

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8930 SENATE LABOR & COMMERCE

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July 23, 1993

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David Hutchens
Executive Director
Alaska Rural Electric
Cooperative Association, Inc.
703 W. Tudor Road, Suite 200
Anchorage, AK 99503

Re: APUC Powers Liberally Construed

Dear Dave:

You have asked whether the "liberally construed" language found in AS 42.05.141(a)(1) has any operative effect; that is, whether the Alaska Supreme Court cites or relies upon this statutory language in reaching decisions involving the APUC.

The answer is that both the APUC and the Alaska Supreme Court find it necessary to cite this statutory section in order to create APUC jurisdiction in matters not expressly conferred by the legislature.

The two most recent supreme court cases citing this statutory section of which I am aware occurred just last year. In February 1992, the Alaska Supreme Court issued its opinion in the case of *Far North Sanitation v. APUC*, 525 P.2d 867 (February 7, 1992). In that decision, the court dealt with the question of the APUC's power to order interim refundable rates. The court quoted the APUC's argument that the legislature granted the APUC broad powers to accomplish its purposes and, further, provided that these powers should be liberally interpreted [citing AS 42.05.141(a)(1)] but went on to state that, on the question of whether the APUC has authority to declare a rate interim and refundable after hearing, there is conflicting case law. The court concluded, however, that the APUC had such implied authority, again citing AS 42.05.141(a)(1) and stating:

Alaska's statute mandates that the powers of the APUC be liberally construed.

Far North Sanitation v. APUC at p. 873

Two months later, the court issued its opinion in *Colville Environmental Services, Inc. v. North Slope Borough*, 531 P.2d 341 (April 24, 1992), this time addressing the power of the APUC to attach conditions to a certificate of public convenience and necessity which conflicted with another state statute (AS 29.35.050). In concluding that the Commission had such power, the court again relied upon the liberally construed statutory language in reaching this result.

— KEMPEL LTR: "Liberally —
construed" ✓

MEMBER

TENTH ALASKA LEGISLATURE
ELEVENTH ALASKA LEGISLATURE
TWELFTH ALASKA LEGISLATURE
THIRTEENTH ALASKA LEGISLATURE
FOURTEENTH ALASKA LEGISLATURE
FIFTEENTH ALASKA LEGISLATURE
SIXTEENTH ALASKA LEGISLATURE
EIGHTEENTH ALASKA LEGISLATURE

ALASKA STATE SENATE



SENATOR TIM KELLY

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JUNEAU, ALASKA 99801-1182
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716 WEST 4TH, SUITE 400
ANCHORAGE, ALASKA 99501
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FAX (907) 258-524

MEMORANDUM

DATE: March 8, 1995
TO: All Representatives
FROM: Senator Tim Kelly
RE: Back-up for SB 47: Relating to the Alaska Public Utilities Commission and the Regulatory Cost Charge

Senate Bill 47 (SB 47) is the re-introduction of SB 213 from the 18th Legislature. This legislation accomplishes two primary objectives: 1) It extends the Alaska Public Utilities Commission (APUC) which is currently winding down in its sunset year; and 2) It re-enacts the Regulatory Cost Charge (RCC) which expired on December 31, 1994.

This legislation was the product of numerous and lengthy committee hearings in the last Legislature -- in fact, more than 8 substantive hearings in the Senate alone.

Given the unknown but potentially serious ramifications of allowing the APUC to expire, this legislation was introduced as a "consensus" bill in that all provisions contained within are either without opposition, or the result of compromise agreed to by all concerned parties and in the best interest of consumer protection. In fact, most of the provisions implement the auditor's recommendations.

This version is nearly identical to the final version that would have reached the House floor last May 10th had that body not adjourned before it was taken up. It is not exactly identical because the RCC has expired and so rather than repealing its sunset, the entire RCC was re-enacted.

MEMBER

TENTH ALASKA LEGISLATURE
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ALASKA STATE SENATE

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SENATOR TIM KELLY

SECTIONAL ANALYSIS

Section 1: Replaces language granting the commission powers which shall be "liberally construed" with language allowing the commission to do "all things necessary or proper to carry out the purposes and exercise the powers expressly granted or reasonably implied".

This compromise was reached last year in the Senate Finance Committee. Some utilities, namely electrics, felt this grant of power was too broad, and in questions where the commission did not have express authority to act, the legislature should make such policy calls. Others, besides the APUC itself, felt this provision was necessary for the efficient and orderly functioning of the commission in the regulation of utilities for the public interest. This language strikes a balance and was acceptable to all parties concerned.

Sections 2, 3, 10 and 11: Re-enact the RCC for utilities and pipelines without the sunset. This language is identical to the former law with the following exceptions:

There are no sunset provisions for the regulatory cost charges.

This provision was proposed by the auditor and supported by the APUC. Both assert the Commission's sunset review is adequate to address any issues that arise with the Regulatory Cost Charge.

Page 3, lines 11- 13:

Adjusts the allocation of the Regulatory Cost Charge for electric utilities by subtracting the cost of power from there gross revenues.

The auditor recommended the APUC periodically adjust the RCC allocation among utility types to reflect workload on an industry by industry basis utilizing a time-keeping system. However, the commission argued such a change would be complicated and require more staff. ARECA proposed this "rough cut" justice as a simplified and more economical way to achieve the auditor's recommendation.

Provisions of SB 47
Page 2

Page 2, line 27;
and Page 6, line 4:

Increases the regulatory cost charge ceiling for public utilities and pipeline carriers from .61 percent to .8 percent.

This change was necessitated when cost of power was subtracted from electric utilities gross revenues before application of the RCC. The RCC rate would need to be increased roughly 30 percent to maintain the same amount of revenue for the commissions operating costs. (Remember, the RCC is a direct pass through on our utility bills, and is itemized as the RCC).

Page 3, lines 20-24;
and Page 6, lines 15-19:

Requires the Dept. of Administration to earmark regulatory cost charges over-collected for possible appropriation by the Legislature for the commission's next fiscal year.

Currently, by the time 4th quarter Regulatory Cost Charges arrive in July, the new fiscal year has started. If the APUC has over-collected, and they won't know until the 4th quarter receipts arrive, the money lapses into the general fund. This section would allow those over-collected funds to be appropriated back to the APUC thus reducing the next year's RCC.

Sections 4.8 and 9: Provides that subscribers of small utilities or utilities otherwise exempt from regulation can petition for an election to place the utility under regulation under the same procedures the subscribers of a regulated utility can petition for an election to remove the utility from regulation.

This provision was recommended by the auditor and supported by the commission. Under current statute, 10 percent of the first 5,000 subscribers of a regulated utility and 3 percent of the remaining subscribers may petition for an election to remove a utility within certain revenue parameters from regulation. However, for subscribers to petition for an

election to place an unregulated utility under regulation they must gather the signatures of 25% of the subscribers. The auditor recommended the procedures for subscribers to opt-in or opt-out of economic regulation should be easier. These sections provide that opt-in and opt-out procedures are identical.

Sections 5, 6, and 7: Gives more consumers the option to deregulate by raising maximum amount of gross revenues a utility may receive under which the consumers may elect for deregulation.

Currently, electric and telephone utilities that do not gross \$325,000 annually may elect to be exempt from regulation. Section 5 increases that amount to \$500,000. For other utilities the cut-off was raised from \$100,000 to \$150,000, except for garbage collection utilities the amount was raised from \$200,000 to \$300,000.

These provisions were recommended by the auditor and supported by the commission. They increase the consumers options to deregulate.

Section 12: Extends the sunset date of the APUC to June 30, 1999.

Section 13: Staggers the terms of the members of the commission.

Currently, the terms of the consumer seat and the engineering seat expire at the same time. This provision would stagger the terms, though it would not affect the terms of any of the current commissioners.

Section 14 and 15: Provides that the change in the commission's powers as amended in section 1 apply only to proceedings begun on or after the effective date of section 1, which is set in section 15 as July 1, 1996.

Section 16: Except for section 1, the Act has an immediate effective date.

**DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450
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130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

January 30, 1995

SUBJECT: Sectional summary of SB 47
(APUC extension and other utility matters)

TO: Senator Tim Kelly
Attn: Josh Fink

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Sec. 1 permits the Alaska Public Utilities Commission (APUC) to exercise the powers expressly granted or reasonably implied by the chapter. The section removes a requirement that the powers of the APUC be liberally construed to accomplish the commission's stated purpose.

Sec. 2 establishes a regulatory cost charge on utilities. Under subsection (a), regulated public utilities pay an annual charge not to exceed 8 percent of in-state gross revenue and exempt public utilities pay the actual cost of services provided by the commission.

Under subsection (b), the commission adopts regulations to set the method for determining the annual amount of the regulatory cost charge. Subsection (c) establishes special rules for utilities selling services at wholesale, local exchange telephone utilities, and electric utilities.

Subsection (d) directs the commission to allocate the total amount of the regulatory cost charge to be paid by electric utilities by using an equal charge per kilowatt hour.

Subsection (e) directs the Department of Revenue to collect and enforce the regulatory cost charge and the Department of Administration to identify how much of the APUC's operating budget lapses into the general fund each year. This will permit the legislature, if it wishes, to appropriate that amount for the following year's budget so that the APUC can set a lower regulatory cost charge for the second year to reflect the surplus from the previous years' collection.

~~_____~~
- SECTIONAL ANALYSIS -

Subsection (f) requires the APUC to allow public utilities to bill their customers for the cost of the regulatory cost charge

Subsection (g) allows the APUC and the Department of Revenue to adopt regulations.

Subsection (h) defines terms used in the section.

Sec. 3 directs the APUC to consider the amount that a utility pays as a regulatory cost charge when allocating the costs of a hearing.

Sec. 4 provides that the subscribers of small electric and telephone utilities can petition to place the utility under APUC regulation by following the procedures set out in AS 42.05.712(h), which is amended by sec. 12 of the bill.

Sec. 5 permits electric and telephone utilities that do not gross \$500,000 annually to elect to be exempt from regulation under AS 42.05.712. The current threshold is \$325,000.

Sec. 6 permits utilities, other than electric and telephone utilities, that do not gross \$150,000 annually to elect to be exempt from regulation under AS 42.05.712. The current threshold is \$100,000.

Sec. 7 exempts garbage collection utilities that gross \$300,000 or less from rate regulation unless the subscribers petition for regulation under AS 42.05.712(h), amended by sec. 12 of the bill. The current threshold is \$200,000. The section retains the right of subscribers representing 25 percent of the gross revenue of a utility to petition the APUC for rate regulation.

Sec. 8 provides that the subscribers of cable television service utilities can petition to place the utility under APUC rate regulation under AS 42.05.712.

Sec. 9 permits the subscribers of a utility that is exempt from regulation under AS 42.05.711(e), (i), or (k) to use the procedures of AS 42.05.712 in an election imposing regulation.

Sec. 10 establishes a regulatory cost charge for pipeline carriers. Under subsection (a), pipeline carriers pay an annual charge not to exceed 8 percent of in-state gross revenue. A regulatory cost charge may not be assessed unless the pipeline carrier operations are within the jurisdiction of the APUC.

Under subsection (b), the commission adopts regulations to set the method for determining the annual amount of the regulatory cost charge.

Subsection (c) directs the Department of Revenue to collect and enforce the regulatory cost charge and the Department of Administration to identify how much of the

Senator Tim Kelly

January 30, 1995

Page 3

APUC's operating budget lapses into the general fund each year. This will permit the legislature, if it wishes, to appropriate that amount for the following year's budget so that the APUC can set a lower regulatory cost charge for the second year to reflect the surplus from the previous years' collection.

Subsection (d) allows the APUC and the Department of Revenue to adopt regulations.

Subsection (e) defines "gross revenue" as used in this section.

Sec. 11 directs the APUC to consider the amount that a pipeline carrier pays as a regulatory cost charge when allocating the costs of a hearing.

Sec. 12 extends the sunset date for the Alaska Public Utilities Commission until June 30, 1999.

Sec. 13 adjusts the way in which the terms of members of the APUC are staggered to ensure that no more than one commission member's term expires each year.

Secs. 14 and 15 provide that the amendment, in sec. 1, concerning how the APUC's powers are to be interpreted applies only to proceedings begun on or after the effective date of sec. 1, which is set in sec. 15 as July 1, 1996.

Sec. 16 states that, except for sec. 1, the Act takes effect immediately.

TC klb

95-023 klb

SB 47: Relating to the Alaska Public Utilities Commission and the Regulatory Cost Charge

Consensus Provisions from 18th Legislature

Senate Bill 47 (SB 47) is the re-introduction of SB 213 from the 18th Legislature. This legislation accomplishes two primary objectives: 1) It extends the Alaska Public Utilities Commission (APUC) which is currently winding down in its sunset year; and 2) It re-enacts the Regulatory Cost Charge (RCC) which expired on December 31, 1994.

