

12176

HOUSE

JUDICIARY

78

Conceptual Amendment #

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W/D

OFFERED IN THE HOUSE
TO CSHB 209(L&C)

BY REPRESENTATIVE RAMRAS

Page 3, Line 15 New Sec. 10

AS 42.05.175 (f) is amended to read The Commission may extend a timeline required under [(a) – (e) of] this section if all parties of record consent to the extension or if, for one time only, before the timeline expires....

Remember



ALASKA STATE LEGISLATURE

HOUSE LABOR & COMMERCE COMMITTEE

REP. KURT OLSON

Chairman
State Capitol, Room 17
Juneau, AK 99801-1182
(907) 465-2693 FAX 465-3835

Rep. Mark Neuman, V-Chair Rep. Carl Gatto
Rep. Jay Ramras Rep. Berta Gardner
Rep. Gabrielle LeDoux Rep. Bob Buch

CS HB 209

Sectional Analysis

Section 1 – Amends AS 42.04.010(b) to provide that the Governor shall designate one member of the RCA to serve as chair or to serve out the unexpired term of a former chair. The term of the chair is also expanded to three years from one year. These changes are intended to strengthen the ability of the chair, who is currently elected by the other members of the RCA, to manage the RCA's operations and work schedule.

Section 2 - Technical amendment

Section 3 - Adds new subsections to AS 42.05.151 redefining practices and procedures relating to discovery and intervention.

Sections 4 through 8 – Amend AS 42.05.175 to express timelines for various RCA activities in terms of days rather than in terms of months.

Section 9 – Amends AS 42.05.175(i) to provide that the RCA can find good cause to extend a timeline only when (i) a proceeding involves unusually complex and novel question of law or public policy, (ii) a proceeding involves an unusually complex and large factual record, or (iii) the RCA identifies a compelling public policy reason for an extension that is entirely unrelated to its workload, scheduling, or administrative convenience. This change is intended to improve the timeliness of the RCA's decision-making.

Section 10 – Adds new subsections to AS 42.05.175 to provide timelines for adjudicated docket matters (including private settlements and contracts) that are not otherwise subject to a timeline under state or federal law and prohibit the RCA from evading the requirements of AS 42.05.175 by terminating a proceeding in a docket and opening a proceeding in another docket on substantially the same matter. These changes are intended to improve the timeliness of the RCA's decision-making.

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB209-COM-RCA-04-11-07
Bill Version: HB 209
() Publish Date: _____

Revision Date/Time (Note if correction): _____

Dept. Affected: Commerce

Title Regulatory Commission of Alaska

RDU Regulatory Commission of Alaska (399)

Sponsor House Labor & Commerce

Component Regulatory Commission of Alaska

Requester House Labor & Commerce

Component No. 2417

Expenditures/Revenues

(Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	513.2	684.3	684.3	684.3	684.3	684.3
Travel	5.0	5.0	5.0	5.0	5.0	5.0
Contractual	2.0	2.0	2.0	2.0	2.0	2.0
Supplies	5.0	5.0	5.0	5.0	5.0	5.0
Equipment	15.0	0.0	0.0	0.0	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	540.2	696.3	696.3	696.3	696.3	696.3

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES (1141)	540.2	696.3	696.3	696.3	696.3	696.3
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1141 RCA Receipts	540.2	696.3	696.3	696.3	696.3	696.3
TOTAL	540.2	696.3	696.3	696.3	696.3	696.3

Estimate of any current year (FY2007) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time	6	6	6	6	6	6
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation revises the Regulatory Commission of Alaska (RCA) statutes regarding the selection, composition, and qualifications of Commissioners; increases salary levels for Commissioners; adds positions to partially exempt service; revises the amount of Regulatory Cost Charges (RCC); and revises timeline requirements for a final order of the RCA. The terms of all current Commissioners would expire December 31, 2007. For appointments after the effective date of the legislation, salaries for Commissioners would increase from range 26C to the level of a superior court judge, with the Chair receiving an additional \$10 per month. This legislation would result in the creation of six additional positions (one economist/range 23, four special assistants/range 21 and one executive secretary/range 16). Costs for travel, contractual, supplies and equipment are associated with the new positions. The legislation would reorganize the RCA and create two new sections (administrative law, and natural gas and oil pipeline) which would be staffed with existing personnel. The RCA is funded through the RCC mechanism and direct charge mechanisms and this legislation would increase the cap from 0.7% to 0.9%. No general funds are allocated for support of the agency. The RCC is recalculated each year and allows the agency to recover its operating costs through an assessment on the revenues of the utilities and pipeline carriers it regulates.

Prepared by: Kate Giard, Chairman

Phone 907 276 6222

Division Regulatory Commission of Alaska

Date/Time 4/11/07 5:05 PM

Approved by: Emil Notti, Commissioner

Date 4/11/2007

Agency Commerce, Community, and Economic Development

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CS HB 209 (L&C)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Alaska Judicial Council
 Title Regulatory Commission of Alaska RDU Alaska Judicial Council
 Component Alaska Judicial Council
 Sponsor House Labor & Commerce Committee
 Requester House Labor & Commerce Committee Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
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						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Judicial Council is not addressed in the L&C CS.

Prepared by: Eleanor Wolfe, Committee Aide
 Division House Labor & Commerce Committee
 Approved by: Rep. Kurt Olson
 Agency _____

Phone 2693
 Date/Time _____
 Date 4/27/2007

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB209 LAW-RAPA-4-6-0
 Bill Version: HB 209
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title An Act relating to the Regulatory Commission RDU Civil
of Alaska Component Reg. Affairs & Public Advocacy
 Sponsor LABOR & COMMERCE
 Requester HOUSE LABOR & COMMERCE Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
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						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

POSITIONS	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would create new and amend current statute relating to the chair of and the membership of and qualifications of members of the Regulatory Commission of Alaska; add positions to the partially exempt service; create an administrative law division and natural gas and oil pipeline division within the commission; amend the timeline requirements for a final order of the commission; amend the commission's regulatory cost charges; and add to the duties of the Alaska Judicial Council as they relate to the presentation of nominees for consideration for appointment to the commission. This proposed legislation should not have a significant fiscal impact on the Department of Law.

Prepared by: Robert Meiners, Admin. Services Manager
 Division Administrative Services Division
 Approved by: Robert Meiners for Talis Colberg, Attorney General
 Agency Department of Law

Phone 465-5427
 Date/Time 4/6/07 8:07 AM
 Date 4/6/2007



**UTILITY
SERVICES OF
ALASKA, INC.**

PROVIDING ADMINISTRATIVE SERVICES TO
COLLEGE UTILITIES CORP. AND GOLDEN HEART UTILITIES, INC.

January 26, 2007

Governor Sarah Palin
State of Alaska
Box 110001
Juneau, AK 99811

RE: REGULATORY COMMISSION OF ALASKA SUNSET REVIEW

Dear Governor Palin:

Changes are needed to the Alaska Statutes regarding the Regulatory Commission of Alaska (RCA). I believe the following, at a minimum, is needed:

1. Reduce the statutory time allowed for rate cases from 15 months to 9 months, which is the time line for many other commissions (see Legislative Budget and Audit Report data for support).
2. Limit discovery by all parties in RCA matters. There is currently no limit.
3. Place Regulatory Affairs and Public Advocacy (RAPA) under the control of the RCA. It is now an independent agency with little or no oversight.
4. Raise both the qualifications and salary of the RCA Commissioners. Pay should be equal to that of Superior Court judges. The appropriate pay will attract qualified candidates.
5. Create within the RCA the position of Chief of Staff or Executive Director to exercise staff control and to act as a liaison with utility personnel.

BACKGROUND

Our water and wastewater utilities serve more than 8,500 customers in the greater Fairbanks area which represents a population of over 50,000.

Our utilities are regulated by the Regulatory Commission of Alaska as to rates, regulations and service. We believe the level of service our utilities provide is of the highest quality. To bear this out, the RCA has received an average of less than six complaints per year from our customers for the past seven years. (This includes those related to rising rates).

As result of a rate filing stipulated March 19, 2003, our utilities were required by the RCA to file for, among other things, new rates that would levelize both water and wastewater rates between the two utilities, GHU and CUC, i.e., postage stamp rates, by August 1, 2005, based on a 2004 test year.

Our utilities made attempts to file early and to make the expected difficult process simpler, but did not succeed. With permission from the RCA, our complete filing was filed August 22, 2005. The filing was rejected for what we believed to be minor deficiencies. Commission staff informed us that they were directed to reject filings if at all possible to diminish work load and extend timelines.

The initial filing was split into three parts and the rate portion of the filing was finally accepted by the RCA on October 7, 2005. The statutory timeline of 15 months then started. A final decision was issued January 8, 2007, the last day of the statutory timeline, all based on a test year of 2004 for rates that should have been in effect for late 2005 and 2006.

At the point the filing was accepted, the real difficulties began. There were four intervening parties, including RAPA. Discovery took months with huge costs. The hearing was finally held in Fairbanks the last week of August 2006. In the meantime, as sales were sharply declining and costs sharply rising, our utilities attempted in January 2006 to supplement the October 7, 2005 filing to update it for new increased costs, and to correct some errors that had been made in the original filing. That supplemental filing was rejected so our utilities filed for additional rate relief June 5, 2006 based on a 2005 test year. Interim relief was granted in August 2006.

We received the final decision in the first case on January 8, 2007, more than four months after completion of the hearing in the matter. In the interim, the June 5, 2006 filing, with many of the same issues expected to be resolved by the January 8, 2007 decision, is now in the throes of discovery over many of the same issues.

Costs to our utilities alone in the 2004 test year case are more than \$1 million. These costs are for legal, consulting, rate of return experts, cost of service study contractors and other direct outside expenses. Utility staff time, which is substantial, is not included, nor are the costs of the interveners, including RAPA. The added revenue requirement being requested in the 2004 case is about \$2.3 million. Additionally, our 2005 test year case is now stacking up new costs. Discovery in the 2004 case consisted of several hundred requests resulting in approximately 15,000 pages being produced. The January 8, 2007 decision allowed recovery of only \$118,094/year for three years, of the \$1 million required to be spent.

We do not believe the regulatory process, as outlined above, serves our ratepayers, employees or shareholders. From our perspective, we believe the process is broken and in dire need of repair.

1. The statutory timeline is far too long. The process simply expands to fill the available time. In 2006, during RAPA discovery, items produced in early discovery, one to two months before reply testimony was due, were not examined until the same week reply testimony was due. We know this because our production of same was inadvertently incomplete! Upon discovering this omission and calling it to our attention (the week reply testimony was due), we produced correct documents within hours. To require four and half months to adjudicate case matters after hearing is too long. Many other jurisdictions have statutory or voluntarily utilize timelines of 9 or 10 months. The statute needs to be changed to 9 months. If a mistake is made either in favor of or against the utility, a prompt refileing can be made by the utility or required by the RCA. (See the results of the Legislative Budget and Audit review of the RCA for Sunset Review for supporting documents for reduced statutory timelines.) Rates need to be in effect during the computed time frame, not one to two years later.
2. Discovery is totally out of hand. The volumes of data requested by various parties, mostly RAPA and other interveners, is beyond analysis, with costs out of sight. There are basically no discovery rules in what has become a near court like affair. At the least, rules of discovery ought to be adopted similar to other legal venues, with an eye to limits on discovery both in time and amount.
3. RAPA was created by our late governor from the RCA's Public Advocacy Section, so the governor could exercise control over pipeline regulation. This change was ill conceived at best. RAPA is now responsible to no one. It appears to be run by the Attorney General even though control ought to in part be exerted by the RAPA staff section head. This appears not to be the case. RAPA contributes to large costs, case delays, and huge difficulties for the RCA. The RAPA group needs to be brought back under the control of the RCA so someone can exercise oversight.

Informal discussion and discovery during RCA proceedings is almost non-existent. The process is controlled by attorneys and a utility almost never really gets to "tell its story". This lack of dialog between the utilities and the RCA must change. Dialog must be required by statute, especially during the time between initial filing and suspension. Settlement discussions need to be mandated by statute.

1. Commissioner's current pay levels are about \$85,000/year and are set by the legislature. Qualifications are not set at a high bar. This is wrong. Pay should be set at a higher level and automatically adjusted when other state salaries are adjusted. Superior Court judge levels are an appropriate place to start. Qualifications ought to be at the level of

Masters in Business Administration, professional engineers, a senior attorney, or similar high qualifications.

5. The RCA staff does not really have a leader. The Commission Chair, which rotates, tries to do this but considering adjudicative and hearing duties, this is very difficult. Consequently, staff memo/analysis/decisions reached during the 45 day timeframe before statutory suspension are often times not properly reviewed, analyzed or thought out. The RCA needs a chief of staff or an executive director through which this control can be exercised. This should be spelled out by statute. This could alleviate the ex parte issue.

The continuing health of the state's utilities along with a balance to protect ratepayers demands that these issues be addressed.

Sincerely,



George Gordon
Director of Regulatory Affairs

cc: Senator Gene Therriault
Senator Joe Thomas
Senator Gary Wilken
Representative David Guttenberg
Representative Scott Kawasaki
Representative Michael "Mike" Kelly
Representative Jay Ramras
Representative John Coghill Jr.

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P.O. Box 113300
Juneau, AK 98111-3300
(907) 465-3830
FAX (907) 465-2347
legaudit@legis.state.ak.us

November 8, 2006

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 and Title 44 of the Alaska Statutes (sunset legislation), the attached report is submitted for your review.

DEPARTMENT OF COMMERCE, COMMUNITY, AND
ECONOMIC DEVELOPMENT
REGULATORY COMMISSION OF ALASKA
SUNSET REVIEW

October 20, 2006

Audit Control Number

03-20048-06

This audit was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). Alaska Statute 44.66.050(c) lists criteria to be used to assess the demonstrated public need for a given board, commission, agency, or program subject to the sunset review process. Currently, under AS 44.66.010(a)(3), the Regulatory Commission of Alaska is scheduled to terminate on June 30, 2007.

In our opinion, the termination date for this commission should be extended. We recommend the legislature extend the termination date to June 30, 2015.

