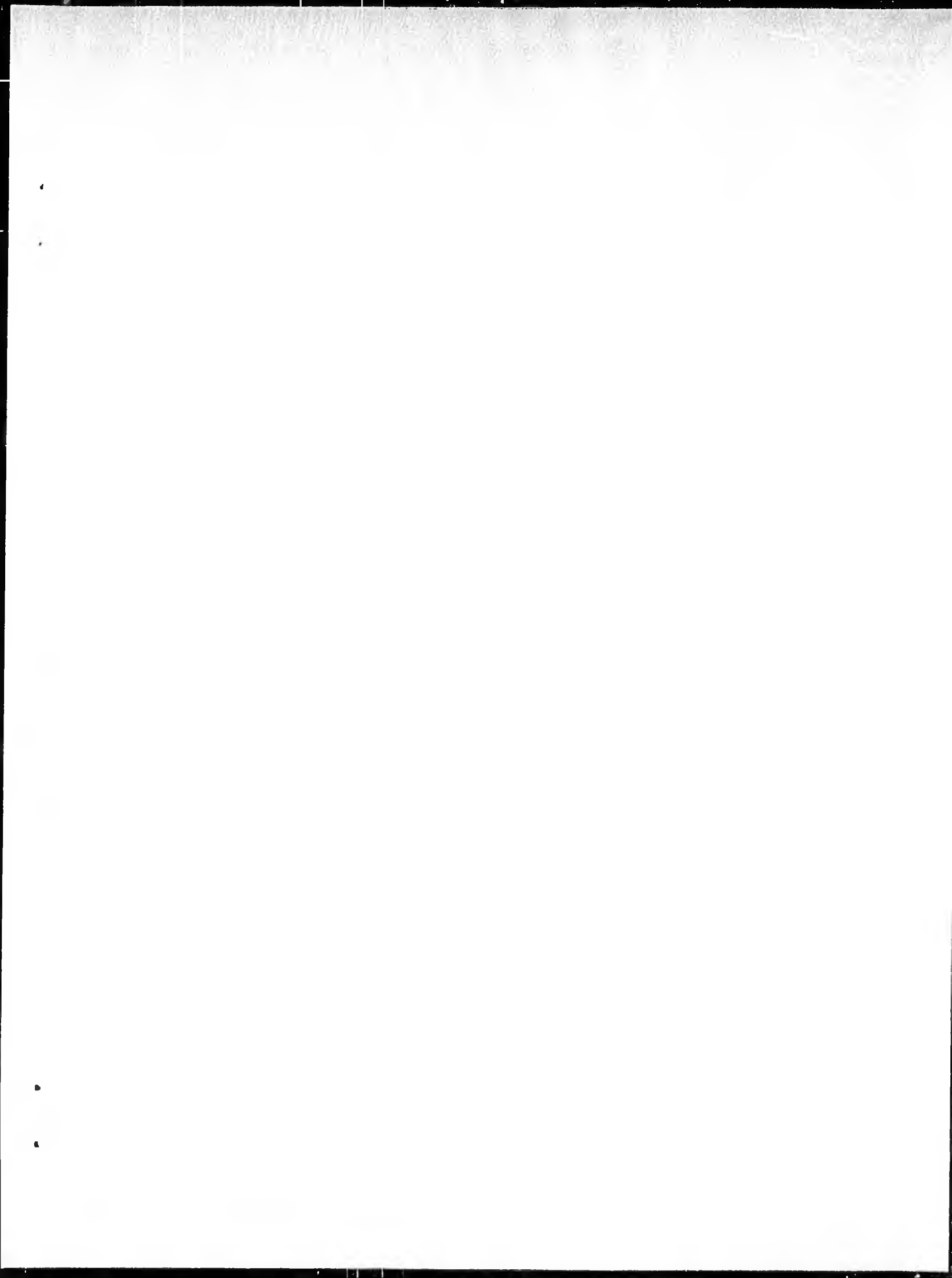
QUESTIONS AND INFORMATION

Persons seeking information regarding these voluntary discipline procedures or who have questions about any matter discussed above should address their requests to:

Division of Occupational Licensing
Department of Commerce and Economic Development
P.O. Box D-LIC
Juneau, AK 99811
Attention: AELS Board Licensing Examiner
(907) 465-2540

Please note: these procedures were adopted December 4, 1987.
Revision dates, as applicable, are listed below:

(None to-date)



5-1678A ✓

Utermohle
1/20/88

1 IN THE SENATE

BY KELLY

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act extending the termination date of the State
7 Board of Registration for Architects, Engineers, and
8 Land Surveyors; and providing for an effective date."

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

10 * Section 1. AS 08.03.010(c)(15) is amended to read:

11 (15) State Board of Registration for Architects, Engineers,
12 and Land Surveyors (AS 08.48.011) -- June 30, 1992 [1988].

13 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).
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WORK ORDER REQUEST FORM

W.O. 15- 1678

Keywords: boards and commissions
professions

Assigned To: Sternobla

Request For: Bill Resolution Research Other

Subject Board of Professional Engineers

Requested For 1/17 By [Signature] Phone _____

Deliver To [Signature] Taken By [Signature]

Instructions. Explanations _____

Obtain

Special Drafting Instructions Attached

Authorized to Confer With _____

Return _____

_____ To Requester

Approved: _____ Director, Legal Services

Special Instructions to Typist/Proofreader

Reviewed _____

In 1/17 Due _____

Typed: Draft _____ Date _____

Final _____ Date _____

Proofed _____ Delivered _____

Draft

Final

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SP3 368

- FIND LANGUAGE THAT WILL SATISFY APVC.
- FOR STATE - LEGAL CONSTRUCTION
VS REASONABLY IMPLIED
- FOR TIME - ^{APVC COMMENTS} NO = (G) AEGIT Corp Inc.