This legislation was the product of numerous and lengthy committee hearings in the last Legislature -- in fact, more than 8 substantive hearings in the Senate alone.

Given the unknown but potentially serious ramifications of allowing the APUC to expire, this legislation was introduced as a "consensus" bill in that all provisions contained within are either without opposition, or the result of compromise agreed to by all concerned parties and in the best interest of consumer protection. In fact, most of the provisions implement the auditor's recommendations.

This version is nearly identical to the final version that would have reached the House floor last May 10th had that body not adjourned before it was taken up. It is not exactly identical because the RCC has expired and so rather than repealing it's sunset, the entire RCC was re-enacted.

SECTIONAL ANALYSIS w/Foot Notes

Section 1: Replaces language granting the commission powers which shall be "liberally construed" with language allowing the commission to do "all things necessary or proper to carry out the purposes and exercise the powers expressly granted or reasonably implied".

(Bert Sharp crafted this compromise in Senate Finance. ARECA wanted it badly, and GCI & the Commission opposed.)

This compromise was reached last year in the Senate Finance Committee. Some utilities, namely electrics, felt this grant of power was too broad, and in questions where the commission did not have express authority to act, the legislature should make such policy calls. Others, besides the APUC itself, felt this provision was necessary for the efficient and orderly functioning of the commission in the regulation of utilities for the public interest. This language strikes a balance and was acceptable to all parties concerned.

Sections 2, 3, 10 and 11: Re-enact the RCC for utilities and pipelines without the sunset. This language is identical to the former law with the following exceptions:

There are no sunset provisions for the regulatory cost charges.

This provision was proposed by the auditor and supported by the APUC. Both assert the Commission's sunset review is adequate to address any issues that arise with the Regulatory Cost Charge.

Specifically:

Page 3, lines 11- 13:

Adjusts the allocation of the Regulatory Cost Charge for electric utilities by subtracting the cost of power from their gross revenues.

(ARECA wanted. Auditor wanted timekeeping system and allocation of costs by workload. APUC said timekeeping system -- much like attorney's utilize -- would be too costly. So ARECA's position was a compromise. "Rough cut" of justice. According to the auditor, Electrics overpaid \$192,416 in FY '93, while telephone utilities underpaid \$851,456. This more accurately aligns payment to workload.)

The auditor recommended the APUC periodically adjust the RCC allocation among utility types to reflect workload on an industry by industry basis utilizing a time-keeping system. However, the commission argued such a change would be complicated and require more staff. ARECA proposed this "rough cut" justice as a simplified and more economical way to achieve the auditor's recommendation.

**Page 2, line 27;
and Page 6, line 4:**

Increases the regulatory cost charge ceiling for public utilities and pipeline carriers from .61 percent to .8 percent.

(Remember, this is just a ceiling. The APUC has never reached their current ceiling. In fact, the current rate is .42%.)

This change was necessitated when cost of power was subtracted from electric utilities gross revenues before application of the RCC. The ceiling for the RCC rate would need to be increased roughly 30 percent to maintain the same amount of revenue for the commissions operating costs. (Remember, the RCC is a direct pass through on our utility bills, and is itemized as the RCC that runs roughly \$10 a year for all utilities.)

**Page 3, lines 20-24;
and Page 6, lines 15-19:**

Requires the Dept. of Administration to earmark regulatory cost charges over-collected for possible appropriation by the Legislature for the commission's next fiscal year.

Currently, by the time 4th quarter Regulatory Cost Charges charges arrive in July, the new fiscal year has started. If the APUC has over-collected, and they won't know until the 4th quarter receipts arrive, the money lapses into the general fund. This section would allow those over-collected funds to be appropriated back to the APUC thus reducing the next year's RCC.

Sections 4, 8 and 9: Provides that subscribers of small utilities or utilities otherwise exempt from regulation can petition for an election to place the utility under regulation under the same procedures the subscribers of a regulated utility in petition for an election to remove the utility from regulation.

(Auditor's recommendations. Supported by the APUC.)

10% to de-regulate
25% to regulate

This provision was recommended by the auditor and supported by the commission. Under current statute, 10 percent of the first 5,000 subscribers of a regulated utility and 3 percent of the remaining subscribers may petition for an election to remove a utility within certain revenue parameters from regulation. However, for subscribers to petition for an election to place an unregulated utility under regulation they must gather the signatures of 25% of the subscribers. The auditor recommended the procedures for subscribers to opt-in or opt-out of economic regulation should be easier. These sections provide that opt-in and opt-out procedures are identical.

Sections 5, 6, and 7: Gives more consumers the option to deregulate by raising maximum amount of gross revenues a utility may receive under which the consumers may elect for deregulation.

(Auditor's recommendation. Supported by APUC.)

Currently, electric and telephone utilities that do not gross \$325,000 annually may elect to be exempt from regulation. Section 5 increases that amount to \$500,000. For other utilities the cut-off was raised from \$100,000 to \$150,000, except for garbage collection utilities the amount was raised from \$200,000 to \$300,000.

These provisions were recommended by the auditor and supported by the commission. They increase the consumers options to deregulate.

Provisions of SB 47

Page 4

Section 12: Extends the sunset date of the APUC to June 30, 1999.

(Auditor recommended extension to 2003. This is a 4 year extension, not a 5 year extension as has been asserted by Rieger and Halford. There will be an attempt to shorten this. Arguments against: Disrupts activity of Commission, and makes it impossible for them to maintain qualified staff. Moreover, we extended for just one year in the first session of the 18th Legislature to more thoroughly review APUC. We've done this -- does the Legislature want to revisit this issue every year? Lastly, for your information: electric and telephone utilities support the 4 year extension.)

Section 13: Staggers the terms of the members of the commission.

Currently, the terms of the consumer seat and the engineering seat expire at the same time. This provision would stagger the terms, though it would not affect the terms of any of the current commissioners.

Section 14 and 15: Provides that the change in the commission's powers as amended in section 1 apply only to proceedings begun on or after the effective date of section 1, which is set in section 15 as July 1, 1996.

(Part of Sharp's compromise crafted with ARECA and APUC and GCI.)

Section 16: Except for section 1, the Act has an immediate effective date.

AMENDMENT #1

OFFERED IN THE SENATE

BY SENATOR DONLEY

TO: SB 47

1 Page 1, line 1, through page 7, line 11:

2 Delete all material and insert ""An Act extending the Alaska Public Utilities
3 Commission; and providing for an effective date.""

4 Page 7, line 12:

5 Delete "Sec. 12"

6 Insert "Section 1"

7 Page 7, line 14:

8 Delete "1999"

9 Insert "1996"

10 Page 7, lines 15 - 25:

11 Delete all material and insert a new bill section to read:

12 "" Sec. 2. This Act takes effect immediately under AS 01.10.070(c)."

BILL: SB 47 SHORT TITLE: APUC EXTENSION AND REGULATORY COST CHARGE
BILL VERSION:
SPONSOR(S): SENATOR(S) KELLY

CURRENT STATUS: (S) CALENDAR 2/28 STATUS DATE: 02/28/95

TITLE: "An Act relating to the extent to which the Alaska Public Utilities Commission may exercise its powers when regulating utilities; establishing a regulatory cost charge on public utilities and pipeline carriers; relating to the allocation of costs in hearings before the Alaska Public Utilities Commission; relating to the method by which utilities are exempted from and made subject to regulation by the Alaska Public Utilities Commission; relating to the monetary threshold for regulation of certain kinds of utilities by the Alaska Public Utilities Commission; extending the Alaska Public Utilities Commission; relating to staggered terms for members of the Alaska Public Utilities Commission; and providing for an effective date."

01/25/95	82	(S)	READ THE FIRST TIME - REFERRAL(S)	
01/25/95	82	(S)	L&C, FIN	
02/03/95	161	(S)	L&C RPT 3DP 1NR - DO PASS: KELLY, MILLER, TORGERSON	
02/03/95	161	(S)	FISCAL NOTE (DCED)	NR: SALO
02/03/95	161	(S)	ZERO FISCAL NOTE (ADM)	
02/23/95	384	(S)	FIN RPT 4DP 2NR 1AM DO PASS: FRANK, HALFORD, PHILLIPS,	
02/23/95	384	(S)	ZERO FN (REV)	SHARP
02/23/95	384	(S)	PREVIOUS FISCAL NOTE (DCED)	
02/23/95	384	(S)	PREVIOUS ZERO FISCAL NOTE (ADM)	NR: RIEGER, ZWAROFF
02/28/95		(S)	RULES TO CALENDAR 2/28/95	AMEND: DUNLEY



AMENDMENT #1

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: SB 47(efd fld)

1 Page 5, lines 24 - 26:

2 Delete "AS 42.05.712(h). Notwithstanding AS 42.05.712(b) and (e), if subscribers
3 representing 25 percent of the gross revenue of the utility petition the commission for
4 regulation, the utility is subject to the provisions of this chapter."

5 Insert "AS 42.05.712."

FISCAL NOTE

No. 1
 Bill Version: SB 47
 (S) Publish Date: 2/3/95

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

Revision Date: _____
 Title: An Act establishing a regulator, cost charge
extending the Alaska Public Utilities Commission
 Sponsor: Senator
 Requestor: _____

Department Affected: Commerce and Economic Development
 BRU: Alaska Public Utilities Commission
 Component: _____

COMPONENT SERIAL NO. 364

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	2,618.9	2,372.2	2,247.1	2,135.0	2,335.0	2,547.8
TRAVEL	13.8	55.7	50.4	54.2	68.3	72.7
CONTRACTUAL	1,006.6	1,267.5	1,135.7	1,208.2	1,285.3	1,367.2
SUPPLIES	12.7	64.0	68.4	72.7	77.4	82.2
EQUIPMENT	13.0	52.9	55.3	59.9	63.7	67.8
LAND & STRUCTURES						
GRANTS/CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	3,789.7	4,011.8	4,267.7	4,540.0	4,829.7	5,137.8

CAPITAL EXPENDITURES

CHANGE IN REVENUES ()

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF Program Receipts	3,789.7	4,011.8	4,267.7	4,540.0	4,829.7	5,137.8
1006 GF MHTIA						
Other						
TOTAL	3,789.7	4,011.8	4,267.7	4,540.0	4,829.7	5,137.8

Estimate of current year (FY 95) cost: \$ _____

POSITIONS

FULL-TIME	42	43	43	44	45	46
PART-TIME						
TEMPORARY						

ANALYSIS Attach a separate page if necessary.
 Represents revenues from the regulator, cost charge mandated by Sections 1 and 3 of HB 69.

This bill extends the life of the APUC until June 30, 1999, and mandates the collection of fees from regulated utilities and pipeline carriers to cover its authorized budget. Early passage is essential to keep public utilities and pipeline regulation on track. Otherwise, the APUC will shut down June 30, 1995. This reflects the operating budget request for the Commission in FY 95. In addition, the contractual line includes \$500,000 for increased RSA with the Department of Law to handle legal analysis and increased litigation concerning the new powers and duties language in Section 1 of the bill.

Prepared by: Robert A. Loh, Executive Director
 Division: Alaska Public Utilities Commission
 Approved by: Commissioner William L. Hershey
 Agency: Commerce and Economic Development

Phone: 378-6222
 Date: 2/27/95
 Date: 11/27/95

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FISCAL NOTES

FISCAL NOTE

No. 2

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Bill Version: SB 47

(S) Publish Date: 2/3/95

Revision Date: _____
Title: "An Act relating to the extent to which the
Alaska Public Utilities Commission effective date"
Sponsor: Senator Kelly
Requestor: _____

Department Affected: Administration
BRU: Finance
Component: Finance
COMPONENT SERIAL NO. 59

EXPENDITURES/REVENUES

(Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	00	00	0.0	0.0	0.0	0.0
TRAVEL	00	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	00	0.0	0.0	0.0	0.0	0.0
SUPPLIES	00	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	00	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	00	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	00	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	00	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	00	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	00	00	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES	00	0.0	0.0	0.0	0.0	0.0
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FUNDING SOURCE (Thousands of Dollars)

1002 Federal Receipts	00	0.0	0.0	0.0	0.0	0.0
1003 GF Match	00	0.0	0.0	0.0	0.0	0.0
1004 GF	00	0.0	0.0	0.0	0.0	0.0
1005 GF/Program	00	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	00	0.0	0.0	0.0	0.0	0.0
OTHER	00	0.0	0.0	0.0	0.0	0.0
TOTAL	00	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 95) cost: \$ 00

POSITIONS:

FULL-TIME	00	0.0	0.0	0.0	0.0	0.0
PART-TIME	00	0.0	0.0	0.0	0.0	0.0
TEMPORARY	00	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)
No impact on the Division of Finance

Prepared by: Don Wanie
Division: Finance

Phone: 465-2240
Date: _____

Approved by Commissioner: Mark Royer
Agency: Department of Administration

Date: 1/30/95

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FISCAL NOTE

No. 2

Bill Version: SB 47

(S) Publish Date: 2-23-95

Revision Date: February 1, 1995

Dept. Affected: Revenue

Title: APUC Extension & Regulatory Cost Charge

BRU: Audit Operations

Component: Income and Excise Audit

Sponsor: Senator Kelly

Requester: Labor & Commerce

COMPONENT SERIAL NO.