The audit was conducted in accordance with generally accepted government audit standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are discussed in the Objectives, Scope, and Methodology.

Handwritten signature of Pat Davidson in cursive.

Pat Davidson, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Title 24 and Title 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Regulatory Commission of Alaska (RCA or commission). Under AS 44.66.050(a), the legislative committees of reference are to consider this report during the legislative oversight process to determine whether the commission's termination date should be extended. Currently, AS 44.66.010(a)(3) requires the commission to terminate on June 30, 2007. If the legislature takes no action to extend the termination date, the commission will have one year from that date to conclude its operations.

Objectives

The following are the three central, interrelated objectives of our report:

1. To determine if the termination date of the commission should be extended.
2. To determine if the commission is operating in the public's interest.
3. To determine if the commission has exercised appropriate oversight of certificated utilities and pipeline companies.

The assessment of operations and performance of the commission was based on the 11 factors set out at AS 44.66.050. Under the State's "sunset" law, these factors are to be used in assessing if an agency, subject to the law, has demonstrated a valid public policy need for continuing operations.

Scope and Methodology

The major areas of our review included:

- assessment of management controls,
- compliance with statutory deadlines for certain formal proceedings,
- compliance with statutory notice periods for tariff filings,
- compliance with public notice requirements,
- evaluation of the regulation adoption process, and
- review of the consumer protection activities.

Our audit reviewed operations and activities of the commission from July 2002 through June 2006 (FY 03 – FY 06).

Our review of the major areas was supplemented with information obtained from individuals employed by, or representing, the regulated utilities and pipeline companies. Two surveys were conducted. The surveys consisted of various questions soliciting the opinions of these groups about the operations and decision making processes of RCA.

One survey was sent to a sample of individuals who were involved in docket¹ proceedings. Topics in this survey included: statutory timelines, communication of the statutory deadline for docket proceedings, timeliness of dockets without statutory timelines, the hearing process, statutes, regulations, RCA's overall operations, and usability of the commission's website. A sample of 77 individuals² was selected from the service list attached to each docket's final or last order. Twenty-six of the 77 (34%) individuals surveyed responded.

Another survey was sent to a sample of individuals from the regulated entities that had interactions with RCA's consumer protection section. Topics in this survey included: RCA's informal complaint process, regulations, RCA's overall operations, and the usefulness of the commission's website. A non-probability sample of 29 individuals was selected from a list³ of contacts provided by the consumer protection section staff. Fifteen of the 29 (52%) individuals surveyed responded.

We evaluated dockets and tariff filings to determine that: 1) dockets were processed within the applicable, if any, statutory timelines or within tariff statutory notice periods; 2) certain data maintained in RCA's database systems is reliable; and 3) RCA provides adequate public notice of commission meetings, docket proceedings, and tariff filings.

Our evaluation covered dockets opened on or after July 1, 2002 through May 10, 2006. We excluded pipeline dockets since those proceedings have no statutory timelines. The total number of dockets in our population was 465. We tested a randomly-selected statistical sample of 35 dockets. We also reviewed all final decisions of rule-making⁴ dockets closed during the period to ensure the closure was within statutory timelines.

In addition, RCA had 367 pending dockets at the end of FY 02. During our audit period, there were 796 dockets closed, including those pending at the end of June 2002. Of the 796, 211 were dockets on utility matters that had an associated statutory timeline.⁵ We sampled 25 of these utility dockets to confirm closures were based on decisions on substantive issues.

Our scope for tariff filings included those filed on or after July 1, 2002 through June 8, 2006. We excluded tariff filings that were withdrawn or suspended and those that were related to

¹ The term docket is used by RCA to refer to a formal proceeding before the commission.

² Forty-nine individuals were involved in utility dockets, 20 were involved in pipeline dockets, 7 were involved in both utility and pipeline dockets, and the remaining one was the public advocate in the Department of Law.

³ Although, the list did not consist of all the utilities and pipelines regulated by RCA, they included companies that the consumer protection section had regular contact with during the audit period.

⁴ A rule-making docket is a matter in which RCA considers certain additions, deletions, or amendments to its regulations.

⁵ We excluded dockets already reviewed in our statistical sample.

quarterly or annual adjustments.⁶ The total number of tariff filings in our population was 915. We tested a non-probability sample of 35 tariff filings.

During our field work, we also:

- Assessed the adequacy of management controls over the docket and tariff filing processes
- Reviewed RCA's mandated quarterly reports to the legislature
- Evaluated the reliability of certain data maintained in the commission's databases
- Analyzed consumer complaints against utilities filed with the commission
- Reviewed applicable statutes and regulations
- Contacted the state ombudsman, the office of victims' rights, the Alaska State Human Rights Commission, the U.S. Equal Employment Opportunity Commission, the Alaska Labor Relations Agency, and the equal employment opportunity staff within the Department of Administration
- Reviewed proposed legislation and related testimony
- Interviewed commissioners, RCA staff, and management of regulated entities
- Researched other states' regulatory commission websites, statutes, and regulations
- Reviewed RCA's annual reports and operational performance measures
- Analyzed the expenditures of the commission and appropriations of the regulatory cost charges paid by the regulated entities
- Read RCA's transcripts of certain public meetings and hearings as well as related commission decisions

⁶ These tariff filings included adjustments due to power cost equalization allocations and RCA's regulatory rate charges.

(Intentionally left blank)

ORGANIZATION AND FUNCTION

The Regulatory Commission of Alaska (RCA or commission) was created July 1, 1999, upon reorganization of the Alaska Public Utilities Commission by Chapter 25, SLA 1999. Under state law, RCA is responsible for ensuring safe, adequate, and fair public utility and pipeline services. This is to be done by allowing regulated entities to charge users rates and provide service in a manner consistent with the interests of both the public and regulated entity. The commission has the authority to adopt regulations and to hold formal, quasi-judicial hearings to accomplish these purposes.

RCA regulates pipeline, telephone, electric, natural gas, water, sewer, refuse, cable TV, and steam services. All pipelines, and all other public utilities with ten or more customers, are regulated by the certification process. A public utility or pipeline company must obtain a certificate of public convenience and necessity, which describes the authorized service area and scope of operations. A certificate is issued upon the commission formally finding the applicant to be fit, willing, and able to provide the service requested.

Besides the certification process, RCA also may economically regulate the rates, classifications, rules, regulations, practices, services, and facilities of public utilities and pipeline companies covered by statute. Utilities are subject to the RCA certification process but many are exempt from more extensive economic regulation. As of August 2006, there were 630 active certificated entities. Of these 149 were economically regulated. Exhibit 1 is a summary, by service type, of the economically regulated entities.

The commission consists of five commissioners appointed by the governor and confirmed by the legislature. The commissioners must either be a member of the Alaska Bar Association or have a degree in engineering, finance, economics, accounting, business administration, or public administration from an accredited college or university. The commissioners serve six-year terms. (See Exhibit 2 for the current commissioners and their terms.)

Exhibit 1

RCA Economically Regulated Certificates by Service Type

Telecommunications	63
Electric	32
Pipeline	19
Refuse	13
Water	11
Gas	6
Sewer	3
Cable TV	2

Exhibit 2

Regulatory Commission of Alaska Members

Kate Giard, Chair Term Expires March 2007
Anthony Price Term Expires June 2010
Mark Johnson Term Expires March 2009
Dave Harbour Term Expires March 2008
Jan Wilson Term Expires March 2012

The staff of RCA is organized around six major functions: administration, finance, tariff, engineering, common carriers, and consumer protection. RCA had 60 funded positions⁷ in its \$6 million FY 06 operating budget. A brief description of the services provided by each function is as follows.

- Administration: This function is responsible for fiscal and personnel administration, budget preparation, and records management - including the case management system. The commission chair is responsible for this function and is aided by an administrative manager, a commission section manager, an advisory section manager, documents processing and accounting personnel, and other clerical support staff.
- Finance: This function examines, analyzes, and evaluates financial statements submitted for rate cases. The finance staff audits financial records of utilities and pipeline companies and examines historical operating year data and pro forma adjustments. These analyses are presented at proceedings before the commission.
- Tariff: This function examines, analyzes, and investigates tariff filings and presents recommendations to the commission at biweekly tariff action meetings. Administrative duties include organizing those meetings, ensuring that public notice requirements on tariff filings are met, and maintaining current master tariffs for all utilities.
- Engineering: This function is responsible for certification proceedings and the investigation of utility and pipeline company procedures and practices affecting service quality. The engineering staff also reviews legal descriptions for service areas, plans for plant expansion, and plant-in-service and depreciation schedules. These analyses are presented in proceedings before the commission.
- Common Carriers: This function develops, recommends, and administers policies and programs with respect to the regulation of rates, services, accounting, and facilities of communications common carriers within the State involving the use of wire, cables, radio, and space satellites.
- Consumer Protection: This function investigates and resolves informal consumer complaints, and is responsible for public affairs and media relations as well as responding to information requests.

As of July 2003, the responsibility of public advocacy for regulatory affairs was transferred to the Department of Law. The regulatory affairs and public advocacy section advocates on behalf of the public in utility matters that come before RCA. Regulatory cost charges from the regulated entities continue to fund the public advocate function.

⁷ This total does not include the assistant attorney general that the Department of Law furnishes to RCA through a reimbursable services agreement.

Exhibit 3 below, summarizes RCA's expenditures for the past four fiscal years. The funding source for almost all of these expenditures was the regulatory cost charges paid by the regulated entities. Beginning with FY 04, the expenditures for the public advocacy function, relocated to the Department of Law, are excluded from the amounts shown.⁸

Exhibit 3				
Regulatory Commission of Alaska				
Summary of Expenditures				
FY 03 - FY 06				
Expenditures	FY 03	FY 04	FY 05	FY 06
Personal Services	\$3,896,539	\$4,005,622	\$3,764,473	\$3,582,676
Travel	53,081	55,359	50,747	89,370
Contractual	1,756,621	2,001,549	1,377,995	1,657,384
Supplies	50,501	54,555	81,610	129,847
Equipment	134,579	85,536	-0-	74,764
Total	<u><u>\$5,891,321</u></u>	<u><u>\$6,202,621</u></u>	<u><u>\$5,274,825</u></u>	<u><u>\$5,534,041</u></u>

Source: RCA's FY 03 annual report and the State's accounting system.

⁸ The regulatory affairs and public advocacy section within the Department of Law received \$1 million in FY 04 from RCA and then was appropriated, from fees paid by regulated entities, \$1.3 million and \$1.4 million, respectively in FY 05 and FY 06.

(Intentionally left blank)

BACKGROUND INFORMATION

The Regulatory Commission of Alaska (RCA or commission) is currently working on two significant projects: the 2005 improvement initiative project and the development of a regulatory program for small hydropower projects within the State. The following is a brief summary of each of these projects.

2005 Improvement Initiative Project

In March 2005, the commission began, what it termed, the 2005 improvement initiative project. The three primary goals of the project were to improve RCA's transparency, accountability, and operational efficiency. In order to achieve these goals, the commission identified four primary objectives:

1. To improve the regulatory environment for pipeline companies by partnering with them to jointly identify areas where RCA processes could be improved.
2. To improve the regulatory environment for utilities by meeting with key regulated industries to understand their view of RCA's oversight processes. Part of this effort would be to involve the utilities in setting priorities for regulation and statute changes, identifying the needs for a case management information system, and modifying RCA business practices.
3. To improve the internal operating and management structure of the commission.
4. To implement an integrated case management system with a web portal to allow access by the regulated entities.

RCA's actions under the first three objectives are discussed throughout the Findings and Recommendation and Analysis of Public Needs sections. The following discussion relates to the progress in the implementation of a case management information system.

Internet Integrated Case Management System

In late 2004, RCA began a series of meetings and workshops asking the public and the regulated entities what information technology improvements they believed were needed for the commission. A working group was formed of individuals from the regulated entities to better define RCA's system needs.

As a result of this process, in 2005 RCA began several information technology projects. In 2006 the commission issued a request for proposals to obtain an integrated case management system. The star system, proprietary software of an information technology company known as ACO, was selected. In response to inquiries from the various entities regulated by RCA,

the commission established a user committee of volunteers. The user committee members also solicited feedback from other utilities, pipeline companies, and organizations that interact with RCA.

The user committee's objective was to develop the conceptual framework that would allow each regulated entity access to a web-based portal, secured by a password, through which all business interactions with RCA could be transacted electronically. The budget for the new case management system and the web-based portal is approximately \$2.25 million. It is anticipated that these projects will be completed by the end of 2006.

Regulation of smaller scale hydropower projects

RCA is in the process of establishing a regulatory program for small hydropower projects that are currently regulated by the Federal Energy Regulatory Commission (FERC). In 1999, federal legislation was adopted that provided for the phasing out of FERC's role in Alaska involved with licensing and regulating hydropower projects of less than 5,000 kilowatts.

The main reason for transfer of such authority from FERC to state regulation was that "*Alaska presents special circumstances that favor local control over projects.*"⁹ In the view of congress, state regulation would be timelier and less costly for both the current operators of the small hydropower projects and entities seeking initial approval for project construction. Transfer of this authority was contingent on the State developing a regulatory process that met certain requirements and was approved by FERC.

In 2002, the state legislature adopted legislation¹⁰ giving RCA authority to develop regulations as part of establishing a regulatory program for small hydropower projects within the State.¹¹ RCA opened a rule-making docket in December 2003 to begin the process of developing a regulatory program. A stakeholder advisory committee was formed and numerous committee meetings, workshops, and public meetings were held.

Proposed regulations were issued for public comment in April 2005. Although rule-making dockets are to be closed by a final order within 24 months, RCA exercised its discretion to extend the deadline by 90 days. In March 2006 the commission was still not prepared to adopt the regulations. At the commission's public meeting, RCA's assigned assistant attorney general advised that

... [state law]... says [the commission] shall issue a final order in a rule-making proceeding... not later than 24 months after a petition of the regulation has been filed. ...my advice to [the commission is] that you have to follow that provision and

⁹ Calendar No. 65, 106th Congress, Committee on Energy and Natural Resources report to the Senate on S. 422.