STANDARDS OF CARE & FACILITY - SAFETY

Alaska Public Utilities Commission

Comments on SB 368

February 24, 1988

Section 1:

Section 1 of SB 368 changes the language describing the broad purpose and powers of the Commission by substituting "expressly conferred or reasonably implied" for "liberally construed." If the proposed language had been in the Commission's statute from the beginning, it would have been essentially equivalent to "liberally construed." However, as new language, it implicitly reduces the discretion of the Commission without expressly defining the scope of that reduction.

This is undesirable for several reasons:

(1) When a legislature establishes the jurisdiction of a regulatory commission, it is impractical, if not impossible, to specifically identify every duty or delegation of authority to the commission. As a result, most state statutes have language similar to "liberally construed" to allow for effective regulation over a wide variety of utilities operating under different circumstances.

(2) Regulation is a dynamic process, and the regulatory commission must have the flexibility to apply legislative policies to specific situations that benefit utilities and consumers.

(3) The change in language could create judicial confusion as to how to interpret Commission authority.

In addition, if the Commission should use its delegated powers in a manner which is inconsistent with legislative intent, it would be preferable to address that issue by a specific amendment to the statute rather than a generalized reduction in the Commission's authority. The latter limits flexibility and invites litigation which, in turn, may require the Legislature to become more and more involved in the details of regulation.

Section 2:

At the present time the Commission does not combine companies for regulatory purposes unless requested to do so by the companies; this language conforms to existing practice. Further, it is assumed that the Legislature does not intend for this provision to be used by a utility to avoid certification by artificially dividing itself into subcomponents.

Section 3:

Section 3 proposes to exempt from all regulation, except certification, electric and telephone utilities with fewer than 500 subscribers. Attached for your information are lists of the existing and prospective utilities that would be economically deregulated by this legislation.

The Commission believes that it is appropriate to regularly evaluate the scope of its jurisdiction and to expand the exemptions currently allowed under statute when it serves the public interest. The sunset audit scheduled for the Fall of 1988 would be the ideal vehicle for performing this assessment.

In the meantime, the proposed legislation raises a number of policy questions, including the following:

(1) Is it desirable to certificate entities as de facto monopolies which are not subsequently economically regulated?

(2) Is it appropriate to limit this type of exemption to telephone and electric utilities?

(3) Is it appropriate to economically deregulate any telephone utilities given their mandatory interconnection into a statewide network and given their joint sharing of costs and revenues with Alascom?

(4) What is the regulatory status of utilities falling under the proposed exemption whose consumers have previously voted to remain regulated?

(5) In the case of affected electric utilities, does the exemption produce a gap in safety oversight between the jurisdiction of the Commission and the Department of Labor? (For example, the Department of Labor's authority regarding utility plant apparently does not apply to generation facilities and their environs or to maintenance of operational safety standards for those facilities.)

2X
(6) What is the status of the Alaska Electric Generation & Transmission Cooperative, Inc. under this legislation?

The Commission is not aware of the specific reasons for this exemption proposal. However, to the extent it may be related to the cost of regulation, the Commission believes that the preferred approach is to expand opportunities for consumers of all utilities to have deregulation elections. Then, the cost of regulation can be weighed against its benefits by those ultimately responsible for paying those costs.

In any event, the Commission does not believe that either the proposed legislation or an alternative expanding deregulation election options should be applied to the Alaska Electric Generation & Transmission Cooperative. To do so would deregulate a major power supplier to Southcentral Alaska and de facto deregulate a major cost element of electric distribution utilities which would not otherwise qualify for the exemption in SB 368.

The Commission also questions the advisability of exempting any telephone utilities from economic regulation. As part of the overall telecommunications network, they are accountable for maintaining facilities and services at acceptable levels. It is also doubtful that the exemption will relieve these utilities from maintaining the detailed financial records that are required in order to justify the costs to be reimbursed by Alascom for long distance telephone service. In addition, many telephone utilities are currently engaged in both regulated and unregulated services, and it is essential that the public, which is captive of the regulated sector, not pay through rates any of the costs associated with the unregulated sector.

Similarly, when considering the regulatory cost and burden to both utilities and the Commission, it should be noted that all of the electric utilities that are listed on the attachment as candidates for exemption under SB 368, with two exceptions, are participants in the power cost equalization (PCE) program. As such, they are required to maintain financial records sufficient to verify their PCE requests and to submit annual filings as well as periodic filings when fuel cost or efficiency changes. Thus, the "savings" from economic deregulation may not be sufficient to justify the overall lack of public protection that results.

Finally, the Commission believes that the Legislature should assure itself that, absent Commission regulation, there is an agency with sufficient authority to address health and safety problems arising from a utility's operations.

REGULATED ELECTRIC AND TELEPHONE UTILITIES IMPACTED BY SB 368

<u>Name of Electric Utility</u>	<u>Number of Users</u>	<u>Pending Dkts</u>
Alaska Electric Generation & Transmission Cooperative, Inc.	2*	U-85-13
Andreanof Electric Corporation	37	
Aniak Light & Power Company, Inc.	151	
Arctic Utilities, Inc.	27	
Bettles Light & Power, Inc.	49	U-87-12
Far North Utilities	35	
G&K, Inc.	69	U-85-48
Gwitchyaa Zhee Utility Company	296	U-85-23
**I-N-N Electric Cooperative, Inc.	208	
Levelock Electric Cooperative, Inc.	67	
Manley Utility Company, Inc.	81	U-87-76
McGrath Light & Power Company	237	U-80-89
		U-85-11
Middle Kuskokwim Electric Cooperative, Inc.	139	
Napaklak Ircinaq Power Company	84	
Northway Power & Light, Inc.	107	
Pelican Utility Company	112	
Sand Point Electric	421	
**Tanana Power Company, Inc.	189	
Teller Power Company	83	
Yakutat Power, Inc.	286	

<u>Name of Telephone Utility</u>	<u>Number of Main Access Lines</u>	<u>Pending Dkts</u>
Bush-Tell, Incorporated	442	U-87-82
North Country Telephone	48	
Yukon Telephone Company	359	U-86-47

* It is unclear from the statute whether AEG&T's subscriber count should include only the two utilities it sells power to, or whether its subscriber count should include all the subscribers of those two utilities.