113

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL

REVENUE FUND SOURCE:

FUNDING

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current (FY95) impact \$

50.00

ANALYSIS: (Attach a separate page if necessary)

(See Attached Analysis)

Prepared by: Robert N. Barmolomew, Deputy Director

Phone: 465-2320

Division: Income and Excise Audit

Date: 2/1/95

Approved by Commissioner: [Signature]

Date: 2/1/95

Agency: Department of Revenue

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Audit Report

DEPARTMENT OF COMMERCE
ECONOMIC DEVELOPMENT
AGRICULTURE
COMMISSION

JULY 1954



AUDITOR'S REPORT

ORGANIZATION &
FUNCTION

ORGANIZATION AND FUNCTION

Public utility regulation in Alaska has evolved substantially since the creation of the Public Services Commission (PSC) in 1959. That three-member body had jurisdiction over electric power, heat, water, gas, oil or other petroleum products (except by pipeline), telephone or telegraph communications, and community sewer services. In 1960 PSC gained responsibility for transportation utilities which it regulated until the creation of the Alaska Transportation Commission in 1966.

PSC was replaced by a three-member Alaska Public Utilities Commission in 1970. Regulated industries then included electric, telecommunication, water, steam, sewer, gas, and petroleum when no competition existed. A 1973 amendment added garbage, refuse, trash, or other waste to the list. Amendments passed in 1980 provided exemptions from economic regulation for cable television services and other utilities with low annual gross revenues as well as establishing a provision allowing economic deregulation by consumer vote for certain utility groups. With abolition of the Alaska Pipeline Commission in 1981, jurisdiction over pipelines passed to APUC.

In addition to jurisdictional changes, composition of APUC also changed. Alaska Statute 42.05.040 originally required one member to be a law school graduate, one to be a university graduate with a major in engineering, and one to be a university graduate with a major in finance, accounting, or business administration. Two additional positions were added to the commission in 1975 for which no special qualifications were established. All members are appointed by the governor and confirmed by the legislature in joint session for six-year terms.

Under AS 42.05 and AS 42.06, APUC is charged with the responsibility to ensure the furnishing of adequate service to all public utility patrons, without discrimination, and at the lowest reasonable rates consistent with the interests of both the public and the utility. Statutory provisions direct the commission, after determining an applicant is fit, willing, and able to provide utility service, to issue that applicant a Certificate of Public Convenience and Necessity. After issuance of this certificate, the commission then regulates the rates, classifications, rules, regulations, practices, services, and facilities of a public utility, unless it is exempted or deregulated. The commission has the authority to adopt regulations and to hold formal, quasi-judicial hearings, to accomplish these purposes.

The staff of APUC is divided into six major functions: administration, engineering, communication carriers, consumer protection, finance, and tariffs. In total, APUC employs

Alaska Public Utilities Commission Members

Don Schroer, Chairman
Consumer Seat
Term expires October 31, 1996

Susan M. Knowles
Consumer Seat
Term expires October 31, 1993

Daniel Patrick O'Tomey
Legal Seat
Term expires October 31, 1994

Mark A. Foster
Engineering Seat
Term expires October 31, 1993

James E. Cantor
Finance Seat
Term expires October 31, 1996

40 people with an operating budget for FY 93 of \$3,740,800. A brief description of the services provided by these functions follows:

Administration An executive director, hired by the commission, is responsible for directing all staff functions and acts as a liaison between staff and commissioners and between the commission and legislature. He/she is responsible for records and document management, fiscal and personnel administration, and budget preparation and is assisted in these duties by an administrative assistant, document processing personnel, and other clerical support staff.

Engineering This section is responsible for the investigation of utility procedures and practices affecting quality of service, review of legal descriptions for service areas, plans for plant expansion, and plant-in-service and depreciation schedules. Their evaluations are presented in proceedings before the commission.

Communication Carriers This section was established by 1976 legislation to develop, recommend, and administer policies and programs with respect to the regulation of rates, services, accounting, and facilities of communication carriers within the State involving the use of wire, cables, radio and space satellites.

Consumer Protection and Information Major responsibilities for this section include investigation and resolution of consumer complaints, public relations, and information dissemination.

Finance Activities carried out by this section include the examination, analysis, and evaluation of financial statements submitted for rate cases, audits of financial records of utilities, examination of financial information comprising historical operating year and pro forma adjustments, and the presentation of these analyses at proceedings before the commission.

Tariff This section examines, analyzes, and investigates tariff filings and presents recommendations to the commission at biweekly tariff action meetings. Administrative functions include organizing those meetings, as well as meeting all public notice requirements on tariff filings and maintenance of current master tariffs for all utilities.

REPORT CONCLUSIONS

Policy Issues

This review contains policy issues raised as a result of our evaluation of various commission practices. The final policy decisions affecting those practices require legislative consideration. In debating these decisions the legislative oversight committees should take into consideration the findings and recommendations presented in this report to assist them in evaluating the potential impact of any policy changes.

Report Conclusions

In our opinion, the Alaska Public Utilities Commission is operating in an efficient and effective manner and should continue to regulate public utilities and pipelines. We believe that the public interest is being served by requiring public utilities and pipelines to be certificated by APUC. This process stabilizes demand for the utility service by eliminating competition and thereby allowing economies of scale to operate. Economic regulation by the commission, in place of that competition, ensures that the utilities provide adequate service at the lowest reasonable rates.

We recommend that AS 44 66.010(a)(4) be amended to extend the life of APUC to June 30, 2003. APUC has consistently demonstrated public need; we believe it is in the public's best interest to extend the life of this commission for ten years. However, we recognize that performance issues periodically arise. The Division of Legislative Audit can address these interim issues, if any, through a special audit at the request of the Legislative Budget and Audit Committee.

FINDINGS AND RECOMMENDATIONS

APUC says too expensive.
ARECA/SHARP COMPROMISE
SUBTRACT COST OF POWER.

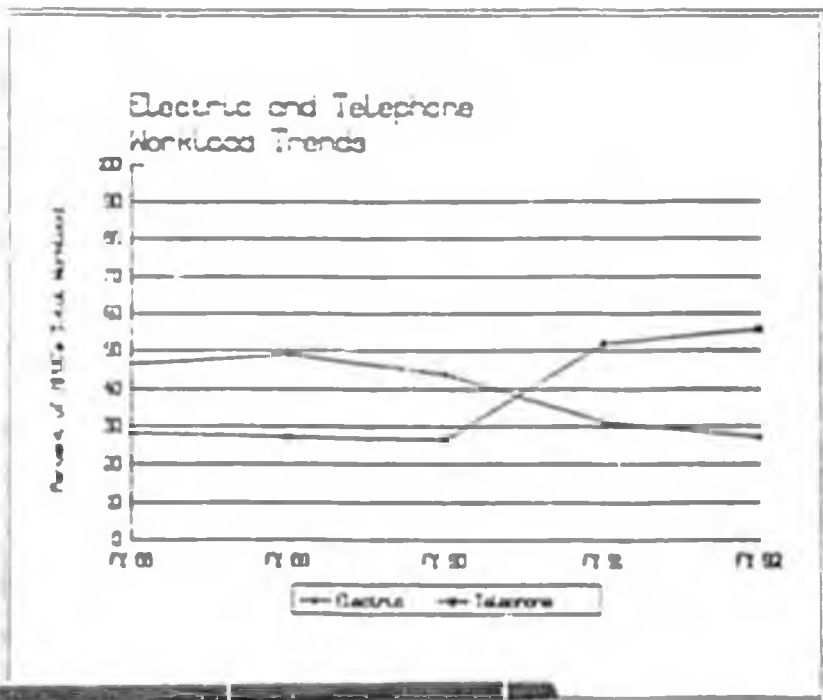
Recommendation No. 1

Alaska Statute 42.05.253 should be amended to require APUC to periodically adjust the regulatory cost charge (RCC) on an industry by industry basis. Further, the automatic repeal date of this statute should be deleted.

In our 1989 sunset audit report we recommended a program receipts budget for APUC, not because it was an alternative funding source but because of the potential benefits that this mechanism could provide. A user fee design can establish a basic fairness in that only those who benefit from the regulatory process bear its cost; it can also encourage consumers to recognize and eliminate unwarranted regulation through deregulation elections. However, these benefits will only be realized to the extent that the RCC program reasonably links the cost-causers with the cost-payers.

For FY 93, the legislature authorized a new RCC program which passes APUC's costs on to the consumers of regulated utilities. This program allocates costs based upon gross revenues. A single charge factor is used across-the-board for all utilities and all industries. Although we believe that a direct workload-based allocation program is preferable, as outlined in our 1989 report, we also continue to believe that a gross revenue based system could realize these benefits if the rates reflect the workload. However, the single RCC factor used in the current plan sacrifices some of program's potential benefit, in that the cost-payers are not necessarily the cost-causers.

We analyzed APUC's workload to evaluate the alignment of cost-causer to cost-payer. In the absence of verifiable data such as utility or industry codings on payroll time sheets, we were forced to approximate the workload by using rough estimates, which were provided on an unofficial basis by commission staff. They provided estimates of the average relative effort required to perform the ongoing APUC functions such as tariff filings, formal proceedings, certification proceedings, and formal and informal complaints. While we acknowledge that the weighting in these analyses is imperfect, we believe it provides an adequate indication of the



commission's workload. We found that the electric and telephone industries, on a combined basis, have represented approximately 79 percent of APUC's workload. The graph of these two industries illustrates the significance, variation, and trend that complicates setting of an RCC rate. The following table compares the commission's estimated FY 93 RCC receipts with the amount calculated based upon the workload over the past three years.

Industry	Flat Rate Allocation			Workload Allocation		(Over (Under) Allocation
	Estimated Gross Revenues	RCC Percent	Estimated FY 93 RCC	Percent of Workload	Allocation	
Electric	\$260,673,485	577%	\$1,504,086	34%	\$1,311,670	\$192,416
Telephone	153,306,332	577%	884,577	45%	1,736,033	(851,456)
Pipeline	99,532,100	577%	574,300	4%	154,314	419,986
Gas	99,152,056	577%	572,107	3%	115,736	456,371
Water	22,955,320	577%	132,452	4%	154,314	(21,862)
Sewer	17,129,576	577%	98,838	2%	77,157	21,681
Refuse	15,856,758	577%	91,493	4%	154,314	(62,821)
Cable	0	577%	0	3%	115,736	(115,736)
Other	0	577%	0	1%	38,579	(38,579)
Total	\$668,605,627		\$3,857,853	100%	\$3,857,853	\$ 0

This table demonstrates that, based upon the workload over the past three years, the flat across-the-board rate significantly undercharges telephone and overcharges electric, pipeline, and gas utilities. Of course, the over or under allocation amount by industry varies depending on how many years of workload are considered. The use of an across-the-board rate incorrectly assumes that an industry's gross revenues are closely correlated to the workload that it creates. Given the significance of the electric and telephone workload, variation, and trend, we do not believe that the allocation methodology should assume that all workload cycles reverse themselves and that all industries create the same amount of workload in the long run. Therefore, we recommend that the legislature amend AS 42.05.253 to require APUC to periodically adjust the RCC factors to reflect workload on an industry by industry basis.

Notwithstanding the above, we support the current RCC program; we believe that it provides a measure of equity and responsiveness to unwarranted regulation that was lacking prior to the program. Our recommendation is intended to further the equity and regulatory responsiveness objective of this program.

The RCC program was established as a trial program utilizing an automatic repeal of December 31, 1994. As we consider this program to be effective, we recommend that this repeal provision be deleted.

Recommendation No. 2

DONE

Alaska Statute 42.05.711 should be amended to make it easier for utility consumers to opt in or opt out of economic regulation.

In the 1989 sunset audit report, we recommended the deregulation of several industries as well as the smaller utilities in each industry. We continue to believe that not all industries need to be regulated and that the cost of regulation may exceed its benefits, particularly for the smaller utilities. With the recent adoption of a user fee approach under the RCC program, the impetus exists to make state government more responsive; what is lacking is a reasonable mechanism to allow consumers to select whether or not they want their utility to be regulated.