¹⁰ Chapter 107, Session Law 2002

¹¹ Not included for state regulation are certain projects licensed or exempted under federal law before November 9, 2000.

issue a final order.... That is not obligating you to adopt the regulations, it's simply issuing a final order that would terminate the proceedings.

Accordingly, at the end of March 2006, RCA ordered the rule-making docket closed. In the final order the commission stated a new rule-making docket would be opened and the entire record of the closed docket would be incorporated into the new docket. As of the date of this report a new docket has not been opened. Due to the size and complexity of this regulation project, RCA is contracting for an attorney to assist in revising the proposed regulations.

Once the regulations have been edited, and a new docket opened, RCA intends to hold public meetings on the revised proposed regulations. The regulations would then be further revised as necessary, adopted, and submitted to the governor for eventual transmittal to FERC. The federal agency then has a year for its review. Only after FERC has approved RCA's regulatory program can the State take over regulatory responsibilities. The RCA chair anticipates this process will take approximately two more years from the date of the order for the additional public hearings.

In FY 07, RCA received a \$150,000 appropriation from the State's general fund to continue the process of developing the small hydropower regulatory program. The costs associated with the project prior to FY 07, approximately \$207,000 have been funded through RCA's regulatory cost charges from the current regulated entities.

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REPORT CONCLUSIONS

In developing our conclusion whether the termination date of the Regulatory Commission of Alaska (RCA or commission) should be extended, we evaluated commission operations using the 11 factors set out at AS 44.66.050. Under the State's "sunset" law, these factors are to be used in assessing if an agency, subject to the law, has demonstrated a valid public policy need for continuing operations. As discussed in the Findings and Recommendation section, we identified areas where regulation changes could improve RCA's efficiency and accountability. Given the quasi-judicial nature of how RCA operates, we recognize making these proposed regulation changes may be time consuming and attract extensive scrutiny and challenge by various parties that interact with RCA.

In our opinion RCA meets a valid public policy need and is serving Alaskans by: (1) assessing the capabilities of utility and pipeline companies to safely and capably serve the public; (2) evaluating tariffs and charges made by regulated entities; (3) verifying the pass-through charges to consumers from electric and natural gas utilities; (4) adjudicating disputes between ratepayers and regulated entities; (5) providing consumer protection services; and, (6) performing financial reviews of utilities for the State's power cost equalization program. RCA has demonstrated the commission serves a public need. Under AS 44.66.010(a)(3), RCA is scheduled to terminate June 30, 2007. We recommend the legislature adopt legislation extending RCA's termination date to June 30, 2015.

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FINDINGS AND RECOMMENDATION

In our previous sunset audit,¹² we made three recommendations. The first recommendation was for the Regulatory Commission of Alaska (RCA or commission) to propose legislation to clarify statutes imposing statutory timelines on certain proceedings. In 2002 legislation extending the termination date for RCA, the legislature adopted statutes setting specified timelines for the commission to follow in making certain kinds of decisions. The statutory timelines apply to about half of the regulatory decisions made by the commission. In Recommendation No. 1, of this review, we recommend the commission consider adopting further timelines for other actions not covered in statute.

A second recommendation stated RCA's chair should ensure that publication of notices of formal proceedings is monitored. While there are still some operational deficiencies with ensuring all discretionary public notices have appropriately been made, RCA consistently meets basic public notice requirements related to its decision making process. The concerns related to this prior audit recommendation have substantially been addressed.

The third prior recommendation suggested RCA either require smaller water and sewer utilities to be certificated or establish a meaningful exemption system by regulation. RCA adopted the necessary regulations in February 2004.¹³

The following recommendation is based on the current sunset review.

Recommendation No. 1

RCA should proceed with the development of regulations that would enhance the transparency, accountability, and efficiency of the commission's decision making process.

In late 2004, RCA held public meetings inviting comments on possible regulation changes that would improve the way in which the commission operated. In the early part of 2005, based on comments from staff in addition to those received from regulated utilities and pipeline companies at the 2004 meetings, RCA adopted a regulation projects plan. This work plan is reviewed on a regular basis. Many of the projects would establish more accountability standards for RCA operations.

In the course of our review, we identified three areas where adoption of regulations would promote improved efficiency, accountability, and transparency of RCA's decisions. All areas

¹² *Department of Community and Economic Development, Regulatory Commission of Alaska, Sunset Review, November 26, 2002, Audit Control No. 08-20021-03.*

¹³ These regulations became effective June 19, 2004.

Exhibit 4

Statutory Timelines

In a special session in June 2002, legislative committees conducted extensive oversight hearings that focused on RCA's workload and the regulated utilities' complaints of slow processing of their requests. The legislature responded to these complaints by enacting statutory timelines for RCA decisions in several categories of utility regulatory matters. The addition of AS 42.05.175 provided, in part, the following:

- (a) *The commission shall issue a final order not later than **six months** after a **complete application** is filed for an application...*
- (b) *... the commission shall issue a final order not later than **nine months** after a **complete tariff filing** is made for a tariff filing that does not change the utility's revenue requirement or rate design.*
- (c) *... the commission shall issue a final order not later than **15 months** after a **complete tariff filing** is made for a tariff filing that changes the utility's revenue requirement or rate design.*
- (d) *The commission shall issue a final order not later than **12 months** after a **complete formal complaint** is filed against a utility or, when the commission initiates a formal investigation of a utility without the filing of a **complete formal complaint**, not later than **12 months** after the order initiating the formal investigation is issued.*
- (e) *The commission shall issue a final order in a rule-making proceeding not later than **24 months** after a **complete petition** for adoption, amendment, or repeal of a regulation...*
- (f) *The commission may extend a timeline required under (a) - (e)... if all parties of record consent to the extension or if, for one time only, before the timeline expires, the*
 - (1) *commission reasonably finds that good cause exists to extend...*
 - (2) *commission issues a written order extending the timeline and setting out its finding regarding good cause; and*
 - (3) *extension of time is 90 days or less.*
- (g) *The commission shall file quarterly reports with the Legislative Budget and Audit Committee identifying all extensions ordered under (f)(2)...*
[emphasis added]

we identified for improvement were included in the commission's 2005 regulation projects plan – although as of the date of this report, the commission has not started the process of developing the necessary regulations. Our identified improvement areas include: (1) establishment of additional timelines; (2) adoption of rules related to discovery; and (3) defining when a record is considered complete and the given timeline starts. Further discussion of these issues is as follows:

1. Establishing timelines for matters not covered by statute. In 2002, legislation was passed imposing statutory timelines on certain matters that come before the commission. (Refer to Exhibit 4.) However, these timelines apply to about half of the matters decided by RCA, leaving many filings and applications submitted to the commission without any formal, widely recognized timelines. This ongoing concern about timeliness was also reflected in almost half of survey responses received from representatives of regulated entities.

Our review of RCA's decisions indicated the commission is consistently meeting the timelines set out in statute. This demonstrates RCA is committed to being as timely as possible. We urge the commission to take the additional step of putting timelines, for the actions not covered by statute, into regulation.

2. Establishing standards for certain aspects of discovery. Part of the prehearing process, during which each party requests relevant information and documents from opposing parties, is termed discovery. Each side is attempting to discover pertinent facts. Generally, discovery devices include depositions,¹⁴ requests for admissions,¹⁵ interrogatories,¹⁶ document production requests, and requests for inspection. Excessive discovery requests during the course of a proceeding can be used as a tactic to drive up the legal costs for the opposing party. Additionally, extended discovery may contribute to longer proceedings, which runs counter to the central intent behind statutory timelines adopted in recent years.

In past years, the merits and possibility of placing some limits on discovery has been raised in public meetings between RCA commissioners, utility managers, and attorneys that specialize in regulation law. In comments received from respondents to our survey, the need for discovery guidelines and the use of what is termed "informal" discovery were listed as current suggestions for improvement. Under current regulations RCA does have the authority, on a case-by-case basis, to adopt procedural rules limiting the nature and extent of discovery.¹⁷

¹⁴Depositions are proceedings in which a witness or party is asked to answer questions under oath before a court reporter.

¹⁵A request for admission is a request to a party that they admit certain facts. One party sends the other a request for admission so that issues, the parties agree upon, can be resolved and not have to be proven at hearing.

¹⁶Interrogatories are written questions sent by one party to the other for the latter to answer in writing under oath.

¹⁷ See 3 AAC 48.091(l). Rulings that specifically limit certain aspects of discovery are typically set out in an order during the early part of a proceeding. RCA occasionally issues orders limiting discovery, typically doing so only if one of the parties make a request to do so, and can make a persuasive argument.

State court rules limit the number of interrogatories in civil matters to 30. Federal civil procedure rules limit interrogatories to 25. Many regulatory authorities in other states have adopted rules related to discovery. In such situations where limits are imposed, provisions are typically made to allow parties to seek additional discovery. To do so, however, a party wanting more discovery must convince the adjudicative authority (judge, commissioner, hearing officer, etc.) to suspend or expand the established limits. If similar rules were in place at RCA, a party making an extensive discovery request would first have to justify the need for a larger request.¹⁸

There is a need to balance due process against efficiency. There may be times when exceptions to an established standard may have to be made. However, there is merit in RCA's consideration of limiting some aspects of the discovery process in the interest of promoting more efficient proceedings. Adoption of such rules by RCA would shift the burden of justifying broad discovery requests to the requesting party.

3. Clarifying terms used in statute that relate to established timelines for certain formal proceedings. State law, in setting timelines for various RCA proceedings, refers to various matters as being "complete" before the related, specified time period begins. Terms such as "*complete application*," or "*complete tariff filing*" serve as reference points that trigger the deadline for a given decision. (See Exhibit 4.) The statute states that a request from the regulated entity is complete when all requirements are complied with under RCA's statutes, regulations, and adopted forms.

However, the determination of completeness is made informally by the advisory section staff rather than by a written decision of the commission. A more formal process performed by the commissioners or administrative law judges, rather than the current delegation to staff, would provide greater clarity to the regulated entities as to the completeness of their requests.

Over a quarter of the respondents to our survey said they were not informed by RCA as to what the deadline date was for their particular matter of interest. Although the date a matter is first opened may be clear, it is often some time before the filing is considered complete. Determining when the initial filing is complete involves subjective judgment on the part of RCA staff. In evaluating RCA's compliance with the timeline provisions, we occasionally saw where the date—when a filing was considered complete—was sometimes changed upon further review of the file.

RCA's determination of the trigger date of the statutory timeline, the date of completeness, is a point on appeal in several cases in front of the Superior Court initiated during the audit period. Legal filings and responses in the RCA hearing process and

¹⁸ A current proceeding provides an example of where discovery appears to be unreasonable. A regulated utility received five requests from an opposing party that involved developing responses to between 1,800 and 2,200 interrogatories (the count varying depending on how one chose to count various question sub-parts).

appeals of RCA decisions may be limited by adoption of such regulations. Clarification of what determines completeness, and the process to document and communicate the completeness date, could limit this as a point of contention.

If RCA adopted regulations to define when an initial application, filing, complaint, and petition are complete such action would enhance the transparency and accountability of the commission's deliberative process. Alternatively, the commission could develop the practice of issuing an order to memorialize the date of when the initial record is considered complete. Such an order date could be integrated into the commission's interactive internet web portal and all parties to a given matter would be on notice as to the deadline date for a given matter's final decisional order.

The commission has been very proactive in soliciting feedback from the public, and the utility and pipeline companies, which are involved with RCA on an ongoing basis. While this process has identified key areas where RCA could improve its operations, the priority for implementation has to date been given to other matters. For the three issues discussed—directly related to promoting efficiency, accountability, and transparency of RCA's decision making—we recommend that the commission take the next step and schedule the necessary hearing dockets.

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A NALYSIS OF PUBLIC NEE D

The following analyses of commission activities relate to the public need factors defined in AS 44.66.050(c). These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

Determine the extent to which the board, commission, or program has operated in the public interest.

The Regulatory Commission of Alaska (RCA or commission) operates in the public interest in a wide variety of ways. The commission identifies its core services as including:

1. certification and economic regulation of utilities and pipeline companies;
2. assisting in the administration of the State's power cost equalization program;
3. review of tariffs;
4. resolution of disputes among service providers in various regulated industries;
5. consumer protection;
6. refinement of the State's utility regulatory framework; and,
7. serving as a technical resource for legislative and administrative decision makers.

In carrying out its responsibilities, RCA acts much of the time in a quasi-judicial manner. Accordingly, decisions must be supported by findings of fact, and the findings of fact must be based solely upon the evidence as it appears in the record of a given proceeding. RCA continues to be very concerned about affording all parties to a given decision appropriate due process, while at the same time being responsive to concerns about the timeliness of its decision making process.

RCA's efforts at resolving consumer complaints with regulated utilities also serve the public interest. The commission resolves most informal complaints within 30 days. Most of the regulated entities responding to our survey reported they were satisfied with the complaint resolution process.

RCA has responded well to legislative concerns about timeliness. In 2002, after extensive oversight hearings, the legislature put into statute specific time periods for RCA to follow in making various decisions. We reviewed 35 tariff filings and 35 formal proceedings. In no instance did RCA take longer than permitted, by statute, to make a given decision.

As discussed in Background Information, RCA did issue a final order to close a rule-making docket prior to completing the development of regulations related to hydropower projects.

While such action allowed the commission to technically comply with the established timeline, the central intent of the statute was circumvented. The commission continues to work on developing the regulations and does intend to reopen a formal docket in the future to adopt the necessary regulations.

Determine the extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices that it has adopted, and any other matter, including budgetary, resource, and personnel matters.

RCA's system, used to monitor progress of various hearing dockets and ensure impending deadlines are met, is adequate in promoting the issuance of timely decisions.¹⁹ Such a system serves to prevent the triggering of default actions as provided for under the statutes for late decisions.

There is a lack of clarity about when timelines for certain decisions, as provided for in statute, actually begin. The time period for a decision begins when the initial record related to a proceeding is complete. However, there is no formally established definition in policy or regulation about when the initial record is complete. Determination of completeness is critical to designating when a given time period starts. Additionally, from a survey of selected parties involved with RCA proceedings, over a quarter of the respondents reported they had not been informed of any established deadline date related to their matter that fell under the statutory timelines.