**Indicates utilities that have held deregulation elections and customers have voted to remain under APUC regulation.

ELECTRIC UTILITIES WITH PENDING CERTIFICATION APPLICATIONS THAT
MAY BE IMPACTED BY SB 368

<u>Name of Electric Utility</u>	<u>Number of Users</u>	<u>Pending Dkts</u>
Akiachak Native Community Electric Company	92	U-86-66
Beaver Village Electric Utility	40	U-87-90
Coffman Cove Utility Association, Inc.	70	U-87-89
Gustavus, City of	146	U-86-74
Perryville, Native Village of	32	U-86-73
Pilot Point Village Council	34	U-87-32
Puvurnaq Power Company	62	U-87-71
Snyder Mercantile Electric Utility	01	U-86-94
Takotna Community Association, In.	46	U-87-7
Tulkisarmute Power Utility	72	U-87-81
Venatie, Village of	67	U-87-72

STATE OF ALASKA

ALASKA PUBLIC UTILITIES COMMISSION
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

STEVE COWPER, GOVERNOR

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

February 26, 1988

Senator Tim Kelly
Chairman Labor & Commerce
P.O. Box V
Juneau, AK 99811
(Mail Stop 3100)

Dear Senator ^{Tim} Kelly:

SB 368

The attached comments on ~~SB 368~~ were telecopied to you on February 26, 1988. If you have any questions, please do not hesitate to contact me.

Sincerely,

ALASKA PUBLIC UTILITIES COMMISSION

Susan

Susan M. Knowles
Chairman

Enclosure

Alaska Public Utilities Commission

Comments on SB 368

February 24, 1988

Section 1:

Section 1 of SB 368 changes the language describing the broad purpose and powers of the Commission by substituting "expressly conferred or reasonably implied" for "liberally construed." If the proposed language had been in the Commission's statute from the beginning, it would have been essentially equivalent to "liberally construed." However, as new language, it implicitly reduces the discretion of the Commission without expressly defining the scope of that reduction.

This is undesirable for several reasons:

(1) When a legislature establishes the jurisdiction of a regulatory commission, it is impractical, if not impossible, to specifically identify every duty or delegation of authority to the commission. As a result, most state statutes have language similar to "liberally construed" to allow for effective regulation over a wide variety of utilities operating under different circumstances.

(2) Regulation is a dynamic process, and the regulatory commission must have the flexibility to apply legislative policies to specific situations that benefit utilities and consumers.

(3) The change in language could create judicial confusion as to how to interpret Commission authority.

In addition, if the Commission should use its delegated powers in a manner which is inconsistent with legislative intent, it would be preferable to address that issue by a specific amendment to the statute rather than a generalized reduction in the Commission's authority. The latter limits flexibility and invites litigation which, in turn, may require the Legislature to become more and more involved in the details of regulation.

Section 2:

At the present time the Commission does not combine companies for regulatory purposes unless requested to do so by the companies; this language conforms to existing practice. Further, it is assumed that the Legislature does not intend for this provision to be used by a utility to avoid certification by artificially dividing itself into subcomponents.

Section 3:

Section 3 proposes to exempt from all regulation, except certification, electric and telephone utilities with fewer than 500 subscribers. Attached for your information are lists of the existing and prospective utilities that would be economically deregulated by this legislation.

The Commission believes that it is appropriate to regularly evaluate the scope of its jurisdiction and to expand the exemptions currently allowed under statute when it serves the public interest. The sunset audit scheduled for the Fall of 1988 would be the ideal vehicle for performing this assessment.

In the meantime, the proposed legislation raises a number of policy questions, including the following:

(1) Is it desirable to certificate entities as de facto monopolies which are not subsequently economically regulated?

(2) Is it appropriate to limit this type of exemption to telephone and electric utilities?

(3) Is it appropriate to economically deregulate any telephone utilities given their mandatory interconnection into a statewide network and given their joint sharing of costs and revenues with Alascom?

(4) What is the regulatory status of utilities falling under the proposed exemption whose consumers have previously voted to remain regulated?

(5) In the case of affected electric utilities, does the exemption produce a gap in safety oversight between the jurisdiction of the Commission and the Department of Labor? (For example, the Department of Labor's authority regarding utility plant apparently does not apply to generation facilities and their environs or to maintenance of operational safety standards for those facilities.)

(6) What is the status of the Alaska Electric Generation & Transmission Cooperative, Inc. under this legislation?

The Commission is not aware of the specific reasons for this exemption proposal. However, to the extent it may be related to the cost of regulation, the Commission believes that the preferred approach is to expand opportunities for consumers of all utilities to have deregulation elections. Then, the cost of regulation can be weighed against its benefits by those ultimately responsible for paying those costs.

In any event, the Commission does not believe that either the proposed legislation or an alternative expanding deregulation election options should be applied to the Alaska Electric Generation & Transmission Cooperative. To do so would deregulate a major power supplier to Southcentral Alaska and de facto deregulate a major cost element of electric distribution utilities which would not otherwise qualify for the exemption in SB 368.

The Commission also questions the advisability of exempting any telephone utilities from economic regulation. As part of the overall telecommunications network, they are accountable for maintaining facilities and services at acceptable levels. It is also doubtful that the exemption will relieve these utilities from maintaining the detailed financial records that are required in order to justify the costs to be reimbursed by Alascom for long distance telephone service. In addition, many telephone utilities are currently engaged in both regulated and unregulated services, and it is essential that the public, which is captive of the regulated sector, not pay through rates any of the costs associated with the unregulated sector.

Similarly, when considering the regulatory cost and burden to both utilities and the Commission, it should be noted that all of the electric utilities that are listed on the attachment as candidates for exemption under SB 368, with two exceptions, are participants in the power cost equalization (PCE) program. As such, they are required to maintain financial records sufficient to verify their PCE requests and to submit annual filings as well as periodic filings when fuel cost or efficiency changes. Thus, the "savings" from economic deregulation may not be sufficient to justify the overall lack of public protection that results.