Alaska Statute 42.05.711 exempts electric and telephone utilities with revenues less than \$50,000 and refuse utilities with revenues under \$200,000. However, customers can obtain economic regulation by petitioning APUC. Alaska Statute 42.05.711 presently requires 25% of an exempted utility's subscribers to sign the petition. We believe that this is too great an obstacle to overcome and recommend that an election be called if APUC receives a petition demonstrating significant consumer interest. We recommend that the petition and election requirements be modeled after the deregulation election procedures in AS 42.05.712. These procedures call for an election if the petition is signed by 10% of the first 5,000 subscribers and 3% of the subscribers in excess of 5,000. These elections may only be held once every two years for a given utility.

Alaska Statute 42.05.711 also allows deregulation elections to be held for electric and telephone utilities with revenues of less than \$325,000 and other utilities with revenues under \$100,000. We believe that more consumers should be given the option to deregulate by substantially raising the cut-off amount.

In combination, these two changes would allow APUC and the user fee approach of the new RCC program to be more responsive to the regulatory needs of the utility consumer. The regulatory cost/benefit decision should be made by the consumer.

Recommendation No. 3

SEE REC #1

APUC should establish a timekeeping system.

We initially recommended, in 1979, that the commission implement the time system they had purchased. As part of a 1978 management audit of APUC, Arthur Young & Co. developed a time management system to assist the commission in prioritizing, planning, scheduling, and

monitoring the workflow. In response to our recommendation, the commission concurred that a time management system is a useful administrative tool. They indicated that the time system would be implemented.

In our 1989 sunset audit report we recommended that APUC establish a timekeeping system as an integral part of a direct-allocation RCC program. As the legislature selected an RCC program that was not time based, APUC was not required to implement this recommendation. However, as costs to establish and operate a time system are minimal and the benefits are substantial, we continue to recommend it.

The costs of a timekeeping system are minimal.

- The commission should determine what management reports are needed. While we acknowledge that the 1978 time management system is likely outdated, we recommend that the commission review it to assist them in developing this needs definition.
- Purchase and install "canned" software. There is very inexpensive software on the market that should meet the commission's needs. APUC already has a programmer on staff that could handle the installation.
- The ongoing cost to record time would be insignificant. An employee would need only a few minutes a day to electronically enter their time.
- The time system would also require a small amount of computer and personnel time to accumulate the data and generate periodic management reports.

The benefits of a timekeeping system are substantial.

- A time system would give APUC management a greater ability to prioritize, plan, schedule, and monitor their workload. We believe this information would be invaluable to the commission.
- The legislature is often involved in regulatory matters. Using these management reports, APUC would be better able to estimate the full effect of any regulatory changes.
- There is a potential for increased staff efficiency as a result of time sheet accountability.
- Time sheets would provide a defensible basis for the RCC allocation discussed in Recommendation No. 1. However, regardless of the action taken on Recommendation No. 1, the benefits of implementing a timekeeping system far outweigh the costs.

The nature of the commission's business is very different from most state agencies; they deal with a relatively small number of companies and work on discrete projects. APUC's workload is similar to that in the Attorney General's Office and the Department of Transportation and Public Facilities' maintenance and construction divisions, all of which maintain project time systems.

Recommendation No. 4

NOT DONE

APUC should consider how to best ensure commission member access to adequate staff support and advice.

The commission members are inundated with technical information and complex issues. These issues must be thoroughly explored and the commission's decisions must be fully documented. The legislature recognized this difficult task and appropriately established full-time commission members with six-year terms. Nevertheless, there remains a substantial need for staff support and professional advice.

We are concerned that in the instances when commission staff are named as a party in an adjudicatory proceeding, the commission members do not have full access to support staff, professional staff, or legal counsel. The judicial model requires adversarial parties to present the case. APUC staff is frequently designated as a party to a case to provide this necessary balance. The assistant attorney generals advise APUC staff and effectively become a party to the case. Under this judicial model, ex parte communication rules prevent the commission members from directly obtaining assistance or advice from their staff or attorneys; this can only be accomplished if the utility is also present. This may often be impractical.

We believe that the commission would benefit from greater access to their staff and attorneys. The commission should consider how to best ensure full access. We offer the following alternatives:

- A group could be assigned, on a rotational basis, to each case. These individuals would be the party to the case; all others would be available to the commission members.
- Several staff could be assigned, on a rotational basis, directly to the commission. The criteria for selection may vary. The team could include all the professional disciplines, it could target the disciplines currently needed, or it could be a team of executive assistants. The remaining staff would be the party of record.

Although the above approaches have certain drawbacks, we believe that some separation would be achieved thus diminishing the ex parte communication problem. We believe this will enhance the commission's overall efficiency and effectiveness.

Recommendation No. 5

DONE

The APUC member's terms of office should be staggered.

The Alaska Public Utilities Commission has five members who are appointed by the governor and confirmed by the legislature in joint session to serve six-year terms. On October 31, 1993 two commission seats become available. Because the potential for

disruption of commission activity would be high with two new members coming in at the same time, we recommend the terms be staggered.

Currently, the terms are scheduled to end as follows:

Consumer seat (1)	October 31, 1993
Engineering seat	October 31, 1993
Legal seat	October 31, 1994
Consumer seat (2)	October 31, 1996
Finance seat	October 31, 1998

We propose this staggering be implemented by modifying the upcoming term of the engineering seat. We propose the following language be added to a temporary or special act:

The term of the Alaska Public Utilities Commission Engineering seat, which is scheduled to begin on November 1, 1993, shall end on October 31, 1995. This adjustment to the normal six-year term, as established under AS 42.05.030(a), is necessary to appropriately stagger commission membership.

WALTER J. HICKEL, GOVERNOR

ALASKA PUBLIC UTILITIES COMMISSION
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

1016 WEST 6TH AVENUE
SUITE 400
ANCHORAGE, ALASKA 99501-1963
PHONE: (907) 276-6222
FAX: (907) 276-0160

March 1, 1993

Mr. Randy S. Welker, CPA
Legislative Auditor
Legislative Budget and Audit Committee
P.O. Box 113300
Juneau, Alaska 99811-1100

Ref: Audit Control No. 08-1404-93

Dear Mr. Welker:

On behalf of the Alaska Public Utilities Commission (Commission), I appreciate the opportunity to respond to your agency's audit of the Alaska Public Utilities Commission (08-1404-93). The Commission concurs with your finding in the "Report Conclusions" that the life of the Commission be extended until June 30, 2003. Therefore, this letter will focus on the Commission's response to your "Findings and Recommendations".

The audit states on page 1: "APUC was created to regulate public utilities so that citizens could enjoy adequate service at the lowest reasonable rates" (emphasis added). The actual ratemaking standard applied by the statute is "just and reasonable".

Recommendation No. 1 Alaska Statute 42.05.253 should be amended to require APUC to periodically adjust the regulatory cost charge (RCC) on an industry by industry basis. Further, the automatic repeal date of this statute should be deleted.

The Commission agrees that the program should be made permanent by deleting the automatic repeal date for the Regulatory Cost Charge Program (RCC). Last year the legislature switched the funding source for the Commission from general funds to this regulatory assessment. The Commission expended significant resources in developing regulations and procedures to make the program work and to make compliance by affected entities as straightforward as possible. The program is in place and running smoothly.

However, the Commission cannot support the recommendation to require itemization of the rates under the RCC program by utility/pipeline carrier type. Although in theory the recommendation has some merit, it is not at all clear to the Commission that it would be either practical or cost-effective to attempt to implement it at this time.

To carry out this recommendation fully, the repeal date for AS 42.06.285 (pipeline carrier regulatory cost charge) should also be deleted.

APUC'S RESPONSE TO RECS

Letter to Mr. Randy Weiker,
Page 2 of 3
March 1, 1993

Individual RCC rates would require full and direct allocation of the Commission's costs. The recommendation, if implemented as drafted, would substantially increase the cost of the RCC program. Full cost allocation would be expensive, especially during the year when it was implemented. A permanent increment to the Commission's budget would be required. The Commission would face a new administrative burden of setting individual RCC rates and handling protests to the rates.

One of the key principles guiding the development of the RCC was simplicity. The Commission has been able to absorb the ongoing costs of the RCC program from its existing budget, because the program has been kept simple and workable. Your recommendation for further refinement of the RCC would require the statutory cap of .61% of adjusted gross revenues (AS 42.05.253(a)) to be substantially increased. Based on your estimates by utility type for purposes of discussion, the current authorized budget for the Commission would require increasing the cap to .85% for certain utility groups, at a minimum.

From the perspective of most utility customers facing a regulatory cost charge bill of less than \$20 per year, different rates for different utility types would not have a measurable effect on their total bill.

Recommendation No. 2 Alaska Statute 42.05.711 should be amended to make it easier for utility consumers to opt in or out of regulation.

The Commission agrees in part. Since the legislature reached a policy conclusion that small utilities ought to be provided the statutory option to deregulate by majority vote, it seems appropriate to periodically adjust the gross revenue cutoff levels to maintain this as a realistic option. These gross revenue cutoff levels have not been adjusted since they were enacted in 1980.

Increasing the cut-off from \$325,000 to \$500,000, for example, would allow the members of nine additional economically regulated electric utilities to decide whether to vote for deregulation. They are Bettles, Far North, Gustavus, Manley, Middle Kuskokwim, Napakiak, Northway, FUI and Teller. Middle Kuskokwim is already eligible to vote for deregulation as a cooperative under AS 42.05.711(h). Attachment #1 lists electric and telephone utility gross revenues.

The cut-off for local exchange telephone companies would have to be increased from \$325,000 to approximately \$850,000 in order for any other utility to qualify for the option of voting to deregulate.

The Commission does support increases in the cutoff levels if there

Letter to Mr. Sandy Weiker, CPA
Page 3 of 3
March 1, 1993

is some compelling evidence that the benefits of regulation are not commensurate with the cost. Although the enactment of the RCC has quantified the cost side, the benefits, although tangible, are still difficult to quantify.

Recommendation No. 2 APUC should establish a timekeeping system.

The Commission agrees that this recommendation is worthwhile to pursue. If accomplished for internal management purposes, the system could be designed relatively economically. However, if the system is required to serve as the basis for billings, such as those recommended in Recommendation #1, it would be substantially more costly. In either case a fiscal note would be required to carry out this recommendation.

Recommendation No. 3 APUC should consider how to best ensure commission member access to adequate staff support and advice.

The Commission agrees.

Commission staff become a party to a proceeding only when designated to be so by Commission order. This decision is typically made by the Commissioners in adjudicatory session soon after a docket is established.

The Commission is familiar with the alternate models for deployment of the staff resources outlined in your report and will continue to entertain possibilities for improvement.

The Commission believes that a simplified method of obtaining counsel to support the Commission under contract is needed for cases where the attorney general represents staff as a party. Extended procurement procedures and the approval of the attorney general to selected the legal contractor both complicate this process.

Recommendation No. 5 The APUC member's terms of office should be staggered.

The Commission agrees. Legislation would be required to accomplish this change.

Thank you for the opportunity to respond.

Sincerely,
Don Schroer


Chairman

SB

54

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. SB 54

Revision Date: _____
 Title: Exclusive Service Territories for
Certificated Electric Utilities
 Sponsor: Senate Labor & Commerce Committee
 Requestor: _____

Department Affected: Commerce and Economic Development
 BRU: Alaska Public Utilities Commission
 Component: _____
 COMPONENT SERIAL NO. 166

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	0	33.1	66.2	33.1	33.1	0
TRAVEL	0	0.7	1.4	0.7	0.7	0
CONTRACTUAL	0	24.0	24.0	12.0	12.0	0
SUPPLIES	0	0.9	1.5	0.8	0.8	0
EQUIPMENT	0	0.7	1.3	0.7	0.7	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	47.3	94.4	47.3	47.3	0

CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA	0	47.3	94.4	47.3	47.3	0
Other						
TOTAL	0	47.3	94.4	47.3	47.3	0

Estimate of current year (FY 95) cost: \$ _____

POSITIONS

FULL-TIME	0	.5	1.0	.5	.5	0
PART-TIME						
TEMPORARY						

ANALYSIS (Attach a separate page if necessary)

SB 54 could require a Utilities Engineering Analyst III to analyze the additional electric utility certification filings. This position would be 50 for FY 96, 50 in FY 97, full-time in FY 98, half-time for FY 99 and FY 00, 50 for FY 01.