Almost half of the survey respondents involved with proceedings not covered by a statutory deadline believed the length of time it took to resolve their matters was unreasonable. For survey respondents involved in pipeline proceedings, which are not covered by any statutory deadline, 60 percent believed the length of time for such proceedings was unreasonable. As discussed in Recommendation No. 1, we encourage the commission to develop regulations that establish timelines for matters not covered by state law.

Determine the extent to which the board, commission, or agency has recommended statutory changes that are generally of benefit to the public interest.

RCA commissioners provided testimony regarding the impact that 2003 legislation would have on commission operations. The legislation clarified state law related to the regulation of pipelines. The legislation expanded RCA's authority to regulate rates charged to customers for natural gas transported through any pipeline in the State, where previously such authority had been limited to a designated natural gas pipeline.

¹⁹ There are three components of RCA's system. First, each matter filed with RCA is assigned to a responsible "docket manager" who monitors subordinates' progress in preparing the matter for decision. Second, the RCA commission section manager maintains a database to monitor workflow and to continually advise the commissioners and staff as to the needed allocation of resources. Thirdly, weekly meetings with the RCA chair, administrative law judges, and staff are held to review the status of all open dockets.

According to testimony, RCA worked with the Department of Law to assist in developing 2004 legislation that provided for assessments to fund the public-advocacy function related to utility and pipeline regulation. This function was transferred from RCA to the Department of Law by Executive Order #111. The legislation clarified RCA's authority under the Executive Order and provided for independence between the commission and the public-advocate function.

RCA testified about the impact proposed 2005 legislation would have on commission operations. The legislation would have permitted privately owned utilities to be eligible for certain state water and sewer infrastructure grants. Grant eligibility under the legislation would have been contingent on the recipient utilities remaining under RCA's regulatory oversight. The legislation was adopted by the House but not the Senate.

RCA testified in hearings related to proposed 2005 legislation exempting certain water and sewer utilities from regulation. More specifically, the proposed legislation exempted such utilities owned by local governments, if the utility did not compete with a regulated utility. RCA's chair testified the commission could support the legislation if certain safeguards were in place to protect the affected consumers of the utility. Under the final draft of the legislation, RCA's chair would have been charged with reviewing the existence and appropriateness of such safeguards. If the chair determined the measures were adequate, the commission would notify the administration that the utility was exempt from RCA's regulation. The legislation was adopted by the House but not the Senate.

Determine the extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service that it has provided.

RCA affords the public the opportunity to speak at publicly noticed meetings of the commission. The quasi-judicial manner in which RCA operates provides extensive opportunity for all interested and affected parties to informally and formally respond to proposed regulations and decisions.

In addition, as part of its operating mission, RCA has an active consumer protection function which provides utility customers an avenue to seek resolution of complaints. RCA generally tries to resolve disputes between customers and utilities informally, before opening a formal complaint.

Exhibit 5
Consumer Complaints
Filed with RCA during FY 06

	Number Filed	Percentage Of Total Complaints
Telecommunications	247	60%
Electric	91	22%
Water / Sewer	34	8%
Natural Gas	20	5%
Refuse Collection	18	4%
Cable Television	5	1%
Totals	<u>415</u>	<u>100%</u>

As reflected in Exhibit 5 on the previous page, RCA opened 415 formal complaints in FY 06. RCA resolved almost 90 percent of these complaints within 30 days. Additionally, almost 90 percent of the respondents to our survey, who were involved with the informal complaint resolution process, reported they were satisfied or very satisfied with the process.

RCA uses a variety of methods of notifying the public of formal proceedings. All notices appear on the commission's and the State's website. Notices are also placed in newspapers in the affected regions of the State, posted at the local post office, or included with utility customer billings.

Determine the extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.

RCA's internet website is another tool that is instrumental for communicating with the public. Besides notices of upcoming meetings, formal actions are posted along with the commission's annual reports, discussions of major regulatory issues, and a forum is provided for public comment. The process for filing a consumer complaint is explained and visitors to the website can subscribe to direct e-mail notices related to specific topics of interest.

Survey respondents report that RCA's internet website is easy to use for finding sought after information and the site provides sufficient information regarding dockets and filings. RCA makes a computer terminal available at its office for the public to use for researching commission records. As discussed in Background Information, the commission sought and facilitated the formation of stakeholder groups to assist in the process of developing regulations for smaller hydropower projects. The commission has often used this consensus-building approach in developing regulations and making certain operational decisions.

In December 2004, in response to frustrations voiced by pipeline companies, the commission began holding informal meetings with certificated companies. The meetings developed a listing of suggestions about how the oversight process for pipelines could be improved. In March 2005, a follow-up meeting was held that documented the steps RCA had already taken and the commission's strategy to further address the concerns of the companies. These efforts should be continued to improve the commission's regulation of pipelines.

RCA has used a public process to identify priorities for possible changes in regulations. Beginning in late 2004, commissioners solicited suggestions from staff, the public, and regulated entities about what regulations should be amended or adopted. At a January 2005 public meeting, RCA adopted a list of 11 proposed regulation projects. (See Recommendation No. 1.)

Determine the efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of victims' rights or the office of the ombudsman have been processed and resolved.

The state ombudsman and the office of victims' rights report receiving no complaints about RCA since our previous sunset review four years ago.

RCA orders and decisions are subject to appeal to the state courts. Since the prior sunset review, 26 of the commission's final orders reflecting docket decisions have been appealed to the State's Superior Court. The Superior Court has remanded three of the decisions back to RCA for further proceedings.

Additionally, the State's Supreme Court has issued decisions related to four RCA docket decisions, resulting in one decision being remanded back to RCA for further proceedings.

Determine the extent to which a board or commission that regulates entry into an occupation or profession has presented qualified applicants to serve the public.

As discussed in Organization and Function, "entry" into the provision of public utility services or the operation of a pipeline is regulated through the issuance of a certificate of public convenience and necessity. A public utility or pipeline carrier must obtain from RCA a certificate of public convenience and necessity, which describes the authorized service area and scope of operations. A certificate is issued upon the commission formally finding the applicant to be fit, willing, and able to provide the service requested. The commission generally regulates the rates, services, and practices of these entities.

To that end, RCA employs utility financial analysts and utility engineers to perform the appropriate analyses to make a determination of an applicant's capabilities before granting a certificate. Since 2002, RCA has issued 53 certificates of public convenience and necessity.

Determine the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area of activity or interest.

We found no evidence of RCA's hiring practices or appointments that were contrary to state personnel practices. Since our sunset review during 2002, no complaints have been filed with any of the following: (1) Alaska State Commission on Human Rights in the Office of the Governor; (2) U.S. Equal Employment Opportunity Commission; (3) Alaska Labor Relations Agency with the Department of Labor and Workforce Development; or (4) staff specializing in equal employment opportunity issues in the Division of Personnel within the Department of Administration.

Determine the extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

Half of the respondents, to our survey of parties to formal proceedings, reported they do not believe the existing statutes meet the needs of the regulated entities and protect the public interests. Some of the areas that the respondents believe should be addressed by statutory changes were:

- protection of rural exemptions,
- provision of business incentive to encourage investment in Alaska,
- amendment of the Pipeline Act (AS 42.06) to provide RCA a greater degree of discretion in deciding pipeline-related issues,
- clarification of statutory timelines due to recent RCA decisions,
- establishment of varying degrees of regulation based on complexity and financial impacts,
- shortening of the statutory timeline for decisions in rate proceedings, and
- amendment of AS 42.05.175 to segregate the timeframes between adjudicative proceedings and the time given for the commission to issue its final order at the close of such proceedings.

In addition, the results of our surveys showed that 43 percent of the respondents do not believe the existing regulations meet the needs of the regulated entities and protect the public interests. Some of the areas that the respondents believe should be addressed by regulation changes were:

- deregulation of competitive markets,
- revision of ex parte communication rules,
- clarification of what constitutes a complete application/filing and when RCA must determine and document such completeness,
- addition of discovery limitations, and provision for use of more informal discovery.

As discussed in Background Information, RCA began in March 2006, what it termed, the 2005 improvement initiative project. This project included setting priorities for statute and regulation changes with input from the regulated entities through the public meeting process.

Determine the extent to which the board, commission, or agency has effectively attained its objectives and purposes and the efficiency with which the board, commission, or agency has operated.

According to 55 percent of the survey respondents, RCA's overall operations have improved somewhat or significantly during the past four years. Eighty-eight percent (88%) of survey respondents reported the efficiency of the commission's hearing process has stayed the same or improved with 46 percent of the respondents reporting the hearing process over the past four years has become more efficient.

Since FY 03, RCA's operational performance measures have evolved. The current chair of RCA is planning to implement a review of the performance measures and in the process obtain input from the regulated entities. The current performance measurements include:

- issuing all orders within statutory deadlines;
- closing as many cases as the number received each year; and,
- limiting the number of its decisions that are appealed to the Superior Court.

RCA has substantially accomplished the above operational performance measures. See Recommendation No. 1 which identified regulations that could improve RCA's efficiency and effectiveness.

Determine the extent to which the board, commission, or agency duplicates the activities of another governmental agency or the private sector.

Under state law,²⁰ utilities owned and operated by local governments are exempted from regulation. The exemption of utilities owned and operated by governmental units is a common feature of utility regulation statutes across the country. The main reason for such a law is the accountability to the public for utility rates and services thought to be more efficiently accomplished through the local government electoral process. Accordingly, regulating rates and service through a quasi-judicial adjudicatory process such as RCA could be considered duplicative in instances where a local government utility is not exempted.

This issue of possible duplication is reflected in recent efforts of the Municipality of Anchorage (MOA) to have the city's water and sewer utility exempted from RCA oversight. In both the 2003-04 and 2005-06 legislatures, bills have been considered that would amend the statutes related to such exemptions. The central purpose of the proposed legislation was to further specify that water and sewer utilities owned by a local government, such as MOA,

²⁰ AS 42.05.711 (b) states in part "...public utilities owned and operated by a political subdivision of the state ... are exempt from [RCA oversight]." The statute does allow such utilities to opt for regulation upon the election of the political subdivision's governing body. More significantly though, if such a utility "directly competes with another utility or electric operating entity [subject to RCA regulation]," then the exemption does not apply. In such a situation the political subdivision utility remains subject to RCA regulation.

would be exempt from regulation. The exemption would continue to be contingent on the utility not competing with other regulated water and sewer utilities.²¹

²¹ An earlier attempt in the early 1990s by MOA to be exempted from RCA failed largely because of concern over the city's ownership of both a water and sewer utility along with an electrical utility. Since the commission determined MOA's electrical utility did compete with other regulated utilities, this precluded exemption of the water and sewer utility. The commissioners at the time were concerned joint ownership of an exempted water and sewer utility and nonexempt electrical utility could lead to a shifting of costs between the two entities. It was determined that such possible cost-shifting could be unfair to competing electrical utilities.



DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT

Regulatory Commission of Alaska

Sarah Palin, Governor
William C. Noll, Commissioner
Kate Giard, Chairman

December 6, 2006

Ms. Pat Davidson, Legislative Auditor
Division of Legislative Audit
PO Box 113300
Juneau, AK 99811

Dear Ms. Davidson,

The Regulatory Commission of Alaska (RCA) received your Confidential Preliminary Audit Report on November 14, 2006. The Commissioners met in Executive Session on November 22, 2006, for the purposes of discussing the report and have formulated this response.

We believe a governmental agency must never stop trying to improve. It must never rest on its laurels or forget that just beyond the horizon lies a better way to do business, one that's more efficient, promotes greater accountability or enhanced transparency.

After three years of concentrated efforts, the RCA is a better, more efficient and responsive regulatory agency. Yet, our mission is not complete. We must strive to continually deliver an improved and balanced regulatory environment that achieves our statutory mandate of protecting the public interest. We are wholly committed to that goal.

This audit report delivers a straight-forward and comprehensive evaluation of the Agency. We appreciate the work of the legislative auditors who spent four months immersed in Alaska's complex regulatory environment. The resulting management letter includes three recommendations that are germane and timely. We will implement them without question.

We again thank Legislative Audit for a fair and honest evaluation and seek support of the Alaska Legislature for the recommendations contained therein.

Sincerely,

Kate Giard, Chairman

701 W. 8th Street, Suite 300, Anchorage, Alaska 99501-3469
Telephone: (907) 276-6222 Fax: (907) 276-0160 Text Telephone: (907) 465-5437
Website: <http://www.commerce.state.ak.us/rca/>



Jennifer M. Granholm
GOVERNOR

STATE OF MICHIGAN
PUBLIC SERVICE COMMISSION
DEPARTMENT OF LABOR & ECONOMIC GROWTH
DAVID C. HOLLISTER
DIRECTOR

J. Peter Lark
CHAIR

Robert B. Nelson
COMMISSIONER

Laura Chappelle
COMMISSIONER

To: J. Peter Lark, Chair
Robert Nelson, Commissioner
Laura Chappelle, Commissioner

From: Gary Kitts

Subject: Rate Case Processing

You requested that the Commission Staff conduct an analysis of the length of time required to process a rate case in Michigan compared to other states. To do so, we used data published by Regulatory Research Associates, Inc. regarding rate cases decided between January 1, 1990 and December 31, 2003. We included any cases that were initiated by an application filed by the utility, but did not include any initiated by the Commission on its own motion, on the motion of the Commission Staff, or on the motion of another agency, such as a Consumers Counsel. The total number of cases during this 14-year period was 824, of which 19 were in Michigan. The study includes rate cases from all states except Alaska (we were unable to find any rate cases in the data base) and Nebraska, which relies primarily on municipal regulation. The results of our study are shown in the following table and the specific details for each state are attached.