Finally, the Commission believes that the Legislature should assure itself that, absent Commission regulation, there is an agency with sufficient authority to address health and safety problems arising from a utility's operations.

REGULATED ELECTRIC AND TELEPHONE UTILITIES IMPACTED BY SB 368

<u>Name of Electric Utility</u>	<u>Number of Users</u>	<u>Pending Dkts</u>
Alaska Electric Generation & Transmission Cooperative, Inc.	2*	U-85-13
Andreanof Electric Corporation	37	
Aniak Light & Power Company, Inc.	151	
Arctic Utilities, Inc.	27	
Bettles Light & Power, Inc.	49	U-87-12
Far North Utilities	35	
G&K, Inc.	69	U-85-48
Gwitchyaa Zhee Utility Company	296	U-85-23
**I-N-N Electric Cooperative, Inc.	208	
Levelock Electric Cooperative, Inc.	67	
Manley Utility Company, Inc.	81	U-87-76
McGrath Light & Power Company	237	U-80-89
		U-85-11
Middle Kuskokwim Electric Cooperative, Inc.	139	
Napakiaak Ircinaq Power Company	84	
Northway Power & Light, Inc.	107	
Pelican Utility Company	112	
Sand Point Electric	421	
**Tanana Power Company, Inc.	189	
Teller Power Company	83	
Yakutat Power, Inc.	286	

<u>Name of Telephone Utility</u>	<u>Number of Main Access Lines</u>	<u>Pending Dkts</u>
Bush-Tell, Incorporated	442	U-87-82
North Country Telephone	48	
Yukon Telephone Company	359	U-86-47

* It is unclear from the statute whether AEG&T's subscriber count should include only the two utilities it sells power to, or whether its subscriber count should include all the subscribers of those two utilities.

**Indicates utilities that have held deregulation elections and customers have voted to remain under APUC regulation.

ELECTRIC UTILITIES WITH PENDING CERTIFICATION APPLICATIONS THAT
MAY BE IMPACTED BY SB 368

<u>Name of Electric Utility</u>	<u>Number of Users</u>	<u>Pending Dkts</u>
Akiachak Native Community Electric Company	92	U-86-66
Beaver Village Electric Utility	40	U-87-90
Coffman Cove Utility Association, Inc.	70	U-87-89
Gustavus, City of	146	U-86-74
Perryville, Native Village of	32	U-86-73
Pilot Point Village Council	34	U-87-32
Puvurnaq Power Company	62	U-87-71
Snyder Mercantile Electric Utility	01	U-86-94
Takotna Community Association, In.	46	U-87-7
Tulkisarmute Power Utility	72	U-87-81
Venetie, Village of	67	U-87-72

Kelly^{P.1} Ltr

March 3, 1988

Senator Tim Kelly, Chairman
Senate Labor and Commerce Committee
Alaska State Senate
P. O. Box V
Juneau, Alaska 99811

Dear Senator Kelly:

At the hearing on SB 368 held on Monday, February 29, a question came up with respect to what utilities would be exempt under Sections 2 and 3 of the bill. Specifically, the issue was raised about what was meant by "different utilities owned by the same company."

As I testified, the Commission has interpreted this language to mean that each entity which holds a certificate of public convenience and necessity is a utility. That utility may operate in one or in several locations; it is the ownership of the company that makes the decision about corporate structure. However, if the same owners have more than one certificate to operate more than one utility, those utilities may not be combined by the Commission in order to keep them from being exempted from regulation.

At the hearing, it was suggested that a utility might be defined by location rather than by certificate. As requested, we have prepared a list of the additional companies that would be affected by this interpretation. As you can see by the list, this approach has far reaching implications for the level of regulation of electric and telephone utilities throughout the state. If effected, it would also mean that a number of companies would be deregulated in part and regulated in part. This introduces a level of complexity and cost into the regulatory process that does not now exist and is not desirable.

We would urge you not to adopt the broader definition of utility which is encompassed in the attached list. We believe this approach exacerbates the problems we discussed in our earlier comments as well as those described above. In any event, we continue to believe that it is preferable to expand opportunities for deregulation elections for all utilities rather than to institute wholesale exemptions by utility type or size without regard to the regulator's preferences of the affected consumers.

If I can be of any assistance to the Committee and to the sponsors of this bill in attempting to resolve this definitional problem or any other issues raised during the hearing, please do

not hesitate to contact me.

Sincerely yours,

Susan M. Knowles
Chairman

cc: Senator Coghill
Senator Zharoff

REGULATED ELECTRIC AND TELEPHONE UTILITIES SERVING MORE THAN ONE
COMMUNITY

<u>Name of Electric Utility</u>	<u>Service Area</u>	<u>Number of Users</u>
Alaska Power & Telephone Company	Dot Lake	**
	Hydaburg	161
	Skagway	421
	Tanacross	**
Alaska Village Electric Cooperative, Inc.	Alakanuk	119
	Amoler	89
	Andreafsky	**
	Anvik	45
	Chevak	140
	Eek	81
	Elim	81
	Emmonak	35
	Fortuna Ledge	**
	Gambell	136
	Goodnews Bay	71
	Grayling	69
	Holy Cross	95
	Hooper Bay	191
	Huslia	74
	Kaltag	74
	Kasigluk	**
	Kiana	105
	Kivalina	68
	Koyuk	58
	Lower Kalskag	76
	Marshall	78
	Mekoryuk	71
	Minto	78
	Mountain Village	194
	New Stuyahok	85
	Noatak	85
	Noorvik	120
	Nulato	106
	Nunapitchuk	195
	Old Harbor	118
	Pilot Station	103
	Pitkas Point	25
	Quinhagak	127
	Russian Mission	60
	Saint Mary's	137
Saint Michael	78	
Savoonga	138	
Scammon Bay	102	