(CONTINUED NEXT PAGE)

Prepared by: Robert A. Lohr
 Title: Alaska Public Utilities Commission
 Approved by Commissioner: William L. Hensley
 Title: Commerce and Economic Development

Phone: 276-6222
 Date: 2/16/95
 Date: 2/16/95

PREPARER TO GO TO LEGISLATIVE OFFICE

Fairbanks Municipal Utilities System

March 20, 1995

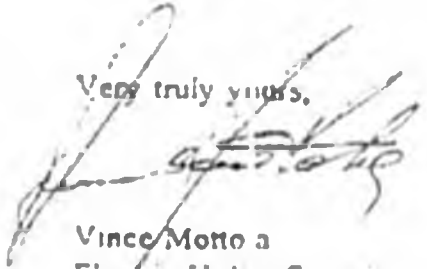
Linda Anderson
Governmental Consulting,
130 Seward St, Suite 501
Juneau, AK 99501

Re: SB54 Support

Dear Linda Anderson

It is the position of Fairbanks Municipal Utilities System that SB54 as seen as
CSSB 54(STA), SB0054B should be supported

Very truly yours,



Vince Monroa
Electric Utility Superintendent

845 F-M Avenue • P.O. Box 72215 • Fairbanks, Alaska 99707 2215 • (907) 459 6000

ALASKA RURAL ELECTRIC COOPERATIVE ASSOCIATION
703 West Tudor, Suite 200

March 20, 1995

Senator Tim Kelly, Chairman
Senate Labor & Commerce Committee
Juneau, AK
Dear Senator Sharp

Thank you for introducing and scheduling SB 54 for hearing in the Labor and Commerce Committee.

The purpose for this legislation is to give direction to the Alaska Public Utilities Commission to maintain the historic regulatory system for electric utilities. This historic practice has been for each electric utility to be assigned to a separate service area, and for rates to be set by the commission in lieu of competition, except in those instances in which the customers of the utility have opted not to have the rates set by the commission. This has been an efficient and orderly system which has served the public well.

This practice has been based on AS 42 05 221 which presumes that the commission will provide for separate service areas. This section was enacted at the time the commission came into existence in its present form, and it was the policy that this section embodies that accounted largely for the creation of the commission. The factual situation at that time was that electric utilities were engaged in fierce and wasteful competition. In an attempt to maximize their market shares, electric utilities located in the same community built lines adjacent to each other throughout much of the area. This was a horrible misallocation of resources. Section 221 directed the commission to separate the utility service areas.

At this time, the task of consolidating the electric utilities into separate service areas has essentially been completed. Now that the factual situation has changed, it would be appropriate for the legislature to recognize this change by amending Section 221 to clearly direct the commission to keep electric service areas separate. That clear directive is contained in Section 2 of CS SB 54(STA).

We think this policy statement by the Legislature is particularly important at this time because of the national debate that is underway regarding "retail wheeling." There has been a lot of talk, but very little action, on this subject around the country. But the idea behind it is that the larger consumers want to be able to make their own deals for electricity from a power supplier other than the utility certificated to serve the area where the large consumer is located. This necessarily places the smaller consumers with less bargaining power at a disadvantage. This approach contrasts sharply with the historic regulatory system in Alaska in which periodic cost of service studies are required so that each customer class pays its own fair share of the cost of serving the area.

"Retail wheeling" may or may not be workable in some jurisdictions, but it breaks down entirely in the Alaska setting. The distinctive and unique characteristic of Alaska electric utilities is that most of them are physically isolated from any neighboring utility. Because they are electrically isolated, they have had to invest in their own generation facilities rather than buying power from someone else. Because they are small, it is a constant struggle for them to achieve economies of scale sufficient to permit them to offer rates comparable to those taken for granted anywhere else. If independent power producers are permitted to come into the area being served by an electric utility and serve only the largest customers, it may be able to offer lower rates to those most desirable customers, but all the other customers will have to pay higher rates. In some cases, feasibility for the very existence of the electric utility may be destroyed.

Section 3 of this bill removes some language that has been interpreted as permitting independent power producers the opening to do the very things we are most concerned about. The language being repealed was inserted several years ago as a "compromise" in a hot fight between a gas company and an electric company on the North Slope. That dispute no longer exists, and this section needs to be amended to be consistent with Section 2 of the bill.

Section 1 is an intent section added in the State Affairs Committee at the request of GCI.

We understand the commission has proposed a fiscal note of nearly \$100,000 to accompany this bill. The whole purpose of this bill is conservative, in the sense of keeping things the way they are, so any increase in expenditures to administer this bill are unfounded. We recommend the committee adopt a zero fiscal note.

Sincerely,



David Hutchens
Executive Director

Alaska State Legislature

Senator Tim Kelly, Chair
Senator John Torgerson, Vice Chair
Senator Mike Miller
Senator Jim Duncan
Senator Judy Salo



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JUNEAU, ALASKA 99801-1182
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SENATE LABOR AND COMMERCE
COMMITTEE

716 W 4TH SUITE 400
ANCHORAGE AK 99501-2133
PHONE (907) 258-8180
FAX (907) 258-4524

ADDENDUM PACKET

SB 54: Relating to exclusive service areas for utilities

- I. ARECA Letter re: Amendments
- II. Proposed Amendments to SB 54
- III. Jim Arnesen and APUC Correspondence
- IV. HB 187--Representative James
- VI. APUC Statement on 42.05.711 (d)

AMENDMENT TO CS SB 54(SA):

Offered in the Senate Labor and Commerce Committee:

Page 1, Line 12, insert the following language:

* Sec. 3. AS 42.05.711 is amended to read:

AS 42.05.711(d) is repealed.

Remember remaining sections accordingly.

* Donley
Public Testimony UM/UMC
* Leg. Council 3:30
* Modern Comp.
* Bill of Transients Study



Electric Service for 100,000 Alaskans

Alaska

Rural

Electric

Cooperative

Association, Inc.

703 W Tudor Rd., #200
Anchorage, AK 99503
(907) 361-6103
FAX (907) 361-5347

March 16, 1995

Mr. Jim Rowe, Executive Director
Alaska Telephone Association
4341 B Street, Suite 304
Anchorage, AK 99503

Dear Jim:

I received your memo on SB 54 earlier this week. I understand your position, and I will make every effort to restate the proposed new subsection (g) to speak of service rather than entity in the next committee. I have asked, but not yet received a response, that this bill be heard next week in Senate Labor & Commerce. If for some reason we don't succeed in getting this change in that committee, I will keep trying, and we will get the job done. Thank you for your tolerance in this matter.

Also, I appreciate the invitation to attend your annual meeting in May. Unfortunately, I have to be in Washington, DC that week, but I have asked Tonya Lamothe from my office to attend and represent ARECA. Maybe I can catch the next one.

Sincerely,

David Hutchens
Executive Director

P.S.: You sounded really good yesterday in your testimony on HB 46.



March 15, 1995

Mr. Don Schroer, Chairman
Alaska Public Utilities Commission
1016 West Sixth Avenue, Suite 400
Anchorage, Alaska 99501-1963

Dear Mr. Schroer,

Thank you for your letter dated March 14, 1995, wherein you responded at Governor Knowles' request to a letter I had sent to him regarding deregulation of the refuse industry.

While I find it difficult to comprehend the discrepancy between the Commission's Declaratory Ruling in U-94-17 and the Commission's long held stance in favor of deregulation, I respect your position. We do agree in the belief that deregulation should properly occur through legislative action. That was precisely the reason for my contact with Governor Knowles and many other legislators. HB 187 is proposed legislation which may provide for the necessary statutory changes you mention.

Since the Commission has supported legislative deregulation of the refuse industry since 1979, it is my hope that the Commission will work with the legislature to assist in the passage of legislation to accomplish this.

Once again, thank you for your reply. If there is any way I can be of assistance, please let me know.

Sincerely,


Jim A. Arnesen

cc: Governor Knowles
Sen. Druc Pearce
Sen. Tim Kelly
Rep. Pete Kott
Rep. Jeannette James

Commercial Refuse

1825 Ship Avenue
Anchorage, AK 99501

PHONE (907) 277-3775
FAX (907) 277-3790

STATE OF ALASKA

DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT

ALASKA PUBLIC UTILITIES COMMISSION

TONY KNOWLES, GOVERNOR

1016 WEST SIXTH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99501-1963
PHONE: (907) 276-6222
FAX: (907) 276-0160
TTY: (907) 276-4933
E-Mail: apuc@apuc.ak.gov

March 14, 1995

Jim Arnesen, Owner
Commercial Refuse
1825 Ship Avenue
Anchorage, Alaska 99501

Dear Mr. Arnesen:

I am responding to your letter of January 6, 1995 at Governor Knowles' request.

There is little point to debating the Commission's declaratory ruling in U-94-17 in an exchange of letters. The Commission's order speaks for itself.


I believe that de-regulation of refuse service would provide you additional flexibility that you feel your business requires. However, as you know, AS 42.05.711(i) provides:

(i) A utility which furnishes collection and disposal service of garbage, refuse, trash, or other waste material and has annual gross revenues of \$200,000 or less is exempt from the provisions of this chapter, other than the certification provisions of AS 42.05.221 - 42.05.281, unless 25 percent of the subscribers or subscribers representing 25 percent of the gross revenue of the utility petition the commission for regulation.

The Commission has supported legislative de-regulation of refuse service since 1979, subject to local control. The decision whether to implement this change, however, is properly a legislative policy decision.

I appreciate your interest and look forward to hearing from you on other matters.

Sincerely,


Don Schröder
Chairmancc: Governor Knowles
Susan Knowles

3111 C Street, Suite 150
Anchorage, Alaska 99503
(907) 561 2038



During Session
P.O. Box V
Juneau, Alaska 99
(907) 465 4993

Senator Drue Pearce
District G

March 2, 1995

Mr. Don Schröer, Acting Chairman
Alaska Public Utilities Commission
1016 West 6th Avenue, Suite 400
Anchorage, AK 99501-1963

Dear Mr. Schröer: 'OW

I was recently contacted by Jim Arnesen, a constituent who is in the trash hauling business. In an all too familiar refrain, he complained that his business is being regulated out of business. He explained to me some of the regulatory burdens that are imposed under current law by the Alaska Public Utilities Commission. Throughout the course of his argument, he relayed several articulate and compelling reasons against regulation. In the spirit of fairness and allowing the other side a hearing, could you please describe to me your reasons for continued regulation of this market?

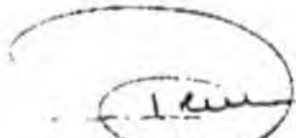
Mr. Arnesen's arguments center around the fact that allowing trash haulers to freely compete doesn't require large public investments. Classic regulated monopolies, such as water and sewer companies, normally require substantial public capital costs. A trash hauling firm can start operations with a single truck, a single customer, and a few refuse bins. In light of this fact, it would seem to me that trash hauling doesn't fit the classic reason for requiring a regulated monopoly. The Commission's recent decision to change the definition of "customer" to be equal to one service location caused the regulatory burden on Mr. Arneson's company to dramatically increase.

I suggest that more limited forms of regulation might be in order if protecting public health and safety is the compelling reason for continued regulation.

Anchorage requires all trash to be deposited into the city landfill or transfer station. Requiring trash haulers to post a bond should stop illegal dumping. The threatened loss of a bond should ensure compliance with Anchorage's trash ordinances.

Thank you for your time in considering these arguments. I would appreciate your reply at your earliest convenience.

Sincerely,



Dru Pearce

cc: Jim Arnesen

9 LS0649A

HOUSE BILL NO. 187

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE JAMES

Introduced: 2/20/95

Referred: Labor and Commerce, Resources

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to deregulation of public utilities furnishing collection and
2 disposal service of waste material."

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

4 • Section 1. AS 38.05.810(f) is amended to read:

5 (f) The commissioner shall lease state land for telephone or electric
6 transmission and distribution lines for less than the appraised value of the land if the
7 lessee is a nonprofit cooperative association organized under AS 10.25. The
8 commissioner may lease state land that is not located within the boundary of a
9 municipality for the disposal of garbage, refuse, trash, or other waste material for less
10 than the appraised value of the land if the lessee is approved by the commissioner
11 and collects and disposes [A LICENSED PUBLIC UTILITY AUTHORIZED TO
12 COLLECT AND DISPOSE] of garbage, refuse, trash, or other waste material outside
13 the boundaries of a municipality. Before determining the annual rental, the
14 commissioner shall consider the nature of the public service rendered by the nonprofit

1 cooperative association or approved lessee (LICENSED PUBLIC UTILITY) and the
2 terms of the grant under which the land was acquired by the state. A nonprofit
3 cooperative association may not construct improvements other than transmission or
4 distribution lines and substations on land leased under this subsection. An approved
5 lessee (A LICENSED PUBLIC UTILITY) may not construct permanent improvements
6 on land leased under this subsection that are not related to the purpose of the lease.
7 * Sec. 2. AS 29.35.050(b), 29.35.050(c), AS 42.05.711(i), 42.05.711(m), and
8 42.05.990(4)(F) are repealed.

Impact of Proposed Deletion of APUC Waiver Powers,
AS 42.05.711(d)

The Alaska Public Utilities Commission has traditionally relied on the authority of AS 42.05.711(d) to waive certain statutory requirements which would have increased the regulatory burden without noticeable benefits in the particular utility's case. The Commission unanimously opposes any effort to repeal 711(d). Removing the flexibility to tailor the laws and regulations to a specific fact situation would force the Commission to act in a rigid and inflexible manner. It would create precisely the kind of regulatory nightmare-type-agency that most regulatory reform bills are trying to prevent this year at both the state and federal levels.