	Michigan	U.S. Average
Unadjusted Case Time	11.4 Months	10.9 Months
Cases of \$100 Million or more (Percent)	21.1 %	9.6 %
Adjusted Case Time	11.4 Months	11.7 Months

The first line of this table indicates that the actual average time to complete a rate case in Michigan was 11.4 months compared to 10.9 months in the rest of the country – a difference of approximately two weeks. However, this average fails to take into account the relative size of the cases involved. It has been our experience (indeed it should be obvious) that large cases require more time than short cases. On average, a rate increase request of \$100 million or more lasts 7.3 months longer than a smaller rate case. This difference is significant, because in Michigan 21.1% of all rate requests are for \$100 million or more compared to only 9.6% in the rest of the country. Thus, the proportion of large controversial rate cases in Michigan is more than double that in the other states. When an adjustment is made for case size, Michigan's average rate case is actually completed in less time than in other states.¹

¹ (21.1% - 9.6%) x 7.3 months = 0.8 months.

In addition, it is important to recognize the significant impact of the recent increase in rate requests. Between 1990 and 2003, Michigan utilities filed rate requests totaling slightly more than \$900 million, an average of approximately \$65 million per year. However, this year companies regulated by the Commission are asking for rate increases of approximately \$950 million. Thus, utility rate requests this year exceed the total requests for the prior 14 years. Along with these traditional rate requests, Consumers and Detroit Edison have asked for an additional \$1.1 billion in asset recovery costs pursuant to MCL 460.10d(4) and other relevant sections.² Finally, in the next month or so, we anticipate the filing of new rate cases totaling approximately \$500 million. Thus, this year, the Commission is faced with rate filings in excess of \$2.5 billion, almost triple the total volume over the last 14 years. It goes without saying that it will be a challenge to address these requests, especially in light of the fact that the Commission Staff has been reduced from 240 in 1992 to 148 today.

State	Total \$	Wtd %	Months	Wtd Month
Alabama	14.5	0.04%	7.0	0.00
Arizona	1048.4	2.97%	14.3	0.42
Arkansas	136.1	0.39%	10.1	0.04
California	1578.1	4.47%	15.2	0.68
Colorado	331.2	0.94%	9.4	0.09
Connecticut	1327.1	3.76%	6.4	0.24
Delaware	104.8	0.30%	15.0	0.04
District of Columbia	445.6	1.26%	10.3	0.13
Florida	544.5	1.54%	7.1	0.11
Georgia	681.7	1.93%	6.1	0.12
Hawaii	534.7	1.52%	20.0	0.30
Idaho	66.8	0.19%	10.0	0.02
Illinois	2914.0	8.26%	11.2	0.93
Indiana	460.4	1.30%	11.6	0.15
Iowa	504.7	1.43%	8.6	0.12
Kansas	402.7	1.14%	9.1	0.10
Kentucky	185.8	0.53%	8.2	0.04
Louisiana	139.2	0.39%	14.8	0.06
Maine	225.1	0.64%	8.6	0.05
Maryland	1084.4	3.07%	5.8	0.18
Massachusetts	712.1	2.02%	6.5	0.13
Michigan	909.9	2.58%	11.4	0.29
Minnesota	473.0	1.34%	12.1	0.16
Mississippi	120.1	0.34%	4.8	0.02
Missouri	862.9	2.45%	9.0	0.22
Montana	255.6	0.72%	11.0	0.08
Nevada	284.8	0.81%	5.5	0.04
New Hampshire	21.2	0.06%	12.0	0.01

² These are total rather than annual asset recovery costs for these items.

New Mexico	78.5	0.22%	10.1	0.02
New Jersey	1990.4	5.64%	11.7	0.66
New York	3132.2	8.88%	12.2	1.08
North Carolina	445.7	1.26%	6.6	0.08
North Dakota	32.2	0.09%	7.2	0.01
Ohio	1604.8	4.55%	11.3	0.51
Oklahoma	225.3	0.64%	20.5	0.13
Oregon	879.9	2.49%	11.0	0.27
Pennsylvania	1693.3	4.80%	8.6	0.41
Rhode Island	89.0	0.25%	7.9	0.02
South Carolina	361.9	1.03%	8.0	0.08
South Dakota	19.7	0.06%	5.2	0.00
Tennessee	63.6	0.18%	6.8	0.01
Texas	3427.6	9.72%	14.3	1.39
Utah	512.0	1.45%	8.5	0.12
Vermont	279.9	0.79%	9.5	0.08
Virginia	827.2	2.34%	15.8	0.37
Washington	1058.7	3.00%	8.1	0.24
Wisconsin	1573.7	4.46%	9.0	0.40
West Virginia	457.7	1.30%	9.3	0.12
Wyoming	157.1	0.45%	7.0	0.03
	35279.8	100.00%		10.9

BOARD	REGULATORY Y/N?	LEGISLATIVE CONFIRMATION Y/N?	BOARD FUNCTION
Alaska Statehood Celebration Commission	N	N	Plan/administer all state activities leading up to 50th anniversary of statehood
Aviation Advisory Board	N	N	Advise DOT&PF commissioner on aviation policy, recommend FAI and ANC airport manager
Alaska-Alberta Bilateral Council	N	N	Provide direction on bilateral issues, explore new areas for cooperation
Arts Council	N	N	Encourage and support excellent regulates and controls applications, licences, and permits of barbers, hairdressers, cosmetologists,
Board of Barbers and Hairdressers	Y	Y	
Big Game Commercial Services Board	Y	Y	Licenses and regulates big game commercial hunters Res. in state quarter, make recommendations to governor for his/her nomination to US Mint
Commemorative Coin Commission	N	N	sustained yield management of fishery resource
Commercial Fish Entry Commission	Y	Y	
Employment of People with Disabilities	N	N	Promotes employment of people with disabilities
Faith Based and Community Initiatives Advisory Council	N	N	Convene a statewide conference on faith-based and community initiatives
Knik Arm Bridge and Toll Authority (KABATA)	N	N	Develop and advance the Knik Arm Bridge to connect Anchorage and Mat-Su Serve as labor relations agency under public employment relations act, and for Alaska Railroad
Labor Relations Agency	Y	Y	
Marine Pilots	Y	Y	Jurisdiction over licensing and pilotage of marine pilots Provide recommendations to governor and commissioner of DOT&PF on marine transportation functions
Marine Transportation Advisory board (MTAB)	N	N	hears appeals of citations relating to occupational hazards
Occupational Safety	Y	Y	

Oil and Gas Conservation	Y	Y	Regulate oil and gas drilling, development and production
Parole Board	Y	Y	Authorizes parole releases and conditions of parole
Professional Counselors	Y	Y	Regulates licensing standards and examinations of applicants
Psychologists and Psychological Associates	Y	Y	Regulates and controls applications, licences and permits facilitates and permits payment of compensation to innocent victims of violent crimes
Violent Crimes Compensation Board	Y	Y	
Workers Compensation Appeals Commission	Y	Y	Jurisdiction to hear appeals from final decisions of the Workers Compensation Board

ALASKA STATE LEGISLATURE

REPRESENTATIVE KURT OLSON

- Chair, Labor and Commerce
- Vice-Chair, Oil and Gas
- Member, Community and Regional Affairs

Session: January – May
State Capitol
Juneau, AK 99801-1182
Phone: 907-465-2693
Fax: 907-465-3835



Interim: May – December
145 Main Street Loop, Ste 221
Kenai, AK 99611
Phone: 907-283-2690
Fax: 907-283-2763

Official Business

April 23, 2007

To: Members, House Labor and Commerce Committee

Re: Regulatory Commission of Alaska

We currently have two RCA bills and a resolution before our committee. It is my intention to move them out of committee in a timely manner beginning later this week. Although the process of getting these bills out of committee may have appeared to be disjointed up until now, that has not been the case. I have been working closely with the Palin administration, my counterpart in Senate Labor and Commerce, and leadership of the House and Senate.

HCR 8

This resolution will set up a task force to study staffing, job descriptions, and salaries of RCA commissioners and employees. It is an outgrowth of a request made by the full commission in February to Governor Palin for the Legislature to review those items. A copy of the transmittal letter is attached and highlighted.

HB 209

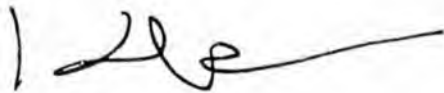
We will be working off the committee substitute adopted by the committee on April 13th. It primarily deals with timelines and the Governor appointing the Chair of the RCA. The CS is acceptable to the administration and most of the entities regulated by the RCA. Attached is a recent communication from the Palin administration to the RCA discussing the administration's support of the CS to HB 209.

HB 110

This is the sunset bill extending the RCA. Depending on the outcome of HCR 8 and HB 209 I believe that we will most likely have a sunset of either four or six years, with Senate wording on biannual report cards. It is my intent to move it out clean.

I would encourage each of you to schedule an appointment with me sometime on Tuesday to discuss any questions or concerns you may have. I believe that the bills and the resolution meet the needs of the residents of Alaska, and will make the RCA more efficient.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kurt Olson', with a long horizontal flourish extending to the right.

Rep. Kurt Olson

Cc: House Speaker John Harris
Senate President Lyda Green
John Bitney, Office of the Governor
Senator Johnny Ellis, Chair, Labor and Commerce
Anna Kim, Office of the Governor

From: John Bitney [mailto:john_bitney@gov.state.ak.us]
Sent: Wednesday, April 18, 2007 11:59 AM
To: 'Kate'
Cc: 'Michael Tibbies'; 'Anna Kim'; 'Sally Saddler'; 'Christopher Clark'
Subject: RCA legislation

Kate:

Here's where the Palin administration stands on legislation relating to the Regulatory Commission of Alaska.

We support:

1. **One, clean sunset extension** – We prefer a six-year extension with two-year reviews as outlined in the CSSB 16 (CRA), but we can live with a four-year extension **that contains no other provisions**.

2. **A second bill that is limited to:**

- Time lines;
- Having the Governor select the commission chair; and,
- Establishing a task force, which would sunset, to address commissioner salaries and qualifications and other reform provisions as brought forth in RCA public hearings.

This is the message we wish to convey to Senate President Lyda Green, House Speaker John Harris, Senate Finance Committee Co-chairs Lyman Hoffman and Bert Stedman, House Finance Committee Co-chairs Mike Chenault and Kevin Meyer, Senate Labor and Commerce Committee Chair Johnny Ellis, Senate Community and Regional Affairs Committee Chair Donny Olson, House Labor and Commerce Committee Chair Kurt Olson, and other lawmakers.

4 20 2007



DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT

Regulatory Commission of Alaska

Sarah Palin, Governor
Emil Notti, Commissioner
Kate Giard, Chairman

February 22, 2007

To: Honorable Sarah Palin, Governor

Re: Proposed Changes to Governing Statutes, Regulatory Commission of Alaska

From: Kate Giard, Chairman

On behalf of the Regulatory Commission of Alaska, I am pleased to provide you with the results of our public process concerning possible revisions to our enabling statutes. As has been our practice the last several years, we engaged in a systematic public process as part of our commitment to enhance Commission transparency and accountability, and to identify statutory revisions that would improve Commission processes.

As part of this process, we invited and received substantial public input and dialogue before approving the attached statutory reform proposals. We invited two rounds of comments, held a public workshop and public hearing, and discussed the proposed statutory revisions at three public meetings. The transcripts of these public proceedings can be found at <http://rca.alaska.gov/data/docketDetail.html?docket=R-06-01C>, along with electronic versions of all Commission orders issued and public comments filed regarding these suggested statutory revisions.

On February 2, 2007, the Commission voted to transmit several proposed changes to statutes governing agency operations to you for consideration. We believe that your support for legislation containing these statutory improvements will serve the public interest.

Following is a brief description of each proposal:

Revising AS 42.05.254 (Public Utility Regulatory Cost Charge) and AS 42.06.286 (Pipeline Carrier Regulatory Cost Charge)

We seek your support for legislation which would revise the Regulatory Cost Charge (RCC) provisions of the Alaska Public Utilities Regulatory Act (AS 42.05) and the Pipeline Act (AS 42.06). The revenues of the Commission are derived almost entirely through ratepayer charges paid through their utility services and pipeline transportation bills. The legislature has enacted a statutory limit on the amount of RCCs the Commission can collect to protect ratepayers from excessive government spending.

The agency has been able to fulfill its mission and operate within these limits in the past, however, in fiscal 2008 the Commission may incur up to \$1.5 million in combined PERS benefit costs plus litigation costs.

We sought public comment on whether to meet these unanticipated expenditures 1) through a reduction in personnel, 2) through an increase in the RCC rate or 3) by removing an existing exemption for electric utilities.

There was no public support for reducing our personnel, primary because those commenting were concerned that it would slow down the regulatory process. Comments generally supported the increase in the RCC amount and comments were divided on whether to remove the exemption.

The Commissioners voted to seek your support to increase the statutory regulatory cost charge limit to 0.9 percent from 0.7 percent. We believe this will provide a sufficient base of revenue to address 2008 and hopefully any subsequent increases in the PERS benefit liability.

Revising AS 42.05.571 (Civil Penalties/Public Utilities) and AS 42.06.540 (Civil Penalties/Pipeline Carriers)

Another proposal would increase the amount of civil penalties from current levels (\$100 for public utilities, \$500 for pipeline carriers) to \$1,000 for any violation of statute or Commission directive, and would allow the Commission to assess these civil penalties against any person involved in any Commission proceeding. The small, \$100 fine, has remained unchanged in statutes since 1970.¹

¹See § 6 ch 113 SLA 1970.

Revising AS 42.05.175 (Timelines for Issuance of Final Orders)

A fourth proposal forwards several potential revisions to statutes establishing specific deadlines for Commission action in several types of proceedings. This proposal generated the most public comment, with several suggested changes to existing statutes proposed by interested parties. We incorporated one of the public proposals (a "catch-all" provision that establishes a deadline for proceedings not currently subject to such a deadline), and propose some additional revisions based on our experience with statutory deadlines.

The following four suggested statutory revisions are part of our agency restructuring efforts.