	Selawik	152
	Shageluk	37
	Shaktolik	56
	Shishmarif	129
	Shungnak	68
	Stebbins	87
	Togiak	30
	Toksook Bay	95
	Tununak	86
	Upper Kalsag	47
	Wales	49
Chugach Electric Association, Inc.	Girdwood	**
	Hops	**
	Moose Pass	**
	*Whittier	333
Copper Valley Electric Association, Inc.	Copper Center	**
	Glennallen	**
Golden Valley Electric Association, Inc.	Cantwell	**
	Clear	**
	Healy	**
	McKinley Park	**
	Murphy Dome	**
	Usibelli	**
	Usibelli Mine	**
Homer Electric Association, Inc.	Anchor Point	**
	Cooper Landing	**
	Halibut Cove	**
	Kalifornsky	**
	Kasilof	**
	Nikishka	**
	Ninilchik	**
	Port Graham	**
	*Seldovia	403
	Sterling	**
Kodiak Electric Association, Inc.	Port Lions	**
	Port Moller	**
Matanuska Electric Association, Inc.	Big Lake	**
	Montana	**
	Sutton	**
	Talkeetna	**
	Twin Peaks	**
	Willow	**

Nushagak Electric Cooperative, Inc.	*Aleknagik	180
Tlingit Haida Regional Electrical Authority	Angoon	172
	Hoonah	277
	Kake	234
	Kasaan	26
	Klawock	267
<u>Name of Telephone Utility</u>	<u>Service Area</u>	<u>Number of Main Access Lines</u>
Anchorage Telephone Utility	Girdwood	**
	Hope	**
	Indian/Bird Portage	**
		**
Arctic Slope Telephone Association Cooper- ative, Inc.	Anaktuvuk Pass	80
	Atkasuk	60
	Kaktovik	84
	Nuiqsut	78
	Point Hope	106
	Point Lay	49
	Wainwright	136
Bristol Bay Telephone Cooperative, Inc.	*Ekwok	110
	*Igiugig	33
	King Salmon	**
	*Koliganek	154
	*Levelock	110
	*New Stuyahok	380
Copper Valley Telephone Cooperative, Inc.	*Chitina	42
	Copper Center	**
	Gakona	**
	Glennallen	**
	Gulkana	**
	Mentasta	**
	Paxson	**
	*Tatitlek	105
General Telephone Company of Alaska	Hyder	**
	Klukwan	**
	Metlakatla	**
	Moose Pass	**

Interior Telephone Company	Cold Bay	124
	Cooper Landing	144
	Fort Yukon	223
	Galena	243
	Iliamna	108
	King Cove	154
	Port Lions	109
	Sand Point	274
Unalaska	450	

Matanuska Telephone Association, Inc.	Big Lake	**
	Cantwell	**
	Chickaloon	**
	Clear	**
	Glacier View	**
	Healy	**
	Kantishna	**
	McKinley Park	**
	Montana	**
	Perkinsville	**
	Sutton	**
	Talkeetna	**
	Twin Peaks	**
	Tyonek	**
Usibelli	**	
Usibelli Mine	**	
Willow	**	

Mukluk Telephone Company, Inc.	*Elim	257
	*Golovin	139
	*Koyuk	216
	*Saint Micheal	305
	*Shaktoolik	187
	*Shishmaref	444
	*Stebbins	384
	*Teller	247
	*Wales	150
	*White Mountain	170

National Utilities, Inc.	Craig	404
	Dot Lake	20
	Hydaburg	115
	Skagway	413
	Tanacross	**
	Tatlin	10
	Tok	492

Nushagak Telephone Cooperative, Inc.	*Aleknagik	180
	Clark's Point	21
	Ekuk	22
	Manokotak	70

OT Telephone Cooperative, Inc.	*Ambler	255
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*Buckland	259
*Deering	157
*Kiana	434
*Kivalina	285
*Kobuk	65
*Noatak	273
*Shungnak	245

Telephone Utilities of
Alaska

Sterling **

Telephone Utilities of the
Northland, Inc.

*Akhiok	109
*Akutan	274
*Allakaket	197
Anchor Point	**
*Atka	93
Border City	**
Chatham	**
*Chignik	132
Chignik Lake	**
Chignik-Lagoon	**
Clam Gulch	**
*Coffman Cove	175
Cuba Cove	**
*Egegik	96
*Elfin Cove	65
English Bay	**
*False Pass	72
*Gustavus	151
Halibut Cove	**
Harding Lake	**
Hobart Bay	**
*Hughes	93
*Huslia	258
Ivanof Bay	**
Kaguyak	**
Kakhonak Bay	**
Kalifornsky	**
*Kaltag	295
Karluk	**
*Kasaan	80
Kasilof	**
*Koyukuk	131
*Larsen Bay	217
Long Island	**
Meshik	**
Mount Edgecumbe	**
*Nelson Lagoon	58
Nikishka	**
*Nikolski	50
Ninilchik	**
*Nondalton	247
*Northway	342
*Nulato	368
*Old Harbor	380

*Ouzinkie	235
*Pedro Bay	50
*Pelican	273
*Perryville	110
*Pilot Point	67
Point Baker	**
*Port Alexander	131
Port Alsworth	**
Port Graham	**
Port Protection	**
Portage Creek	**
*Saint George	216
*Saint Paul	
Island	466
*Seldovia	403
*Tenakee Springs	123
*Thorne Bay	475
*Yakutat	456

United Utilities, Inc.

*Akiachak	448
*Akiak	247
Arctic Village	**
*Atmautluak	234
*Beaver	75
Birch Creek	**
*Central	42
Chalkyitsik	**
*Chauthbaluk	123
*Chafornak	329
Circle Hot	
Springs	**
*Eek	257
*Goodnews Bay	219
*Kasigluk	413
Kipnuk	**
Kongiganak	**
*Kotlik	432
*Kwigillingok	354
Lime Village	**
*Manley Hot	
Springs	99
*Marshall	270
*Makoryuk	173
*Minto	152
*Napakiak	353
*Napaskiak	311
*New Chenega Bay	80
*Newtok	213
*Nightmute	153
*Nikolai	119
*Nunapitchuk	365
Oscarville	**
*Pilot Station	419
*Platinum	62
*Quinhagak	493
*Rampart	50

*Russian Mission	231
*Saint Marys	458
*Savoonga	487
*Scammon Bay	326
*Sheldon Point	134
*Stevens Village	110
*Takotna	76
*Telida	26
*Toksook Bay	396
*Tuluksak	321
*Tuntutuliak	216
*Tununak	337
Twin Hills	**
Venetie	**

* Indicates population figure used because the number of users or main access lines (in the case of telephone) were not available.