Three examples of how this section has been used by the Commission to benefit utilities and the public interest follow:

In the Matter of the Application by Beluga Pipeline Company for a Certificate of Public Convenience and Necessity to operate as a Natural Gas Public Utility.

U-92-93(3). BELUGA PIPE LINE COMPANY is a gas transmission company (providing large quantity transportation service as distinguished from a distribution company which supplies gas to numerous customers for their immediate use). Under AS 42.05.311(c), this utility would have been required to obtain approval of a tariff containing terms and conditions for installing connecting facilities to the premises of applicants. But such a tariff is not applicable given the nature of the gas transmission business of this utility. The APUC relied on its AS 42.05.711(d) authority to exempt Beluga from this statutory requirement.

In the Matter of the Deregulation Election of Romig Park Improvement Company. U-92-80(1). This small community water system sought to deregulate under AS 42.05.712. Compliance with the notice timing provisions in AS 42.05.712(c) did not make sense for this utility because it bills only quarterly, not monthly. The commission relied on AC 42.05.711(d) to exempt the utility from this provision so that it could conduct its deregulation election.

In the Matter of the Deregulation Election of Barrow Utilities and Electric Cooperative, inc. for its Electric, Gas and Water Utilities U-93-11(4). AS 42.05.711 and AS 42.05.712 allow certain small electric and telephone cooperatives to become deregulated if consumers so elect. There is no comparable provision

in the statute for deregulation of small water and gas cooperatives, but BUECI asked that its gas and water utility also be exempt if its customers chose. The Commission relied on its AS 42.05.711(d) to grant this request.

In addition, this provision of law is cited as the authority for at least ten different Commission regulations. Electric service and safety standards are also affected. To the extent that these regulations rely on 711(d), their application would be called into question.

- 3 AAC 48.805. WAIVERS.
- 3 AAC 49.090. WAIVER.
- 3 AAC 50.750. APPLICATION, PURPOSE, AND WAIVER.
- 3 AAC 51.010. APPLICABILITY, NECESSITY, PURPOSE, AND WAIVER.
- 3 AAC 52.350. APPLICABILITY, FINDING, PURPOSE, AND WAIVER.
- 3 AAC 52.355. SCOPE OF COMPETITION.
- 3 AAC 52.361. NOTICE OF CERTAIN FEDERAL APPLICATIONS.
- 3 AAC 52.363. DETERMINATION OF DOMINANT STATUS.
- 3 AAC 52.365. DISCONTINUANCE, SUSPENSION, OR ABANDONMENT OF SERVICE BY NONDOMINANT CARRIER.
- 3 AAC 52.370. RETAIL RATES.
- 3 AAC 52.375. WHOLESALE SERVICE AND RATES.
- 3 AAC 52.385. STANDARDS OF SERVICE
- 3 AAC 52.390. MISCELLANEOUS PROVISIONS

The Commission has used its waiver power to benefit utilities, pipelines and their customers by allowing utilities temporary operating authority. Often the Commission has granted "temporary operating authority" to a utility while its application for a certificate is pending. Both the customers and the utility benefit, but the authority for temporary certificates is not explicit. The waiver powers of 711(d) are required.

Not one person has come forward with examples of misuse or abuse of 711(d). So why repeal it?

Routinely the Commission allows interim rates to go into effect without requiring the utility to escrow funds or post a bond under AS 42.05.421(c). It does this by making rates interim refundable, which again benefits the utility. The waiver powers of 711(d) are required.

The Commission has used the authority of this section to ensure that application of the

laws it is required to administer is fair and in the public interest. Deletion of this section would make the Commission much more rigid and inflexible by applying the letter of the law rather than its spirit.

CS FOR SENATE BILL NO. 54(STA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered: 3/10/95
Referred: L&C, FIN

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE BY REQUEST
A BILL

FOR AN ACT ENTITLED

1 "An Act relating to exclusive service areas for utilities certificated to provide
2 electric utility service and to the definition of 'general public' for utilities
3 furnishing electric service."

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

5 * Section 1. INTENT. It is the intent of this Act to state the policy only concerning
6 service areas for electric utilities. The amendments made by this Act do not apply to other
7 utility services.

8 * Sec. 2. AS 42.05.221 is amended by adding a new subsection to read:

9 (g) A certificate issued under this section to a public utility providing electric
10 service establishes an exclusive service area for the [public utility providing the] electric
11 service.

provision of

12 * Sec. 3. AS 42.05.990(3) is amended to read:

13 (3) "public" or "general public" means

14 (A) a group of 10 or more customers that purchase the service

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Rev 698

Central Microfilm Services
Department of Education
State of Alaska

CS FOR SENATE BILL NO. 54(STA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered: 3/10/95
Referred: L&C, FIN

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE BY REQUEST

A BILL

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14 (A) a group of 10 or more customers that purchase the service

1
2
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or commodity furnished by a public utility;

*can provide
w/in an area
as regulated
if not*

(B) one or more customers that purchase electrical service for use within an area that is certificated to [AND PRESENTLY OR FORMERLY SERVED BY] an electric utility if the total annual compensation [that the electrical utility receives for sales of electricity] exceeds \$50,000; and

(C) a utility purchasing the product or service or paying for the transmission of electric energy, natural or manufactured gas, or petroleum products that are re-sold to a person or group included in (A) or (B) of this paragraph or that are used to produce the service or commodity sold to the public by the utility;

exclusion

paid by customers located within that certificated area to entities other than the certificated utility.

1992, in subsection (a), substituted "During a hearing" for "After completion of a hearing" and "may" for "shall" in the first sentence, inserted "shall consider the reg-

ulatory cost charge paid by a utility under AS 42.05.263 and" in the second sentence, and added the third sentence.

NOTES TO DECISIONS

Violation of Supremacy Clause. The imposition of costs against the federal government pursuant to this section is invalid under the Supremacy Clause, art

VI, cl 2, of the US Constitution. United States v Alaska Pub Util. Comm'n, 890 F Supp 857 (D Alaska 1992)

Sec. 42.05.661. Application fees. With each application relating to a certificate the applicant shall pay the commission a fee set by the commission by regulation that shall be deposited in the general fund of the state. (S 6 ch 113 SLA 1970; am § 23 ch 2 FSSLA 1992)

Effect of amendments. - The 1992 amendment, effective July 1, 1992, substituted "a fee set by the commission by regulation that" for "a fee of \$50 which"

Sec. 42.05.711. Exemptions. (a) The provisions of this chapter do not apply to a person who furnishes water, gas or petroleum or petroleum products by tank, wagon, or similar conveyance, unless the person is thereby supplying water, gas, petroleum or petroleum products to a public utility in which the person has an "affiliated interest".

(b) Except as otherwise provided in this subsection, public utilities owned and operated by a political subdivision of the state, or electric operating entities established as the instrumentality of two or more public utilities owned and operated by political subdivisions of the state, are exempt from this chapter, other than AS 42.05.221 - 42.05.281 and 42.05.385. However,

(1) the governing body of a political subdivision may elect to be subject to this chapter; and

(2) a utility or electric operating entity that is owned and operated by a political subdivision and that directly competes with another utility or electric operating entity is subject to this chapter and any other utility or electric operating entity owned and operated by the political subdivision is also subject to this chapter.

(c) The ownership in whole or part, of the corporate stock of a public utility does not make the owner a public utility.

(d) The commission may exempt a utility, a class of utilities, or a utility service from all or a portion of this chapter if the commission finds that the exemption is in the public interest. *th. s. subsection*

(e) Notwithstanding any other provisions of this chapter, any electric or telephone utility that does not gross \$50,000 annually is exempt from regulation under this chapter unless 25 percent of the subscribers petition the commission for regulation.

(f) Notwithstanding any other provisions of this chapter, an electric or telephone utility that does not gross \$325,000 annually may elect to

does not apply reverse

AMENDMENT

Offered in the Labor & Commerce Committee
To: CS SB 54 (STA)

By Senator Miller

Page 1, line 3:

After "service"

Insert "; and prohibiting certain exemptions from regulation"

Page 1, line 12, insert the following language:

"*Sec. 3. AS 42.05.711 is amended to read:

(d) Except for refuse collection utilities and service, [T]he commission may exempt a utility, a class of utilities, or a utility service from all or a portion of this chapter if the commission finds that the exemption is in the public interest.

Renumber remaining sections accordingly.

AMENDMENT

Offered in the Labor & Commerce Committee
To: CS SB 54 (STA)

By Senator Kelly
by Request

Page 1, line 10:

Delete "public utility providing the"
Replace with "provision of"

13440

AMENDMENT

Offered in the Labor & Commerce Committee
To: CS SB 54 (STA)

By Senator Kelly
by Request

Page 2, lines 4-5:

Delete "that the electrical utility receives for sales of electricity"
Replace with "paid by customers located within that certificated
area to entities other than the certificated utility"

Approved

AMENDMENT TO CS SB 54(SA):

Offered in the Senate Labor and Commerce Committee:

Page 1, Line 12, insert the following language:

• Sec. 3. AS 42.05.711 is amended to read:

(d) Except for refuse collection utilities and services, [T]he commission may exempt a utility, a class of utilities, or a utility service from all or a portion of this chapter if the commission finds that the exemption is in the public interest.

Renumber remaining sections accordingly.

S B

5 5

Alaska State Legislature

SENATOR
JOHN TORGERSON
DISTRICT D

SESSION ADDRESS
STATE CAPITOL, ROOM 427
JUNEAU, ALASKA 99801-1182
PHONE (907) 465-2828
FAX (907) 465-4770

Senate

DATE: February 1, 1995
TO: Senator Tim Kelly, Chairman
Senate Labor & Commerce Committee
FROM: Senator John Torgerson *JT*
RE: Scheduling of SB-55 in Labor & Commerce Committee

I would appreciate your scheduling Senate Bill 55 at the earliest opportunity. This bill repeals the delayed amendment provisions of the enhanced 911 emergency reporting systems, as enacted in 1993.

The legislation adopted in 1993 (SB 97) was supported by many groups and organizations across Alaska, including the Alaska Fire Chiefs Association, the Anchorage Police Department, the Anchorage Telephone Utility, and the Kenai Peninsula Borough.

The 1993 Legislation (SB 97) was amended in the House so that the surcharge provisions of the bill would sunset in three years - July 1, 1996. As I understand it, the amendment was intended to allow for a state wide planning effort by the Telecommunications Information Council (TIC).

My review of the minutes and packets of the TIC (and it's appointed Emergency Communications Task Group - ECTG) indicates that they are reviewing the possibility of federal and/or state funding for enhanced 911 systems.

At this point in time, I suggest that a funding source for such a state wide system is remote. But at the same time, there are enhanced 911 systems in the state which are operating, and need to be assured of the ability to assess a surcharge to ensure those operations.

- Sponsor Statement -

Page Two
Senator Tim Kelly
February 1, 1995

Those systems have proven to be a viable and critical service. In my district, the Kenai Peninsula Borough, we have put the system in place and it is well received and supported by the public.

This bill, SB 55, removes the "sunset" provisions of the 1993 legislation. The effect of this is to allow municipalities to continue to impose a surcharge for 911 services after July 1, 1996, which in turn provides for this critical service in those areas which employ the enhanced 911 service.

AN ACT

1 Relating to enhanced 911 emergency reporting systems; and providing for an effective date.

2

3 * Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that

4 (1) the elderly, the young, and victims of crime are often at risk, unable to
5 assist themselves, and are frequently unable to explain directions to the location of an
6 emergency situation;

7 (2) the basic 911 telephone emergency number is currently available in some
8 communities in the state, but an enhanced 911 system is currently available to only a limited
9 number of Alaskans;

10 (3) an enhanced 911 telephone emergency system provides

11 (A) expansion of the benefits of the basic 911 emergency telephone
12 number;

13 (B) faster response time, which minimizes the loss of life and property;

-93' Emergency Reporting Systems' Bill

Chapter 57

(C) automatic routing to the appropriate emergency response unit;

(D) immediate visual display of the location and telephone number of the caller; and

(E) curtailment of abuses of the emergency system by documenting callers;

(4) more communities in the state could make efficient use of the enhanced 911 telephone emergency system if the communities had adequate funding available.

(h) It is the purpose of this legislation to

(1) establish broad protections for acquiring, establishing, operating, and maintaining enhanced 911 systems;

(2) establish methods for the payment of costs associated with those activities; and

(3) enable the development, installation, and operation of enhanced 911 emergency reporting systems to be operated under local governmental management and control.