Revising AS 42.04.040 (Legal Counsel)²

Currently the Department of Law simultaneously fulfills several roles involving this agency, from advising the Commission³ to appearing before the Commission as the public advocate⁴ or an interested party.⁵ In both its public advocate and interested party roles, the Department of Law has the ability to appeal Commission decisions. The Department of Law's simultaneous performance of different roles in Commission proceedings creates an inherent conflict of interest that at times requires special accommodations, including the need to hire outside counsel to avoid a situation where the Department of Law represents both the appellant and appellee in an agency appeal. The creation of an Office of General Counsel will allow us to avoid this potential conflict of interest.

²This proposal also encompasses several statutory revisions necessary to reflect the Commission's shift from representation by the Department of Law to an Office of General Counsel. Specifically, references to the "attorney general" would be changed to the "general counsel" in AS 42.05.601(a) and 42.06.560(a). In addition, AS 42.06.140(a)(7) would be amended to clarify the Commission's involvement in federal proceedings involving pipeline carriers as well as proceedings in another state. Finally, the revision to AS 42.06.140 would clarify that the Department of Law may request (rather than require) the Commission's assistance in proceedings involving a pipeline carrier or affiliated interest and affecting the interests of the State of Alaska.

³In this capacity the Department of Law acts as our legal advisor in adjudications, rulemaking proceedings and public meetings, and defends appealed orders.

⁴Since 2003, the Department of Law has also participated in commission dockets as the public advocate. The public advocate was created in 1999, when the legislature allowed the Alaska Public Utilities Commission to sunset and created the Regulatory Commission of Alaska. At its inception the public advocate was part of the Regulatory Commission of Alaska. See AS 42.04.150 (repealed 2003). In 2003, the public advocacy function was transferred to the Department of Law. See AS 44.23.020(e).

⁵In pipeline dockets, the Department of Law's Oil and Gas section may participate as a party representing the Department of Natural Resources and the Department of Revenue, which oversee the state royalty and tax interests.

Adding AS 42.05.045 (Administrative Law Section)

Our Commission has restructured by hiring additional administrative law judges and creating an Administrative Law Section. This reform has allowed us to retain additional in-house legal expertise, and has contributed to a significant reduction in time frames for processing filings and resolving issues before this agency. Our proposed statutory revisions include a section providing statutory authorization for the Administrative Law Section.

Adding AS 42.05.047 (Natural Gas and Oil Pipeline Section)

Another agency restructuring proposal is the creation a Natural Gas and Oil Pipeline Section. Our regulation of pipeline carriers involves complicated issues and requires a significant allocation of staff resources to adequately address pipeline issues within our jurisdiction. The proposed statutory reform would allow this agency to develop and dedicate agency expertise for upcoming gas and oil pipeline issues.

Revising AS 39.25.120 (Partially Exempt Service)

A final aspect of our agency restructuring is the authorization to utilize certain partially exempt positions allocated only to departments with the State of Alaska. This statutory revision would allow the chairman and commissioners, respectively, to employ a private secretary and special assistants. In addition, this section would transition the commission section manager, chief administrative law judge, and any economist we may employ into partially exempt service, and would reaffirm the partially exempt status of our administrative law judges and attorneys.

Revising AS 42.04.020 (Commissioners)

The last statutory revision we propose concerns increasing qualification levels for commissioners. Commissioner positions at this agency are challenging and require considerable knowledge of public utility operations and management, administrative law and practice, and regulatory principles. Newly-appointed commissioners are subjected to a substantial learning curve, and an adequate professional background can expedite and enhance a commissioner's grasp of the required expertise. Certain professional backgrounds (e.g., experience in law, accounting, engineering, or regulated industry) provide a more advantageous knowledge base for a commissioner. We propose a revision to the commissioner qualification section of our enabling statute to ensure that a candidate's professional expertise correlates to the duties of a commissioner.

Request for Legislative Review of Commissioner Salary Levels

We also believe that an increase to the salaries of commissioners is necessary to attract and retain qualified professionals for future commissioner openings. The current salary structure for our commissioners was established in 1980.⁶ While commissioners act in a quasi-judicial role and are required to possess considerable expertise in rendering their decisions, their positions are valued far less than their judicial counterparts or other full-time commissioner and deputy commissioner positions within the executive branch.

We have not proposed any legislative reform to increase commissioner salary levels. Instead we suggest that the Governor seek a legislative determination regarding the appropriate salary levels for commissioners. We believe that regulated industries recognize the expertise required of commissioners and are generally supportive of modernized salary levels for those commissioners.

We hope that our effort to coordinate public responses to these concepts proves valuable to you and the legislature.

cc: Michael Tibbles, Chief of Staff
Enclosure: Proposed Statutory Changes (11 pages)

⁶ See §§ 10, 25 ch 3 SLA 1980.

are not followed

determining the place of a hearing, the commission shall give preference to the hearing at a place most convenient for those interested in the subject of the hearing. AS 42.05.110; am § 6 ch 113 SLA 1970; am § 45 ch 94 SLA 1980; am § 7 ch 110 SLA 1981; am § 7 SLA 1999; am § 4 ch 5 SLA 2000

violations. — The commission shall have the authority to issue orders to prevent or remedy violations of the provisions of this act or any rule or regulation promulgated under this act. AS 42.05.110

of amendments. — The 1999 amendment, effective July 1, 1999, added the second, fourth, sixth, and seventh sentences, and rewrote the remaining portion of the section.

The 2000 amendment, effective March 26, 2000, substituted "hearing examiner" for "hearing officer" in four places and inserted references to a mediator in three places.

Alaska Inc. v. Alaska Public Utilities Regulatory Commission, 2003 Alaska 206-3, 2003-1, 2003-2, 2003-3, 2003-4, 2003-5, 2003-6, 2003-7, 2003-8, 2003-9, 2003-10, 2003-11, 2003-12, 2003-13, 2003-14, 2003-15, 2003-16, 2003-17, 2003-18, 2003-19, 2003-20, 2003-21, 2003-22, 2003-23, 2003-24, 2003-25, 2003-26, 2003-27, 2003-28, 2003-29, 2003-30, 2003-31, 2003-32, 2003-33, 2003-34, 2003-35, 2003-36, 2003-37, 2003-38, 2003-39, 2003-40, 2003-41, 2003-42, 2003-43, 2003-44, 2003-45, 2003-46, 2003-47, 2003-48, 2003-49, 2003-50, 2003-51, 2003-52, 2003-53, 2003-54, 2003-55, 2003-56, 2003-57, 2003-58, 2003-59, 2003-60, 2003-61, 2003-62, 2003-63, 2003-64, 2003-65, 2003-66, 2003-67, 2003-68, 2003-69, 2003-70, 2003-71, 2003-72, 2003-73, 2003-74, 2003-75, 2003-76, 2003-77, 2003-78, 2003-79, 2003-80, 2003-81, 2003-82, 2003-83, 2003-84, 2003-85, 2003-86, 2003-87, 2003-88, 2003-89, 2003-90, 2003-91, 2003-92, 2003-93, 2003-94, 2003-95, 2003-96, 2003-97, 2003-98, 2003-99, 2003-100

AS 42.05.175. Timelines for issuance of final orders. (a) The commission shall issue a final order not later than six months after a complete application is filed for an application for a certificate of public convenience and necessity;

(b) to amend a certificate of public convenience and necessity;

(c) to transfer a certificate of public convenience and necessity; and

(d) to acquire a controlling interest in a certificated public utility.

Notwithstanding a suspension ordered under AS 42.05.421, the commission shall issue a final order not later than nine months after a complete tariff filing is made for a tariff filing that does not change the utility's revenue requirement or rate design.

Notwithstanding a suspension ordered under AS 42.05.421, the commission shall issue a final order not later than 15 months after a complete tariff filing is made for a tariff filing that changes the utility's revenue requirement or rate design.

The commission shall issue a final order not later than 12 months after a complete complaint is filed against a utility or, when the commission initiates a formal investigation of a utility without the filing of a complete formal complaint, not later than 12 months after the order initiating the formal investigation is issued.

The commission shall issue a final order in a rule-making proceeding not later than 12 months after a complete petition for adoption, amendment, or repeal of a regulation under AS 44.62.180 — 44.62.290 is filed or, when the commission initiates a rule-making proceeding, not later than 24 months after the order initiating the proceeding is issued.

The commission may extend a timeline required under (a) — (c) of this section if all parties of record consent to the extension or, if, for one time only, before the timeline expires, the parties

commission reasonably finds that good cause exists to extend the timeline; the commission issues a written order extending the timeline and setting out its reasons regarding good cause; and the extension of time is 90 days or less.

The commission shall file quarterly reports with the Legislative Budget and Audit Committee identifying all extensions ordered under (d) of this section during the previous quarter and including copies of the written orders issued under (f)(2) of this section.

If the commission does not issue and serve a final order regarding an application for a suspended tariff under section (a), (b), or (c) of this section within the applicable timeline specified, and if the commission does not extend the timeline in accordance with (d) of this section, the application or suspended tariff filing shall be considered approved and shall go into effect immediately.

For purposes of this section, "final order" means a dispositive administrative order that resolves all matters at issue and that may be the basis for a petition for reconsideration or request for judicial review.

For purposes of this section, an application, tariff filing, formal complaint, or petition is complete if it complies with the filing, format, and content requirements established by statute, regulation, and forms adopted by the commission under regulation 42.05.110.

AS 42.05.110 (3 ch 2 TSSLA 2002)

Act, (a) The administrative procedure Act do not apply to administrative decisions made under this Act as provided in AS 42.05.110

regulations adopted by the commission

EXPIRES

Public Utilities Commission & Consumer Advocate 9011

the commission has promulgated AS 42.04.080, a hearing before the chair of the commission, before an arbitrator, testimony, and evidence, and a hearing before the arbitrator, by the arbitrator, if the hearing has been requested by the arbitrator, or an administrative hearing before the commissioner who has participated in making the decision, reconsideration of, or a decision by an arbitrator, a mediator, the commission, or a decision by the commission or reconsideration of

BOARD	REGULATORY Y/N?	LEGISLATIVE CONFIRMATION Y/N?	BOARD FUNCTION
Alaska Statehood Celebration Commission	N	N	Plan/administer all state activities leading up to 50th anniversary of statehood
Aviation Advisory Board	N	N	Advise DOT&PF commissioner on aviation policy, recommend FAI and ANC airport manager
Alaska-Alberta Bilateral Council	N	N	Provide direction on bilateral issues, explore new areas for cooperation
Arts Council	N	N	Encourage and support excellent regulates and controls applications, licences, and permits of barbers, hairdressers, cosmetologists.
Board of Barbers and Hairdressers	Y	Y	
Big Game Commercial Services Board	Y	Y	Licenses and regulates big game commercial hunters Design state quarter, make recommendations to governor for his/her nomination to US Mint
Commemorative Coin Commission	N	N	sustained yield management of fishery resource
Commercial Fish Entry Commission	Y	Y	
Employment of People with Disabilities	N	N	Promotes employment of people with disabilities
Faith Based and Community Initiatives Advisory Council	N	N	Convene a statewide conference on faith-based and community initiatives
Knik Arm Bridge and Toll Authority (KABATA)	N	N	Develop and advance the Knik Arm Bridge to connect Anchorage and Mat-Su Serve as labor relations agency under public employment relations act, and for Alaska Railroad
Labor Relations Agency	Y	Y	
Marine Pilots	Y	Y	Jurisdiction over licensing and pilotage of marine pilots Provide recommendations to governor and commissioner of DOT&PF on marine transportation functions
Marine Transportation Advisory board (MTAB)	N	N	
Occupational Safety	Y	Y	hears appeals of citations relating to occupational hazards

Oil and Gas Conservation	Y	Y	Regulate oil and gas drilling, development and production
Parole Board	Y	Y	Authorizes parole releases and conditions of parole
Professional Counselors and Psychological Associates	Y	Y	Regulates licensing standards and examinations of applicants
Violent Crimes Compensation Board	Y	Y	Regulates and controls applications, licences and permits facilitates and permits payment of compensation to innocent victims of violent crimes
Workers Compensation Appeals Commission	Y	Y	Jurisdiction to hear appeals from final decisions of the Workers Compensation Board

Kristi L. Catlin
Vice President
State Law & Government Affairs
May 1, 2007

AT&T Alascom
505 E Bluff Drive
Anchorage, AK 99501

House Judiciary Committee
State Capitol
Juneau, Alaska 99801

SUBJECT: CSHB209 (L&C)

Dear Honorable Representative Ramras and Members of the House Judiciary Committee:

Following is my written testimony on CSHB209 for the House Judiciary Committee:

Section 1: AS 42.05.010(b). AT&T Alascom is opposed to changes made to Section 1.

At one time, the Governor designated the chair of the Regulatory Commission of Alaska. That practice was changed several years ago in an attempt to de-politicize the process. The current process of peer-election of the RCA's chair requires that the chair be able to obtain the support of a majority of the Commission in order to be elected. From AT&T Alascom's perspective, the existing peer-election process is an improvement over the old system of chair appointments, and should not be changed.

Section 2: AS 42.05.151(b). AT&T Alascom does not support adoption of the amendments made in this section.

This section proposes to apply technical rules of evidence to hearings and proceedings before the Commission. Technical rules of evidence normally are applied in civil and criminal proceedings within the court system, not in administrative proceedings. These rules protect the litigants and jurors alike, but the Commission is a panel of experts for which this protection is not necessary. Application of technical rules of evidence would add cost and time to the existing process of adjudicating cases before the Commission.

Section 3: AS 42.05.151(d) and AS 42.05.151(e). AT&T is opposed to Section 3.

Existing civil rules for discovery are not easily applied to administrative agency proceedings, and AT&T Alascom would not recommend their direct application. The RCA has recently initiated a docket to develop discovery rules for application at the Commission. AT&T Alascom believes that this rulemaking should be allowed to go forward so that the RCA may create rules that are appropriately adapted.

AS 42.05.151(e) proposes more stringent rules for intervention into RCA proceedings. AT&T Alascom's concern with this language is that it would prevent the public from intervening in dockets of interest. AT&T Alascom understands the need for rules governing intervention. However, the Commission has existing rules on intervention that AT&T

House Judiciary Committee
May 1, 2007
Page 2

Alascom believes provide protection against inappropriate intervention, while allowing the Commission to address the needs of the public to intervene if and when appropriate. AT&T Alascom believes this section is an unnecessary strengthening of intervention rules, and could actually harm the public.