**Indicates communities the Commission believes have fewer than 500 customers, but cannot confirm subscriber or population count at this time.

STATE OF ALASKA

ALASKA PUBLIC UTILITIES COMMISSION DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

STEVE COWPER, GOVERNOR

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

March 12, 1988

Mr. John Ringstad
Administrative Assistant
Senator Tim Kelly
Alaska State Senate
P. O. Box V
Juneau, Alaska 99811

Dear John:

I really appreciate having the opportunity to meet with you last Tuesday on SB368. I thought the discussion was very productive.

When I returned to my office, I asked the Commission staff to research rate case expense incurred by some of the smaller electric and telephone utilities that would be exempted from regulation under this legislation. Following is the result of that review. I think that it is appropriate to note that for ratemaking purposes, the expenses of a rate case are amortized over a two or more year period to recognize that rate cases are not an annual event. Thus, if a utility had a rate case expense of \$6,000 and was expected to file for new rates approximately every three years, only \$2,000 would be reflected in the consumers' rates each year.

Electric:

1. Bettles Light & Power, Inc.: Estimated rate case expense in the proceeding currently pending before the Commission is \$6,000. Staff has reviewed all costs, and the estimated costs approximate actual costs.

2. G & K, Inc.: The last rate case was done by management personnel with substantial assistance from the Commission Staff. No rate case expense was requested (or documented) in the permanent rate approval.

John Ringstad
March 12
Page 2

3. Manley Utility Company, Inc.: The total rate case expense in the proceeding to date before the Commission is \$13,405.

4. Northway Power & Light, Inc.: The rate case filing was prepared by Staff with the utility assuming no direct costs and only allocated costs of approximately \$1,000.

5. Pelican Utility Company: In its last rate case in 1981, the total allowable rate case expense was \$15,542.

6. Tanana Power Company, Inc.: The last rate case was in 1986; it was largely prepared by the Commission Staff and resulted in total allowable rate case expenses to the utility of \$3,982.

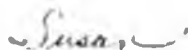
7. Yakutat Power, Inc.: The utility had rate cases in 1980 and 1981 which resulted in approved rate case cost of \$3,723 and \$6,000, respectively.

Telephone:

1. Bush-Tell, Incorporated: \$26,320
2. Yukon Telephone Company, Inc.: \$22,446

I hope that this information is useful as you consider the existing bill and any amendments to it. As I mentioned to you, I will be out of the office until the first week in April, but if you need further information, please do not hesitate to contact the Commission's Executive Director, Ted Moninski. Thanks again.

Sincerely yours,



Susan M. Knowles
Chairman

STATE OF ALASKA

STEVE COWPER, GOVERNOR

ALASKA PUBLIC UTILITIES COMMISSION

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

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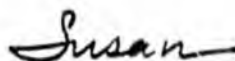
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Senator Tim Kelly
March 3, 1988
Page 2

for deregulation elections for all utilities rather than to institute wholesale exemptions by utility type or size without regard to the regulatory preferences of the affected consumers.

If I can be of any assistance to the Committee and to the sponsors of this bill in attempting to resolve this definitional problem or any other issues raised during the hearing, please do not hesitate to contact me.

Sincerely yours,



Susan M. Knowles
Chairman

cc: Senator Coghill
Senator Zharoff

REGULATED ELECTRIC AND TELEPHONE UTILITIES SERVING MORE THAN ONE
COMMUNITY

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	Anvik	45
	Chevak	140
	Eek	81
	Elim	81
	Emmonak	35
	Fortuna Ledge	**
	Gambell	136
	Goodnews Bay	71
	Grayling	69
	Holy Cross	95
	Hooper Bay	191
	Huslia	74
	Kaltag	74
	Kasigluk	**
	Kiana	105
	Kivalina	68
	Koyuk	58
	Lower Kalskag	76
	Marshall	78
	Mekoryuk	71
	Minto	78
	Mountain Village	194
	New Stuyahok	85
	Noatak	85
	Noorvik	120
	Nulato	106
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	Pilot Station	103
	Pitkas Point	25
Quinhagak	127	
Russian Mission	60	
Saint Mary's	137	
Saint Micheal	78	
Savoonga	138	
Scammon Bay	102	

	Selawik	152
	Shageluk	37
	Shaktoolik	56
	Shishmarif	129
	Shungnak	68
	Stebbins	87
	Togiak	30
	Toksook Bay	95
	Tununak	86
	Upper Kalsag	47
	Wales	49
Chugach Electric Association, Inc.	Girdwood	**
	Hope	**
	Moose Pass	**
	*Whittier	333
Copper Valley Electric Association, Inc.	Copper Center	**
	Glennallen	**
Golden Valley Electric Association, Inc.	Cantwell	**
	Clear	**
	Healy	**
	McKinley Park	**
	Murphy Dome	**
	Usibelli	**
	Usibelli Mine	**
Homer Electric Association, Inc.	Anchor Point	**
	Cooper Landing	**
	Halibut Cove	**
	Kalifonsky	**
	Kasi'of	**
	Nikishka	**
	Ninilchik	**
	Port Graham	**
	*Seldovia	403
	Sterling	**
Kodiak Electric Association, Inc.	Port Lions	**
	Port Moller	**
Matanuska Electric Association, Inc.	Big Lake	**
	Montana	**
	Sutton	**
	Talkeetna	**
	Twin Peaks	**
	Willow	**