• Sec. 2. AS 09.65.070(d) is amended to read:

(d) No action for damages may be brought against a municipality or any of its agents, officers, or employees if the claim

09.65.070(d)

(1) is based on a failure of the municipality, or its agents, officers, or employees, when the municipality is neither owner nor lessee of the property involved,

(A) to inspect property for a violation of any statute, regulation or ordinance, or a hazard to health or safety;

(B) to discover a violation of any statute, regulation, or ordinance, or a hazard to health or safety if an inspection of property is made; or

(C) to abate a violation of any statute, regulation or ordinance, or a hazard to health or safety discovered on property inspected;

(2) is based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty by a municipality or its agents, officers, or employees, whether or not the discretion involved is abused;

(3) is based upon the grant, issuance, refusal, suspension, delay or

Chapter 57

1 denial of a license, permit, appeal, approval, exception, variance, or other entitlement,
2 or a rezoning;

3 (4) is based on the exercise or performance during the course of
4 gratuitous extension of municipal services on an extraterritorial basis; or

5 (5) is based upon the exercise or performance of a duty or function
6 upon the request of, or by the terms of an agreement or contract with, the state to meet
7 emergency public safety requirements;

8 (6) is based on the exercise or performance of a duty in connection
9 with an enhanced 911 emergency system and is not based on an intentional act
10 of misconduct or on an act of gross negligence.

11 • Sec. 3. AS 29.10.200 is amended by adding a new paragraph to read:

29.10.200(51)

12 (51) AS 29.35.131 (enhanced 911 system).

13 • Sec. 4. AS 29.35 is amended by adding new sections to read:

29.35.131--
29.35.137

14 Sec. 29.35.131. 911 SURCHARGE. (a) A municipality may, by resolution
15 or ordinance, elect to provide an enhanced 911 system at public safety answering
16 points, may purchase or lease the enhanced 911 equipment or service required to
17 establish or maintain an enhanced 911 system at public safety answering points from
18 a local exchange telephone company or other qualified vendor, and may impose a 911
19 surcharge, in an amount to be determined by the municipality, on all local exchange
20 access lines in the area to be served by the enhanced 911 system. For a municipality
21 with a population of 100,000 or more, the surcharge may not exceed 50 cents per
22 month per local exchange access line. For a municipality with fewer than 100,000
23 people, the surcharge may not exceed 75 cents per month per local exchange access
24 line. The area served by a system may be all of a city, all of a unified municipality,
25 or all or part of the area within a borough and may include the extraterritorial
26 jurisdiction of a municipality in accordance with AS 29.35.020. The governing body
27 of a municipality shall review the 911 surcharge annually to determine whether the
28 current level of the surcharge is adequate, excessive, or insufficient to meet anticipated
29 enhanced 911 system needs. The municipality may only use the surcharge for the
30 enhanced 911 system.

31 (b) A local exchange telephone company providing service in a municipality

Chapter 57

1 that has imposed a 911 surcharge shall bill and collect the surcharge from customers
2 in the designated 911 service area. A local exchange telephone customer may not be
3 subject to more than one 911 surcharge on a local exchange access line. A customer
4 that has more than 100 local exchange access lines from a local exchange telephone
5 company in the municipality is liable for the 911 surcharge only on 100 local exchange
6 access lines.

7 (c) A local exchange telephone company shall include the 911 surcharge,
8 stated separately and included in the total amount owed, in the bills delivered to its
9 customers. The Alaska Public Utilities Commission may not consider the 911
10 surcharge as revenue of the local exchange telephone company and has no jurisdiction
11 over an enhanced 911 system. A local exchange service customer is liable for
12 payment of the 911 surcharge in the amounts billed by the local exchange telephone
13 company until the amounts have been paid to the telephone company.

14 (d) A local exchange telephone company that has collected the 911 surcharge
15 shall remit the amounts collected to the municipality no later than 60 days after the
16 end of the month in which the amount was collected. From each remittance made in
17 a timely manner under this subsection, the local exchange telephone company is
18 entitled to deduct and retain the greater of one percent of the collected amount or \$150
19 as the cost of administration for collecting the 911 surcharge.

20 (e) A local exchange telephone company is not obligated to take legal action
21 to enforce collection of the 911 surcharge. However, if a local exchange telephone
22 company is attempting to collect an unpaid debt from a local exchange service
23 customer, the telephone company shall also attempt to collect any unpaid 911
24 surcharge that the customer owes. If a customer pays a portion of a bill that includes
25 a 911 surcharge, the amount paid shall be prorated between the telephone company and
26 the 911 surcharge. The company shall annually provide the municipality with a list
27 of the amounts due for the nonpayment of 911 emergency surcharges, together with
28 the names and addresses of those customers who carry a balance that can be
29 determined by the company to be for the nonpayment of the 911 emergency
30 surcharges. The local exchange telephone company is not liable for uncollected
31 amounts.

1993 SLA CH. 57

Chapter 57

1 (f) The municipality may, at its own expense, require an annual audit of a
2 local exchange telephone company's books and records concerning the collection and
3 remittance of the 911 surcharge.

4 (g) A village, as defined in AS 09.65.070(e), or a public corporation
5 established by a municipality has the powers granted to a municipality under this
6 section.

7 (h) This section applies to home rule and general law municipalities.

8 Sec. 29.35.133. IMMUNITY. (a) The establishment, funding, use, operation,
9 or maintenance of enhanced 911 systems and all activities associated with those actions
10 are specifically found to be within the ambit of AS 09.50.250(1) and
11 AS 09.65.070(d)(6). Except for intentional acts of misconduct or gross negligence, a
12 service supplier, local exchange telephone company, or mobile telephone company,
13 including a cellular service company, and their employees and agents, are also immune
14 from tort liability that might otherwise be incurred in the course of installing, training,
15 maintaining, or providing enhanced 911 systems or transmitting or receiving calls on
16 the system.

17 (b) An individual, telephone company, or employee of a telephone company
18 who operates or maintains an emergency 911 service is not liable for civil damages
19 in a tort action as a result of an act, omission, failure of service, or incorrect
20 information done or given in good faith.

21 (c) In this section, "service supplier" means a person that provides or offers
22 to provide telecommunications equipment or services necessary for the establishment,
23 maintenance, or operation of an enhanced 911 system.

24 Sec. 29.35.135. WAIVER OF PRIVACY BY LOCAL EXCHANGE
25 TELEPHONE COMPANY SUBSCRIBERS.. Local exchange telephone company
26 subscribers waive the privacy afforded by unlisted or unpublished telephone numbers
27 to the extent that the name and address associated with the telephone number may be
28 furnished to the enhanced 911 system for call routing or for automatic retrieval of
29 location information in response to a call initiated to the system.

30 Sec. 29.35.137. DEFINITIONS. In AS 29.35.131 - 29.35.137,

31 (1) "911 service area" or "enhanced 911 service area" means the area

Chapter 57

1 within a municipality's jurisdiction that has been designated to receive enhanced 911
2 service; the designation of an area to receive an enhanced 911 system under
3 AS 42.30.420(a) does not designate the area as a "service area" for purposes of art. X,
4 sec. 5, Constitution of the State of Alaska;

5 (2) "enhanced 911 equipment" means the equipment dedicated to the
6 operation of, or use in, the establishment, operation, or maintenance of an enhanced
7 911 system, including customer premises equipment, automatic number identification
8 or automatic location identification controllers and display units, printers, cathode ray
9 tubes, recorders, software, and other essential communication equipment required by
10 the system;

11 (3) "enhanced 911 system" or "system" means a telephone system
12 consisting of network, database, and enhanced 911 equipment that uses the single three
13 digit number, 911, for reporting a police, fire, medical, or other emergency situation,
14 and that enables the users of a public telephone system to reach a public safety
15 answering point to report emergencies by dialing 911; an enhanced 911 system
16 includes the personnel required to acquire, install, operate, and maintain the system;

17 (4) "local exchange access line" means a telephone line that connects
18 a local exchange service customer to the local exchange telephone company switching
19 office and has the capability of reaching local public safety agencies, but does not
20 include a line used by a carrier to provide interexchange services;

21 (5) "local exchange service" means the transmission of two-way
22 interactive switched voice communications furnished by a local exchange telephone
23 company within a local exchange area, including access to enhanced 911 systems; in
24 this paragraph, "local exchange area" means a geographic area encompassing one or
25 more political subdivisions as described in maps, tariffs, or rate schedules filed with
26 the Alaska Public Utilities Commission, where local exchange rates apply;

27 (6) "local exchange telephone company" means a telephone utility
28 certificated by the Alaska Public Utilities Commission to provide local exchange
29 service;

30 (7) "municipality" has the meaning given in AS 29.71.800 and includes
31 a public corporation established by a municipality and a village as that term is defined

1 in AS 09.65.070(e);

2 (8) "public safety answering point" means a 24-hour local jurisdiction
3 communications facility that receives 911 service calls and directly dispatches
4 emergency response services or that relays calls to the appropriate public or private
5 safety agency.

29.35.131(a)

6 • Sec. 5. AS 29.35.131(a) is repealed and reenacted to read:

7 (a) A municipality may, by resolution or ordinance, elect to provide an
8 enhanced 911 system at public safety answering points and may purchase or lease the
9 enhanced 911 equipment or service required to establish or maintain an enhanced 911
10 system at public safety answering points from a local exchange telephone company or
11 other qualified vendor. The area served by a system may be all of a city, all of a
12 unified municipality, or all or part of the area within a borough and may include the
13 extrajurisdictional jurisdiction of a municipality in accordance with AS 29.35.020.

29.35.131(b)--
(f),
29.35.137(4)

14 • Sec. 6. AS 29.35.131(b), 29.35.131(c), 29.35.131(d), 29.35.131(e), 29.35.131(f), and
15 29.35.137(4) are repealed July 1, 1996.

16 • Sec. 7. Except as provided in sec. 8 of this Act, this Act takes effect immediately under
17 AS 01.10.170(c).

Sections 5 and
6 take effect
7/1/96; remainder
of Act takes
effect 6/9/93

18 • Sec. 8. Sections 5 and 6 of this Act take effect July 1, 1996.



KENAI PENINSULA BOROUGH

144 N. BINKLEY • SOLDOTNA, ALASKA • 99669-7599
BUSINESS (907) 262-4441 FAX (907) 252-1992

DON GILMAN
MAYOR

POSITION STATEMENT - SB 55

REPEALING THE SUNSET FOR THE ENHANCED 911 EMERGENCY REPORTING SYSTEMS

The Kenai Peninsula Borough supports Senate Bill 55 as introduced on January 26, 1995, by Senator Torgerson. This bill amends AS 29.35.131 by repealing the sunset date of July 1, 1996; thereby allowing municipalities to continue to collect and administer a surcharge for E-911 services.

The Borough switched over to an enhanced 911 system in October 1993. The surcharge provides additional funding that is required for operation of the enhanced portion of the system. If no State legislation is passed to repeal the sunset date, it will be extremely difficult for municipalities to provide and fund E-911 services.

Upon recommendation of the Borough administration, the Kenai Peninsula Borough Assembly established the repeal of the sunset as one of its highest legislative priorities for 1995. We seek your support in passage of this legislation to allow us and other municipalities to continue serving the public with this much needed service. We appreciate your consideration of Senate Bill 55 and are ready to provide you with any assistance or information you may require.

Kenai Peninsula Borough

By: Bonnie Golden
for Don Gilman, Borough Mayor

February 1, 1995
Date



820 Glacier Avenue • Juneau, Alaska 99801
Telephone (907) 586-5322
Fax (907) 586-8323

1 February 1995

Senator John Torgerson
State Capitol Room 427
Juneau Alaska, 99801-1182

Subject: Senate Bill 55

Dear Senator Torgerson

Capital City Fire/Rescue and the Juneau Police Department support your efforts to remove the "sunset" provisions of the amendment to SB97(1993) that eliminates the surcharge provisions on 1 July 1996.

The City/Borough of Juneau is presently in the process of converting the Public Safety Dispatch program to an Enhanced 911 system. Continued funding is vital to the successful completion and operation of this project. As federal or state funding for enhanced 911 systems is a remote possibility, the CBJ needs to be assured of the ability to continue to assess a surcharge as needed.

Your introduction of this legislation and support for this vital and critical public safety service is greatly appreciated.