Sections 4, 5, 6, 7, and 8. [Proposed Amendment] AT&T Alascom does not oppose these changes.

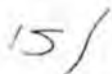
Section 9. AS 42.05.175(f)(1) AT&T Alascom opposes the amendments proposed in Section 9.

This section appears to be designed to limit the Commission's ability to extend statutory timelines. AT&T Alascom is concerned in general that this subsection appears to attempt to re-define "good cause." "Good cause" is a term that is heavily used in utility regulation, and has extensive definitional history. The language raises more questions than answers, opening up great opportunity for litigation and appeal. For example, how would one define or determine "unusually complex" or "novel." AT&T Alascom is also concerned that subsection (C) appears to be designed to ensure that the Commission does not extend a timeline if its "workload, scheduling, or administrative convenience" requires it. Although extension of timelines may not be desirable, if the Commission has a legitimate operational need to extend the timeline, it should be allowed to do so. The alternative would very likely be a decision that may not be as well reasoned as it should be, and which may ultimately not be in the public interest. For all of these reasons, AT&T Alascom does not support the proposed amendments to AS 42.05.175(f)(1).

Section 10. AS 42.05.175 AT&T Alascom suggests an amendment to this section.

AT&T Alascom is concerned that perhaps this subsection could prevent or unintentionally prohibit an extension that is stipulated by the parties. When all parties agree that an extension is in their best interests, the Commission should be allowed to consider their request without limitations. Therefore, AT&T Alascom would suggest that an amendment to this subsection be added to address this concern.

Sincerely,

A handwritten signature in blue ink, appearing to be "15/".

Kristi L. Catlin
Vice President, State Government Affairs

HB

213



HOUSE JUDICIARY COMMITTEE

STATE CAPITOL, ROOM 120
(907) 465-4990

COMMITTEE MEMBERS

Rep. Jay Ramras
Chairman
Room, 118
(907) 465-3904

Rep. Nancy Dahlstrom
Vice-Chairman
Room 409
(907) 465-3783

Rep. John Coghill
Room 214
(907) 465-3719

Rep. Bob Lynn
Room 104
(907) 465-4931

Rep. Ralph Samuels
Room 204
(907) 465-2095

Rep. Max Gruenberg
Room 110
(907) 465-4940

Rep. Lindsey Holmes
Room 405
(907) 465-4919

MEMORANDUM

Date: April 24, 2007

To: Representative John Coghill
Chairman House rules Committee

From: Representative Jay Ramras
Chairman House Judiciary Committee

Re: HB213

Please consider this memo the referral file for CSHB213(JUD). Attached are the following documents:

- Sponsor Statement
- CSHB213(JUD) 25-LS0606\M
- Sponsor Analysis
- House Judiciary Committee Report
- Changes re: Judiciary version
- Fiscal Notes
- Previous versions of bill
- Support
- Relevant Statutes



Alaska State Legislature

Representative Andrea Doll

House District 4

Sponsor Statement

HB 213 Relating To Crimes at Domestic Violence Shelters

Alaska's rates of domestic violence and sexual assault are among the highest in the nation. While the state has made strides in providing safe shelters to protect victims of these crimes, more needs to be done to ensure that shelters provide the secure environment these vulnerable members of our society need for their safety and recovery. This legislation will give juries, prosecutors, and judges the ability to impose stiffer sentences --- up to the maximum punishment for each offense --- for felonies committed on the premises of a shelter for victims of domestic violence or sexual assault. It provides direction to judges and prosecutors that crimes committed on the premises of domestic violence shelters are deserving of maximum allowable punishment.

Women and children are typically the victims of domestic violence and abuse and many must seek refuge in a local shelter. These shelters are literally lifesavers for those who are at high risk of further violence. Unfortunately, in spite of strict security provided by these facilities, there are perpetrators of domestic violence who attempt to inflict further distress and harm to residents of these shelters. There have been recent incidents in Alaska where individuals have broken into shelters, or attempted to do so, with this intent. Due to presumptive sentencing laws, in many cases the perpetrator has not received a sentence commensurate with the seriousness of victimizing the vulnerable persons staying or working in these shelters.

No legislation can stop the most determined individuals from attempting to break into a shelter. However, this bill will provide for the imposition of greater sentences, up to the maximum for the offense, for such offenders.

Alaska must address our epidemic of abuse towards women and children in every way possible. Passage of this legislation will send an important message that Alaska will not go lightly on those who jeopardize the peace and safety of those who have sought refuge in a shelter or safe house.

Contact: Terri Harvey 465-4712
03/22/07



Alaska State Legislature
Representative Andrea Doll
House District 4

HB 213 CRIMES AT DOMESTIC VIOLENCE SHELTERS

WHAT IT DOES

- Gives juries, prosecutors, & judges the ability to move beyond a presumptive sentence, up to the maximum for each offence, for felonies committed on the premises of a shelter for victims of domestic violence or sexual assault.
- Also provides direction from the Legislature to our justice system that any crime committed at one of these facilities are deserving of the maximum allowable punishment.
- Makes it clear that the Legislature believes these crimes are considered very serious and deserve special attention.

HOW IT DOES IT TECHNICALLY

- By adding crimes committed at shelters to already existing statutes regarding factors in aggravation.
- Factors in aggravation, if proven, must be considered by the sentencing court.
- Factors in aggravation are provided in AS 12.55.155(e)

WHY WE NEED TO PASS THIS LEGISLATION

- Because crimes committed at these shelters & safe houses in cities and rural areas are a regular occurrence in Alaska.
- Alaska rates of domestic violence & sexual assault are among the highest, if not *the* highest, in the nation.
- To continue the Legislatures mission to seek out every means available in our statutes to address this problem.
- So that we can provide the safest and most secure environment possible for victims who are vulnerable and in need of shelter
- To provide a safe work environment for the professionals and volunteers who provide services within these shelters
- To add credibility to our Resolution just passed by this Legislative body and signed by our Governor declaring April 2007 Sexual Awareness Month in Alaska.

HOUSE COMMITTEE REPO

(7)

Date Referred to Committee: April 13, 2007

FURTHER REFERRALS:

Date of Committee Action: 4/23/07

The JUDICIARY Committee considered:

HB 213

HOUSE BILL NO. 213

CRIMES AT DOMESTIC VIOLENCE SHELTERS

"An Act relating to an aggravating factor at sentencing for crimes committed at certain shelters and facilities."

Recommends it be replaced with HCS or CS for HB213 (JAD)
 For Senate Bills with new title: Technical Title New Title: HCR _____ | Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of
Abbrev
for
Depts.:

- ADM
- CED
- COR
- CRT
- EED
- DEC
- DFG
- GOV
- HSS
- LWF
- LAW
- LEG
- MVA
- DNR
- DPS
- REV
- DOT
- UA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
C DR				✓
LAW				✓

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	Finney	✓			
	LYNN	X			
	Cochran	✓			
	LEWIS	X			
	SAMUELS			X	
	Holmes	X			
Chair:	RAMRAS	X			
Chair:					

ALASKA STATE LEGISLATURE
HOUSE JUDICIARY COMMITTEE

Representative Jay Ramras
Chairman
(907) 465-3004
Fax: (907) 465-2070
Representative_Jay_Ramras@legis.state.ak.us

1292 Sadler Way, Suite 324
Fairbanks, AK 99701



Committee Members:
Representative Nancy Dahlstrom,
Vice-Chairman
Representative John Coghill
Representative Bob Lynn
Representative Ralph Samuels
Representative Max Gruenberg
Representative Lindsey Holmes

State Capitol, Room 120
Juneau, Alaska 99801-1182

Fax

To: Leg. Legal

Fax #: 2029

Number of pages including cover: 1

From: Jane Pierson

Date: April 23, 2007

Re: CS for CSHB213(HES)25-LS0606\E

Might you please draft a HJUD CS for CSHB213(HES) 25-LS0606\E, to include the following changes:

P.1, L.5 after "on" add "or to affect persons or property on."

Amendment #1

to CS HB 213 (Hess)

by Gruenke

p 1 l 5 after "on" or add "or to affect persons
or property or"

Passes.

Amendment #2

W/D

See 37.

Apply to crimes of domestic violence
under 18.66.990(3), solicitation, conspiracy, & felony
weapon offenses to commit crime.

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB213-DOC-A&O-4-9-07
 Bill Version: HB 213
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
 Title An Act relating to an aggravating factor at RDU Administration & Operations
sentencing for crimes committed at certain shelters and facilities. Component Office of the Commissioner
 Sponsor Representative Doll
 Requester House HESS Component No 694

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
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						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 Passage of this legislation will not create a substantial fiscal impact for the Department of Corrections.

Prepared by: Sharleen Griffin, Director Phone (907) 465-3339
 Division: Administrative Services Date/Time 4/9/07 2:06 PM
 Approved by: Dwayne Peeples, Deputy Commissioner Date 4/9/2007
 Agency: Department of Corrections

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB213-LAW-CJL-4-9-07
 Bill Version: HB 213
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title An Act relating to crimes at domestic violence RDU Criminal
shelters Component Criminal Justice Litigation
 Sponsor REPRESENTATIVE(s) DOLL
 Requester HOUSE HES Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
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						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would create an aggravating factor which would allow a court to increase a presumptive sentence for crimes committed on the premises of a shelter for victims of domestic violence or sexual assault. This proposed legislation should not have any fiscal impact on the Department of Law.

Prepared by: Robert Meiners, Admin. Services Manager
 Division: Administrative Services Division
 Approved by: Robert Meiners for Talis Colberg, Attorney General
 Agency: Department of Law

Phone: 465-5427
 Date/Time: 4/9/07 3:10 PM
 Date: 4/9/2007

Rep. Andrea Doll

From: Frank Ameduri
Sent: Thursday, March 22, 2007 2:46 PM
To: Frank Ameduri
Subject: PRESS RELEASE -- BILL WOULD HELP PROTECT VICTIMS OF ABUSE, ASSAULT
Attachments: Sponsor Statement- Shelter Bill.doc

PRESS RELEASE • March 22, 2007

Alaska State Legislature

Representative Andrea Doll (D-Juneau)

Web: <http://doll.akdemocrats.org> • Contact: Terry Harvey • Phone: 465-3744 • Fax: 465-2273
E-mail: rep.andrea.doll@legis.state.ak.us • Mail: State Capitol Bldg. Room 426, Juneau, AK 99801

BILL WOULD HELP PROTECT VICTIMS OF ABUSE, ASSAULT

Doll calls for maximum punishment for crimes at shelters

JUNEAU – Rep. Andrea Doll (D-Juneau) introduced legislation Wednesday that will make Alaskans in domestic violence and sexual assault shelters safer.

HB 213 will make it easier for courts to award the maximum sentence allowable for people convicted of committing a felony at a shelter or facility for victims of domestic violence or sexual assault.

The bill would also establish that the Legislature believes other crimes, such as trespassing, breaking and entering or assault committed at a shelter are more serious.

“A person living at a shelter for abuse victims deserves to be as safe and secure as possible,” Doll said. “These people are in a vulnerable state. The message we want to get out is simple: If you dare commit a crime at one of these facilities, you will potentially face the maximum punishment available.”

Crimes committed in shelters and safe houses in Alaska are unfortunately occurring in spite of the strict security provided by staff and local law enforcement officials. Peggy Brown, Director of the Alaska Network on Domestic Violence and Assault, supports this legislation.

“We have had incidents in Juneau and other parts of the state where an individual has come to a shelter to harm a resident,” Brown said. “We must do everything we can to make these shelters as safe as they possibly can be by punishing to the maximum those who violate the sanctity of a shelter for victims of abuse.”

“This legislation will not necessarily stop someone who is determined to do harm at a shelter,” Doll said. “But it will help our judicial system to better match the proper punishment to anyone who does so. Alaska has one of the worst situations in the nation when it comes to violence and sexual abuse, and we must continue to do everything we can to protect innocent Alaskans.”

STATE OF ALASKA
THE LEGISLATURE

2007

Source
HCR 3

Legislative
Resolve No.
3



Relating to proclaiming April of 2007 as Sexual Assault Awareness Month.

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

WHEREAS sexual assault is one of the most devastating crimes in society today; and
WHEREAS Alaska has the highest per capita occurrence of sexual assault in the nation; and

WHEREAS sexual assault affects women, children, and men of all racial, cultural, and economic backgrounds; and

WHEREAS one out of six women has been raped; and

WHEREAS one out of 33 men has been sexually assaulted; and

WHEREAS the incidence of rape in Alaska is 2.5 times the national average; and

WHEREAS only one out of every six rapes is ever reported to law enforcement agencies, making rape the most underreported violent crime in America; and

WHEREAS child sexual abuse results in exceptional trauma to the victims and in the loss of childhood innocence; and

WHEREAS these statistics do not include the countless numbers of family members, loved ones, co-workers, and neighbors affected by the devastating crime of sexual assault; and

WHEREAS many residents of Alaska work to provide quality services and assistance to sexual assault survivors; dedicated volunteers and professionals respond to emergency calls 24 hours a day, 365 days a year, offering support, comfort, and advocacy throughout all stages of the recovery process, including medical examinations and criminal proceedings; and

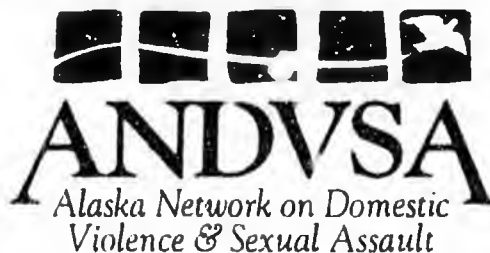
WHEREAS building awareness that sexual assault is a problem in every Alaska community and that alerting the public to services that can help victims and loved ones of victims of sexual assault is a crucial component to addressing the issue; and

WHEREAS it is our goal to improve Alaska's response to sexual assault and to support and enhance educational efforts to provide information about sexual assault and the services available to victim survivors and their loved ones;

BE IT RESOLVED that the Alaska State Legislature respectfully requests the governor to proclaim the month of April 2007 as Sexual Assault Awareness Month; and be it

FURTHER RESOLVED that the Alaska State Legislature urges secondary schools, community organizations, and other public and private agencies and individuals to observe Sexual Assault Awareness Month with suitable activities that increase public awareness of the prevalence of sexual assault and how it can be combated in Alaska.