Nushagak Electric Cooperative, Inc.	*Aleknagik	180
Tlingit Haida Regional Electrical Authority	Angoon	172
	Hoonah	277
	Kake	234
	Kasaan	26
	Klawock	267
<u>Name of Telephone Utility</u>	<u>Service Area</u>	<u>Number of Main Access Lines</u>
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	Hope	**
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	Portage	**
Arctic Slope Telephone Association Cooper- ative, Inc.	Anaktuvuk Pass	80
	Atkasuk	60
	Kaktovik	84
	Nuiqsut	78
	Point Hope	106
	Point Lay	49
	Wainwright	136
Bristol Bay Telephone Cooperative, Inc.	*Ekwok	110
	*Igiugig	33
	King Salmon	**
	*Koliganek	154
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Copper Valley Telephone Cooperative, Inc.	*Chitina	42
	Copper Center	**
	Gakona	**
	Glennallen	**
	Gulkana	**
	Mentasta	**
	Paxson	**
	*Tatitlek	105
General Telephone Company of Alaska	Hyder	**
	Klukwan	**
	Metlakatla	**
	Moose Pass	**

Interior Telephone Company	Cold Bay	124
	Cooper Landing	144
	Fort Yukon	223
	Galena	243
	Iliamna	108
	King Cove	154
	Port Lions	109
	Sand Point	274
	Unalaska	450
	Matanuska Telephone Association, Inc.	Big Lake
Cantwell		**
Chickaloon		**
Clear		**
Glacier View		**
Healy		**
Kantishna		**
McKinley Park		**
Montana		**
Perkinsville		**
Sutton		**
Talkeetna		**
Twin Peaks		**
Tyonek		**
Usibelli		**
Usibelli Mine		**
Willow		**
Mukluk Telephone Company, Inc.	*Elim	257
	*Golovin	139
	*Koyuk	216
	*Saint Micheal	305
	*Shaktoolik	187
	*Shishmaref	444
	*Stebbins	384
	*Teller	247
	*Wales	150
*White Mountain	170	
National Utilities, Inc.	Craig	404
	Dot Lake	20
	Hydaburg	115
	Skagway	413
	Tanacross	**
	Tetlin	10
Tok	492	
Nushagak Telephone Cooperative, Inc.	*Aleknagik	180
	Clark's Point	21
	Ekuk	22
	Manokotak	70
OTZ Telephone Cooperative, Inc.	*Ambler	255

*Buckland	259
*Deering	157
*Kiana	434
*Kivalina	285
*Kobuk	65
*Noatak	273
*Shungnak	245

Telephone Utilities of
Alaska

Sterling	**
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Telephone Utilities of the
Northland, Inc.

*Akhiok	109
*Akutan	274
*Allakaket	197
Anchor Point	**
*Atka	93
Border City	**
Chatham	**
*Chignik	132
Chignik Lake	**
Chignik-Lagoon	**
Clam Gulch	**
*Coffman Cove	175
Cube Cove	**
*Egegik	96
*Elfin Cove	65
English Bay	**
*False Pass	72
*Gustavus	151
Halibut Cove	**
Harding Lake	**
Hobart Bay	**
*Hughes	93
*Huslia	258
Ivanof Bay	**
Kaguyak	**
Kakhonak Bay	**
Kalifonsky	**
*Kaltag	295
Karluk	**
*Kasaan	80
Kasilof	**
*Koyukuk	131
*Larsen Bay	217
Long Island	**
Meshik	**
Mount Edgecumbe	**
*Nelson Lagoon	58
Nikishka	**
*Nikolski	50
Ninilchik	**
*Nondalton	247
*Northway	342
*Nulato	368
*Old Harbor	380

*Ouzinkie	235
*Pedro Bay	50
*Pelican	273
*Perryville	110
*Pilot Point	67
Point Baker	**
*Port Alexander	131
Port Alsworth	**
Port Graham	**
Port Protection	**
Portage Creek	**
*Saint George	216
*Saint Paul	
Island	466
*Seldovia	403
*Tenakee Springs	123
*Thorne Bay	475
*Yakutat	456

United Utilities, Inc.

*Akiachak	448
*Akiak	247
Arctic Village	**
*Atmautluak	234
*Beaver	75
Birch Creek	**
*Central	42
Chalkyitsik	**
*Chauthbaluk	123
*Chefornak	329
Circle Hot	
Springs	**
*Eek	257
*Goodnews Bay	219
*Kasigluk	413
Kipnuk	**
Kongiganak	**
*Kotlik	432
*Kwigillingok	354
Lime Village	**
*Manley Hot	
Springs	99
*Marshall	270
*Mekoryuk	173
*Minto	152
*Napakiak	353
*Napaskiak	311
*New Chenega Bay	80
*Newtok	213
*Nightmute	153
*Nikolai	119
*Nunapitchuk	365
Oscarville	**
*Pilot Station	419
*Platinum	62
*Quinhagak	493
*Rampart	50

*Russian Mission	231
*Saint Marys	458
*Savoonga	487
*Scammon Bay	326
*Sheldon Point	134
*Stevens Village	110
*Takotna	76
*Telida	26
*Toksook Bay	396
*Tuluksak	321
*Tuntutuliak	216
*Tununak	337
Twin Hills	**
Venetie	**

* Indicates population figure used because the number of users or main access lines (in the case of telephone) were not available.

**Indicates communities the Commission believes have fewer than 500 customers, but cannot confirm subscriber or population count at this time.

1 IN THE SENATE

BY COGHILL AND ZHAROFF

2

SENATE BILL NO. 368

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to standards for construing the
7 regulatory powers of the Alaska Public Utilities
8 Commission and to public utility exemptions from
9 regulation by the Alaska Public Utilities Commission;
10 and providing for an effective date."