Sincerely,

Charles E. Lundfelt
Fire Chief

cc: Mark Palesh, City Manager
Richard Gummow, Juneau Police Department
Clark Gruening, Gruening & Spitzfaden
Chief Billy Harris, President, Alaska Fire Chiefs Association

. FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. SB 55

Revision Date: _____
 Title: "An Act repealing the sunset of the enhanced 911 emergency reporting systems."
 Sponsor: Senator Torgerson
 Requestor: _____

Department Affected: Commerce and Economic Development
 BRU: Alaska Public Utilities Commission
 Component: _____
 COMPONENT SERIAL NO. 30

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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 EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
------------------------	---	---	---	---	---	---

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

Estimate of current year (FY 95) cost: \$ 0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Robert A. Lohr, Executive Director
 Division: Alaska Public Utilities Commission

Phone: 276-6222
 Date: 1/27/95

Approved by Commissioner: William L. Hensley
 Agency: Commerce and Economic Development

Date: 1/27/95

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO: SB 55

Revision Date: _____ Dept. Affected: Public Safety
 Title: Repeal Sunset of Enhanced 311 System DPS Statewide Support
 Component: Commissioner's Office
 Sponsor: Torgerson
 Requestor: IS) Labor and Commerce COMPONENT SERIAL NO. 0523

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.	0.	0.	0.	0.	0.
CAPITAL EXPENDITURES	0.	0.	0.	0.	0.	0.
CHANGE IN REVENUES ()	0.	0.	0.	0.	0.	0.
<small>Reversal Code</small>						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.	0.	0.	0.	0.	0.

Estimate of current year (FY 95) impact: \$ _____

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.)
 No significant impact is anticipated to the department.

Prepared By: Lee Ann Lucas, Special Assistant to the Commissioner Phone: 465-4322
 Division: Commissioner's Office Date: 1-30-95
 Approved by Commissioner: *Ronald J. Ote* Date: 1-30-95-30-75
 Agency: Ronald J. Ote, Dept. of Public Safety

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STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. SB 55

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: An act repealing the sunset of the enhanced BRU: State Health Services
911 emergency report system Component: EMS Training & Licensing
 Sponsor: Torgersen COMPONENT SERIAL NO. 297
 Requestor: Senate I&C See also (SN#): _____

Expenditures/Revenues:	Thousands of Dollars:					
OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES

CHANGES IN REVENUES

FUND SOURCE	Thousands of Dollars:					
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF Program Receipts						
1006 GF MMTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:
 FULL-TIME _____
 PART-TIME _____
 TEMPORARY _____

Estimate of my current year (FY95) cost: 0.0

ANALYSIS: Attach a separate page if necessary:

This bill repeals the sunset clause of the 1993 Legislation which enabled cities and boroughs to collect surcharges on telephone bills to pay for the establishment, funding, use, operation and maintenance of enhanced 911 emergency systems. There is no fiscal impact on the state for this tax collection.

Prepared by: Peter M. Nakamura, MD, MPH *YMN* Phone: 907 465-3090
 Division: Public Health Date: 01/31/95
 Approved by Commissioner: Karla Perdue, Commissioner Date: 2/1/95
 Agency: Department of Health & Social Services

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CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Rev. 6 98

Central Microfilm Services
Department of Education
State of Alaska

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. SB 55

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: An act repealing the sunset of the enhanced BRU: State Health Services
911 emergency report system Component: EMS Training & Licensing
 Sponsor: Torgersen COMPONENT SERIAL NO. 297
 Requestor: Senate L&C See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES

CHANGES IN REVENUES

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1008 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	
PART-TIME	
TEMPORARY	

Estimate of any current year (FY95) cost: 0.0

ANALYSIS: Attach a separate page if necessary

This bill repeals the sunset clause of the 1993 Legislation which enabled cities and boroughs to collect surcharges on telephone bills to pay for the establishment, funding, use, operation and maintenance of enhanced 911 emergency systems. There is no fiscal impact on the state for this tax collection.

Prepared by: Peter M. Nakamura, MD, MPH *PMN*
 Division: Public Health
 Approved by Commissioner: Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Phone: 907 465-3090
 Date: 01/31/95
 Date: 2/1/95

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5 8



SENATOR LOREN LEMAN Northwest Anchorage Northwest Anchorage

716 W 4th Ave, Ste 340, Anchorage AK 99501 253-5189

Session: State Capitol, Juneau AK 99801 465-2095

SPONSOR STATEMENT SB58

I introduced SB58 at the request of members of the Midnight Sun Section of the American Industrial Hygiene Association (AIHA). According to this organization 15 people in the state are presently certified industrial hygienists.

AIHA recommends and supports adoption of legislative and regulatory language to provide "title protection" to the profession of Industrial Hygiene. Title protection defines titles and definitions used by the profession, establishes its legal recognition and protects Industrial Hygiene (IH) titles. These titles may be used only by those who meet the criteria outlined in the definitions.

An individual who does not meet IH criteria may practice within the scope of the meaning of industrial hygiene, so long as the individual does not use the title, initials, or represents herself/himself to the public as an Industrial Hygienist, Industrial Hygienist in Training (IHIT), or Certified Industrial Hygienist (CIH).

According to the AIHA, California, Illinois and Tennessee have already passed similar legislation. Many other states are considering industrial hygiene title protection legislation.

Midnight Sun Section, AIHA

3605 Arctic No. 2591
Anchorage, Alaska 99503

Section Officers:

Past President:

L. A. Shookman, CIH
BP Exploration
P.O. Box 196612
Anchorage, AK
99519-6612
(907) 659-4470

President:

Martin H. Finkel, CIH
Environmental Safety
and Health of Alaska
4057 E. 20th. No E-62
Anchorage, AK 99508
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1835 S. Bragraw St.
Anchorage, AK. 99512
(907) 265-8209

Senator Loren D. Leman
P.O. Box 190733
Anchorage, AK 99519-0773

Dear Senator Leman:

Thank you for taking the time to consider sponsoring the Industrial Hygiene Title Registration Act. This will summarize the issues and introduce you to our organization.

The Midnight Sun section of the American Industrial Hygiene Association (AIHA) is comprised of members of the industrial hygiene community in Alaska, as well as persons interested in health and safety issues. National AIHA has over 11,000 members in 78 sections, including the Midnight Sun section here in Alaska. An accompanying brochure will describe AIHA in greater detail.

We wish for the State to recognize our profession by enacting the Title Registration Act. Industrial hygiene professionals can be a resource for the legislature in delving into health and safety issues affecting the workplace in any future legislation, and we want you to be aware that we exist and can be of service to you.

We want to ensure that State and local agencies do not "write us out" of our profession in any regulations that they may promulgate in the future. This almost happened in the past in other States, such as California, when a regulation covering asbestos abatement required the signature of specified professionals on any abatement plans; the agency involved did not know of the existence of industrial hygienists, and thus excluded our profession from performing our safety functions in California until legislative relief was had (a similar Title Registration bill).

We also have evidence that persons in Alaska without the credentials to do so, have represented themselves as CIHs (Certified Industrial Hygienists). When a business person contracts with a consultant, there should be a mechanism for assuring that business person that s/he is getting what is being paid for. In Alaska, today, anyone can call themselves an industrial hygienist or Certified Industrial Hygienist and there is no way to stop that person from doing so, even when found out!

These issues are not unique to Alaska. There is now a nation-wide push to enact similar legislation in all 50 States. Twenty-six States have either passed such bills or are considering them in their next session. The Midnight Sun section of AIHA hopes that Alaska will not be one of the last States to pass a Title Registration Act.

We hope that we have given you sufficient facts upon which to base a decision to sponsor this Act. If you need additional information, we will be only too happy to work with you, including travelling to Juneau during hearings, or arranging for a conference call with the National AIHA Government Affairs office.

Sincerely,

A handwritten signature in cursive script that reads "Martin H. Finkel". The signature is written in dark ink and is positioned above the typed name.

Martin H. Finkel, CIH
President

Protecting People

Industrial hygienists are scientists and engineers committed to protecting the health and safety of people in the workplace and the community. Industrial hygiene is considered a "science," but it is also an art that involves judgment, creativity and human interaction.

The goal of the industrial hygienist is to keep workers, their families, and the community healthy and safe. They play a vital part in ensuring that federal, state, and local laws and regulations are followed in the work environment.

Typical roles of the industrial hygienist include:

- Investigating and examining the workplace for hazards and potential dangers
- Making recommendations on improving the safety of workers and the surrounding community
- Conducting scientific research to provide data on possible harmful conditions in the workplace
- Developing techniques to anticipate and control potentially dangerous situations in the workplace and the community
- Training and educating the community about job-related risks
- Advising government officials and participating in the development of regulations to ensure the health and safety of workers and their families
- Ensuring that workers are properly following health and safety procedures

A Profession
Dedicated to Protecting People
in the Workplace and the Community

Industrial Hygienists Work With The Issues That Concern Us All

Industrial hygienists deal with the health and safety challenges facing people everywhere. Typical issues include:

- Evaluating and controlling environmental lead exposure
- Indoor air quality (Sick Building Syndrome, second-hand tobacco smoke)
- Emergency response planning and community right-to-know
- Occupational disease (AIDS in the workplace, tuberculosis, silicosis)
- Potentially hazardous agents such as asbestos, pesticides and radon gas
- Cumulative Trauma Disorders (Repetitive Stress Injuries, Carpal Tunnel Syndrome)
- Radiation (electromagnetic fields, microwaves)
- Reproductive health hazards in the workplace
- Setting limits on exposure to chemical and physical agents
- Detection and control of potential occupational hazards such as noise, radiation and illumination
- Hazardous waste management

Applying "Good Science" to Make the Workplace and Community Safe and Healthy

Industrial hygienists are devoted to achieving and maintaining high professional standards. To meet this goal, the American Board of Industrial Hygiene was created by the American Industrial Hygiene Association (AIHA) in 1961 to set standards and promote certification of industrial hygienists. Certified Industrial Hygienists (CIHs) are recognized for their expertise after fulfilling a rigorous qualification process including a two-day long examination. AIHA administers certification through continuing education programs that CIHs remain current on the many diverse issues addressed by industrial hygienists.

AIHA: The Essential Source

AIHA is the source of information for industrial hygiene issues. Professionals working in occupational health and safety turn to the association to help them achieve their career goals and to bring together the common concerns of the profession. AIHA gives its members a voice so that the media, the government and the community are aware of the many occupational health and safety issues. AIHA also acts as the essential source for anyone who needs information on the topics that industrial hygienists work with, whether it be lead exposure, asbestos abatement or other issues that industrial hygienists face daily.

A Diverse and Growing Membership

Founded in 1939, AIHA has grown to become the largest international association serving the needs of occupational and environmental scientists and engineers practicing industrial hygiene in industry, government, labor, academic institutions, and independent organizations. AIHA is a non-profit organization with more than 11,000 members and 78 local chapters. The members of AIHA are highly educated professionals; 98% of AIHA members are college graduates, 54% have master's degrees and 13% have doctoral degrees.

AIHA is the Essential Source for:

- The best information about current trends in occupational and environmental health
- Educational and resource materials through technical publications and continuing education programs
- The latest scientific research and technology from AIHA's more than 70 technical committees
- Prestigious laboratory accreditation and proficiency testing programs for qualified laboratories

AIHA Laboratory Accreditation Program: Committed to Quality

Laboratory accreditation from AIHA is a seal of approval that industrial hygiene labs testing for lead, asbestos, formaldehyde and other possible toxins are achieving and maintaining high levels of professional performance. AIHA's rigorous accreditation program examines labs on a variety of stringent criteria including lab facilities' personnel, equipment, quality assurance practices and analytical methods. Site visits of labs are conducted to verify compliance.

The American Industrial Hygiene Conference & Exposition

AIHA cosponsors the American Industrial Hygiene Conference & Exposition, the largest occupational and environmental health meeting in the world. The annual conference draws more than 10,000 occupational health and safety experts from all over the globe to discuss and debate the latest issues in technical sessions, roundtables and forums. The conference, which includes a world-class exhibition, also enables industrial hygienists to study and advance their careers by offering an array of professional development courses.

Also available from AIHA:

- "Is Lead a Problem in My House?" informational brochure
- CareerWorks educational pamphlet for those interested in an industrial hygiene career
- Information on AIHA's technical committees
- Professional Development information
- AIHA Publications and Information Catalog
- Information on the annual American Industrial Hygiene Conference & Exposition
- Employment Services for members and employers
- AIHA Membership information
- AIHA Laboratory Services information

For any of the above or additional brochures, contact AIHA Support Services.



American Industrial Hygiene Association

2700 Prosperity Avenue, Suite 250, Fairfax, VA 22031

Tel: (703) 849-8888 • Fax: (703) 207-3561

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. SB 58

Revision Date: _____
Title: Use of Title "Industrial Hygienist"

Department Affected: Labor
BRU: Labor Standards & Safety

Sponsor: Senator Leman
Requestor: Senate HES

Component: _____
Occupational Safety and Health
COMPONENT SERIAL NO. 970

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUE FUND SOURCE #						
--	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY95) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)
Senate Bill No. 58 would restrict the use of the title "industrial hygienist" and related titles and initials. The use of such titles would require college credentials and certification.

Prepared by: John A. Abshire, Director Phone: 269-4914
Division: Labor Standards and Safety Date: 2/8/95

Approved by Commissioner: Tom Cashen, Commissioner
Agency: Department of Labor Date: 2/8/95

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