Juneau Office
130 Seward St #209
Juneau, Alaska 99801
Phone: (907) 586-3650
Fax: (907) 463-4493
www.andvsa.org



Sitka Office
PO Box 6631
Sitka, Alaska 99835
Phone: (907) 747-7545
Fax: (907) 747-7547

March 20, 2007

The Honorable Representative Andrea Doll
State House
Alaska State Capitol
Juneau, AK 99801-1182

Dear Representative Doll:

The Alaska Network on Domestic Violence & Sexual Assault is a coalition of member shelter and community based programs across the state who provide direct services and advocacy for victims of domestic violence and sexual assault. We would like to offer you our full support for the Safe Shelter Legislation – An act which will make it an aggravating factor at sentencing if a person breaks into a shelter/safe home for victims of domestic violence and sexual assault.

We appreciate your guidance and leadership in addressing this matter. It speaks to the fact that Alaska is willing to get tough on those who perpetrate violence and terroristically threaten victims. We cannot merely be informed by the statistic that we are number one in the entire nation for forcible sexual assaults and men murdering women; we must act. We must provide our courts with tools to deter violent offenses and hold offenders accountable.

If I can be of further service to your endeavors, please let me know.

Sincerely,

Peggy Brown, Executive Director
ANDVSA

Cc: Saralyn Tabachnick, AWARE

Member Programs

Anchorage AWAIC, AWRC, STAR Barrow AWIC Bethel TWC Cordova CFRC Dillingham SAFE
Fairbanks IAC Homer SPHH Juneau AWARE Kenai LeeShore Center Ketchikan WISH Kodiak KWRCC
Kotzebue MFCC Nome BSWG Seward SCS Sitka SAFV Unalaska USAFV Valdez AVV

Several years ago, a man attempted to break into the shelter. I held the door shut until the police arrived.
Barrow, Arctic Women in Crisis (AWIC)

We had an incident where a father came and took two of his three children. He made a dash to Fairbanks with the two children. We went to court and got a restraining order that ordered him to return the children. We now have security doors on our offices and locking security doors for after hours.

Seward, Seaview Community Services (SCS)

We had our building and offices broken into twice last year. The perpetrators were looking specifically for money but the women and children in house were re-traumatized.

Janet Ahmasuk

Nome, Bering Sea Women's Group (BSWG)

We have had people attempt to break in - I can remember at least 5 times in the last 7 years someone has been forcefully trying to get in - Law Enforcement considered it "trespassing" since they didn't get in the door.

Fairbanks, Interior Alaska Center for Non-Violent Living (IAC)

TWC's only incidences have occurred when someone waits outside in the parking lot or street OR on two occasions have waited for someone exiting and then grabbed the door and come in. We're fortunate that under threat of police being called, the perpetrators have left without further incident.

Bethel, Tundra Women's Coalition (TWC)

Tanana Chiefs Conference

Chief Peter John Tribal Building

122 First Avenue, Suite 600

Fairbanks, Alaska 99701-4897

(907) 452-8251 Fax: (907) 459-3850

SUBREGIONS

UPPER

KASKOKWIM

McGrath

Medfra

Nikolai

Takolna

Tekla

April 17, 2007

LOWER YUKON

Anvik

Grayling

Holy Cross

Shageluk

The Honorable Senator Bettye Davis

State Senate

Alaska State Capitol

Juneau, AK 99801-1182

UPPER TANANA

Dof Lake

Eagle

Healy Lake

Northway

Lunacross

Tellin

Tot

The Tanana Chiefs Conference (TCC) strongly supports the letter and intent of SB 150. Over the years, tribal leaders of the Interior Alaska villages have passed numerous resolutions at TCC's Annual Convention focusing on the need to provide safety to residents of rural Alaska. Unfortunately women and other victims of domestic violence who reside in Alaska's rural communities have nowhere near the access to the protection and services afforded other Alaskan citizens who reside in the state's more metropolitan areas. Many victims of domestic violence living in the remote villages of the Interior rely on local safe homes which have been established through federal funding obtained by their tribal governments under the Family Prevention and Services Act. Local individuals who work with their tribal government to provide a safe place for victims of domestic violence do so with the knowledge that they have little or no back-up from state law enforcement and only limited support from its judicial system in the event that a perpetrator elects to violate the haven they provide to victims and children. SB 150 is a step in the right direction and at very least sends a strong message that the consequences for felonious acts perpetrated at a shelter or safe home can and should be based on what they really are- escalated acts of violence which can result in harsher penalties.

YUKON FLATS

Arctic Village

Beaver

Birch Creek

Canyon Village

Chalkyitsik

Circle

Fort Yukon

Verette

For justice and the protection of victims of domestic violence, their children and the shelter staff and courageous rural residents who open their hearts and homes to provide safe havens throughout the state, the Tanana Chiefs Conferences strongly supports SB 150.

YUKON

KOYUKUK

Galena

Huslia

Katlag

Koyukuk

Nulato

Ruby

Sincerely,

YUKON TANANA

Alaina

Alakatul

Evansville

Fairbanks

Hughes

Lake

Minchumina

Manley Hot

Springs

Minto

Nenana

Rampart

Stevens Village

Tanana

TANANA CHIEFS CONFERENCE

Jerry Isaac, President



State of Alaska
Department of Public Safety
Council on Domestic Violence & Sexual Assault

Sarah Palin, Governor
Walt Monegan, Commissioner

April 17, 2007

Representative Andrea Doll
State Capitol, Room 426
Juneau, Alaska 99801

Dear Representative Doll:

The Council on Domestic Violence and Sexual Assault supports HB 213, "An Act relating to an aggravating factor at sentencing for crimes committed at certain shelters and facilities". We welcome legislation that addresses strong accountability for individuals committing crimes at domestic violence shelters and programs.

Over 65,000 nights of safe shelter were provided to victims of domestic violence and/or sexual assault last year by Council-funded programs in Alaska. The thousands of victims served are primarily women and children who were not safe in their own homes.

Domestic violence crimes are always serious. Commission of the crime at a facility where people have gone seeking safe shelter is particularly offensive. The perpetrators of such crimes should be held accountable by being subject to a higher penalty at sentencing.

Thank you introducing this legislation to enhance safety services in Alaska for victims of interpersonal violence.

Sincerely,

A handwritten signature in cursive script, appearing to read "Chris Ashenbrenner".

Chris Ashenbrenner
Interim Program Administrator

Effective dates. — Section 1, ch. 19, SLA, which enacted this section, became effective July 20, 2004.

Article 6. General Provisions.

Section 18.66.990. Definitions

Sec. 18.66.900. Definitions. [Repealed, § 72 ch 64 SLA 1996.]

Sec. 18.66.990. Definitions. In this chapter,

- (1) "council" means the Council on Domestic Violence and Sexual Assault;
- (2) "crisis intervention and prevention program" means a community program that provides information, education, counseling, and referral services to individuals experiencing personal crisis related to domestic violence or sexual assault and to individuals in personal or professional transition, excluding correctional half-way houses, outpatient mental health programs, and drug or alcohol rehabilitation programs;
- (3) "domestic violence" and "crime involving domestic violence" mean one or more of the following offenses or an offense under a law or ordinance of another jurisdiction having elements similar to these offenses, or an attempt to commit the offense, by a household member against another household member:
 - (A) a crime against the person under AS 11.41;
 - (B) burglary under AS 11.46.300 — 11.46.310;
 - (C) criminal trespass under AS 11.46.320 — 11.46.330;
 - (D) arson or criminally negligent burning under AS 11.46.400 — 11.46.430;
 - (E) criminal mischief under AS 11.46.475 — 11.46.486;
 - (F) terrorist threatening under AS 11.56.807 or 11.56.810;
 - (G) violating a protective order under AS 11.56.740(a)(1); or
 - (H) harassment under AS 11.61.120(a)(2) — (4);
- (4) "domestic violence program" means a program that provides services to the victims of domestic violence, their families, or perpetrators of domestic violence;
- (5) "household member" includes
 - (A) adults or minors who are current or former spouses;
 - (B) adults or minors who live together or who have lived together;
 - (C) adults or minors who are dating or who have dated;
 - (D) adults or minors who are engaged in or who have engaged in a sexual relationship;
 - (E) adults or minors who are related to each other up to the fourth degree of consanguinity, whether of the whole or half blood or by adoption, computed under the rules of civil law;
 - (F) adults or minors who are related or formerly related by marriage;
 - (G) persons who have a child of the relationship; and
 - (H) minor children of a person in a relationship that is described in (A) — (G) of this paragraph;
- (6) "judicial day" means any Monday through Friday that is not a state holiday and on which the court clerk's offices are officially opened to receive legal documents for filing;
- (7) "local community entity" means a city or borough or other political subdivision of the state, a nonprofit organization, or a combination of these;
- (8) "petitioner" includes a person on whose behalf an emergency protective order has been requested under AS 18.66.110(b);
- (9) "sexual assault" means a crime specified in AS 11.41.410 — 11.41.450;
- (10) "sexual assault program" means a program that provides services to the victims of sexual assault, their families, or perpetrators of sexual assault. (§ 33 ch 64 SLA 1996; am § 75 ch 21 SLA 2000; am § 20 ch 92 SLA 2002; am § 6 ch 87 SLA 2003)

- Solicitation
- Conspiracy

CS FOR HOUSE BILL NO. 213(HES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

- Felony weapons offenses

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES DOLL, Coghill, Kerttula, Lynn, Nelson, Wilson, Gardner, Roses, Holmes, Gruenberg, Edgmon, Gara, Fairclough, Dahlstrom, Gatto, Crawford

- Applies to any felony offense
- Recognized shelter "not all recognized by SOA. Added HESS."

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to an aggravating factor at sentencing for crimes committed at certain
2 shelters and facilities."

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

4 * **Section 1.** AS 12.55.155(c) is amended by adding a new paragraph to read:

5 (34) the defendant committed the offense on the premises of a
6 recognized shelter or facility providing services to victims of domestic violence or
7 sexual assault.

8 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 **APPLICABILITY.** This Act applies to offenses committed on or after the effective
11 date of this Act.

HB

217

25-LS0696V
Bannister
4/19/07

CS FOR HOUSE BILL NO. 217(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVES HOLMES, Ramras

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to required onboard disclosures about tours, flightseeing operations,
2 other shoreside activities, shoreside vendors, and visitors bureaus; and providing for an
3 effective date."

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

5 * Section 1. AS 45.50.474(b) is amended to read:

6 (b) A person or other entity aboard a cruise ship conducting or making a sale
7 of tours, flightseeing operations, or other shoreside activities to be delivered by a
8 vendor or other entity at a future port of call shall disclose, both orally and in writing,

9 (1) that the onboard sale is a paid promotion by a shoreside
10 vendor;

11 (2) that other alternatives at different prices and with different
12 features may be available at a port of call;

13 (3) the address, Internet website address, and telephone number of
14 the existing visitors bureaus at each future port of call; and

1 (4) if the amount of commission or percentage of the total sale retained
2 or returned to the person or entity making or attempting to make the sale exceeds 25
3 percent of the total cost of the [THE PERSON OR ENTITY ABOARD A CRUISE
4 SHIP MAKING OR ATTEMPTING TO MAKE A SALE OF] services or goods
5 provided by a shoreside vendor, that more than 25 percent of the total sale price is
6 being retained as a commission by the person or entity making the sale [SHALL
7 DISCLOSE THE ADDRESS AND TELEPHONE NUMBER OF THE SHORESIDE
8 VENDOR IF ASKED BY A CONSUMER. ALL SUCH WRITTEN NOTICE OF
9 DISCLOSURE SHALL BE IN A TYPE NOT LESS THAN 14-POINT TYPEFACE
10 AND IN A CONTRASTING COLOR CALCULATED TO DRAW ATTENTION TO
11 THE DISCLOSURE].

12 * **Sec. 2.** AS 45.50.474 is amended by adding a new subsection to read:

13 (e) A written notice of disclosure under (b) of this section must be in a type
14 that is not less than 14-point typeface and in a contrasting color calculated to draw
15 attention to the disclosure.

16 * **Sec. 3.** This Act takes effect immediately under AS 01.10.070(c).

ADOPTED

AMENDMENT NO. 1

Offered in the House
To Draft version CSHB217(JUD) 25-LS0696\V

BY REPRESENTATIVE RAMRAS

P. 2, L.2 Delete "25" insert "20"

P.2, L.5 Delete "25" insert "20"

ADOPT

AMENDMENT NO. 2

Offered in the House
To Draft version CSHB217(JUD) 25-LS0696\V

BY REPRESENTATIVE RAMRAS

P.1, L.8 after "in writing" insert "at the point of sale"

~~P.1, L.9-10 Delete "paid promotion by a shore-side vendor" and insert "retail/wholesale relationship between the vessel operator and the shoreside vendor."~~

P.1, L.8 - after "disclose" delete "both orally and in writing" insert "orally or in writing at the point of sale."

AMENDMENT NO. 3

FAILED

Offered in the House

BY REPRESENTATIVE RAMRAS

To Draft version CSHB217(JUD) 25-LS0696\V

P.1, L.8 after "future" insert "public"

P.2, L.11 Insert a new Sec. 2 to read "For the purpose of this statute, a public port does not include a private destination resort."

- Private port no other options
- Not a tour operator

H - N
2 - N
3 - N
B - Y
S - A
L - N
R - Y

AMENDMENT

4

Adopted

HOLMES

1 Page 2, line 12

2 Insert new section 2:

3 "AS 45.50.474(c) is amended to read: (c) Each violation of this section constitutes
4 an unfair trade practice under AS 45.50.471 [, AND SHALL RESULT IN A
5 PENALTY OF NOT MORE THAN \$100 FOR EACH VIOLATION]"

6 Renumber as necessary