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

12 * Section 1. AS 42.05.141(a) is amended to read:

13 (a) The Alaska Public Utilities Commission may

14 (1) regulate every public utility engaged or proposing to
15 engage in such a business inside the state, except to the extent
16 exempted by AS 42.05.711; in exercising its authority, the commission
17 has the powers expressly conferred or reasonably implied by this
18 chapter [, AND THE POWERS OF THE COMMISSION SHALL BE LIBERALLY CON-
19 STRUED TO ACCOMPLISH ITS STATED PURPOSES];

20 (2) investigate, upon complaint or upon its own motion, the
21 rates, classifications, rules, regulations, practices, services and
22 facilities of a public utility and hold hearings on them;

23 (3) make or require just, fair and reasonable rates, clas-
24 sifications, regulations, practices, services and facilities for a
25 public utility;

26 (4) prescribe the system of accounts and regulate the
27 service and safety of operations of a public utility;

28 (5) require a public utility to file reports and other
29 information and data;

1 (6) appear personally or by counsel and represent the
2 interests and welfare of the state in all matters and proceedings
3 involving a public utility pending before an officer, department,
4 board, commission or court of the state or of another state or the
5 United States and to intervene in, protest, resist, or advocate the
6 granting, denial or modification of any petition, application, com-
7 plaint or other proceeding;

8 (7) examine witnesses and offer evidence in any proceeding
9 affecting the state and initiate or participate in judicial proceed-
10 ings to the extent necessary to protect and promote the interests of
11 the state.

12 * Sec. 2. AS 42.05.711(e) is amended to read:

13 (e) Notwithstanding any other provisions of this chapter, an
14 [ANY] electric or telephone utility that does not gross \$50,000 an-
15 nually is exempt from regulation under this chapter unless 25 percent
16 of the subscribers petition the commission for regulation. The com-
17 mission may not combine the revenue of different utilities owned by
18 the same company when determining whether a utility is exempt under
19 this subsection.

20 * Sec. 3. AS 42.05.711 is amended by adding a new subsection to read:

21 (m) Notwithstanding any other provisions of this chapter, an
22 electric or telephone utility that has fewer than 500 subscribers is
23 exempt from regulation under this chapter, other than the certifica-
24 tion provisions of AS 42.05.221 - 42.05.281, unless 25 percent of the
25 subscribers petition the commission for regulation under the procedure
26 described in AS 42.05.712. The commission may not combine the sub-
27 scribers of different utilities owned by the same company when deter-
28 mining whether a utility is exempt under this subsection.

29 * Sec. 4. The amendment to AS 42.05.141(a) made by sec. 1 of this Act,

Handwritten notes in the left margin:
42.05.711(e)
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42.05.711(e)
42.05.711(m)
42.05.711(e)
42.05.711(m)

1 does not apply to a proceeding begun before the effective date of this Act.

2 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

Original sponsors: Coghill and Zharoff

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 368 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to standards for construing the
7 regulatory powers of the Alaska Public Utilities
8 Commission and to simplified regulation by the Alaska
9 Public Utilities Commission of electric and telephone
10 utilities; and providing for an effective date."

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

12 * Section 1. AS 42.05.141(a) is amended to read:

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16 exempted by AS 42.05.711; in exercising its authority, the commission
17 has the powers expressly conferred or reasonably implied by this
18 chapter [, AND THE POWERS OF THE COMMISSION SHALL BE LIBERALLY CON-
19 STRUED TO ACCOMPLISH ITS STATED PURPOSES];

20 (2) investigate, upon complaint or upon its own motion, the
21 rates, classifications, rules, regulations, practices, services and
22 facilities of a public utility and hold hearings on them;

23 (3) make or require just, fair and reasonable rates, clas-
24 sifications, regulations, practices, services and facilities for a
25 public utility;

26 (4) prescribe the system of accounts and regulate the
27 service and safety of operations of a public utility;

28 (5) require a public utility to file reports and other
29 information and data;

1 (6) appear personally or by counsel and represent the
2 interests and welfare of the state in all matters and proceedings
3 involving a public utility pending before an officer, department,
4 board, commission or court of the state or of another state or the
5 United States and to intervene in, protest, resist, or advocate the
6 granting, denial or modification of any petition, application, com-
7 plaint or other proceeding;

8 (7) examine witnesses and offer evidence in any proceeding
9 affecting the state and initiate or participate in judicial proceed-
10 ings to the extent necessary to protect and promote the interests of
11 the state.

12 * Sec. 2. AS 42.05.381(e) is amended to read:

13 (e) The commission shall adopt regulations for electric coopera-
14 tives, and for other electric and telephone utilities that gross
15 \$1,000,000 or less annually, setting a range for adjustment of rates
16 by a simplified rate filing procedure. A utility or cooperative may
17 apply for permission to adjust its rates over a period of time under
18 the simplified rate filing procedure regulations. The commission
19 shall grant the application if the utility or cooperative satisfies
20 the requirements of the regulations. The commission may review imple-
21 mentation of the simplified rate filing procedure at reasonable in-
22 tervals and may revoke permission to use the procedure or require
23 modification of the rates to correct an error.

24 * Sec. 3. The amendment to AS 42.05.141(a) made by sec. 1 of this Act,
25 does not apply to a proceeding begun before the effective date of this Act.

26 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).
27
28
29

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
Napakiak 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.

* DO LETTER OF INTENT TO ENSURE EXISTING EXEMPTIONS REMAIN

ORDERED CS 4/9 4:50

ZHAROFF'S SECTION

5-1455B
Cramer
4/6/88

* PULLED OUT

CS ONLY INCLUDES SEC 2.4

Original sponsors: Coghill and Zharoff

1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR SENATE BILL NO. 368 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to standards for construing the
7 regulatory powers of the Alaska Public Utilities
8 Commission and to simplified regulation by the Alaska
9 Public Utilities Commission of certain public
10 utilities; and providing for an effective date."

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5 United States and to intervene in, protest, resist, or advocate the
6 granting, denial or modification of any petition, application, com-
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19 tion if the utility or cooperative satisfies the requirements of the
20 regulations. The commission may review implementation of the simpli-
21 fied rate filing procedure at reasonable intervals and may revoke
22 permission to use the procedure or require modification of the rates
23 to correct an error.

24 * Sec. 3. The amendment to AS 42.05.141(a) made by sec. 1 of this Act,
25 does not apply to a proceeding begun before the effective date of this Act.

26 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).
27
28
29