

**LDIR#155**  
**PUBLIC SERVICE**  
**COMMISSION**  
**HEARINGS ON**  
**BILLS 1965**  
**ALSO 1969 BILLS**  
**AND MATERIALS**

Introduced: 2/24/69  
Referred: Judiciary, Local  
Government and Finance

CS

1 IN THE HOUSE

BY FINK

2 HOUSE BILL NO. 202

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the regulation of public utilities,  
7 defining the composition, powers and duties of the  
8 Public Service Commission; and providing for an  
9 effective date."

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

11 \* Section 1. AS 42.05.020 is amended to read:

12 Sec. 42.05.020. COMPOSITION OF PUBLIC SERVICE COMMISSION. (a)

13 The public service commission consists of three members, appointed by  
14 the governor and confirmed by the legislature in joint session assembled

15 (b) The governor shall designate one member of the commission as  
16 chairman of the commission. Such member shall serve as chairman for a  
17 term of two years, but may be appointed for successive terms.

18 \* Sec. 2. AS 42.05.030 is amended to read:

19 Sec. 42.05.030. TERM OF OFFICE, VACANCY. (a) The term of  
20 office of each member is six years [, OR UNTIL HIS SUCCESSOR IS  
21 APPOINTED AND QUALIFIES]. The [HOWEVER, THE] governor shall designate  
22 who [WHICH], among his initial appointees, shall serve, respectively,  
23 for terms of two years, four years and six years. A commissioner,  
24 upon the expiration of his term, shall continue to hold office until  
25 his successor is duly appointed and qualified.

26 (b) A vacancy arising in the office of commissioner shall be  
27 filled by appointment by the governor and confirmed by the legislature  
28 in joint session and an appointee selected to fill such vacancy shall  
29 hold office for the balance of the full term for which his predecessor

Original sponsor: Fink

Offered: 3/29/69  
Referred: Local Govern-  
ment and Finance

4, 8, 19

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 202

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the regulation of public utilities,  
7 defining the composition, powers and duties of the  
8 Alaska Public Service Commission; and providing for  
9 an effective date."

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

11 \* Section 1. AS 42.05.010 is amended to read:

12 Sec. 42.05.010. ALASKA PUBLIC SERVICE COMMISSION CREATED. There  
13 is created within the Department of Commerce the Alaska Public Service  
14 Commission.

15 \* Sec. 2. AS 42.05.020 is amended to read:

16 Sec. 42.05.020. COMPOSITION OF ALASKA PUBLIC SERVICE COMMISSION.

17 (a) The Alaska Public Service Commission consists of three members,  
18 appointed by the governor and confirmed by the legislature in joint  
19 session assembled.

20 (b) The governor shall designate one member of the commission as  
21 chairman of the commission. This member shall serve as chairman for a  
22 term of (four) years, but may be appointed for successive terms.

23 \* Sec. 3. AS 42.05.030 is amended to read:

24 Sec. 42.05.030. TERM OF OFFICE; VACANCY (a) The term of office  
25 of each member is six years [, OR UNTIL HIS SUCCESSOR IS APPOINTED AND  
26 QUALIFIES]. The [HOWEVER, THE] governor shall designate who [WHICH],  
27 among his initial appointees, shall serve, respectively, for terms of  
28 two years, four years and six years. A commissioner, upon the expira-  
29 tion of his term, shall continue to hold office until his successor is

AMENDMENTS TO CSHB 202

Adopted in the House April 9, 1969

4/2/69 #5 Page 2, Line 27: Delete "Two members" substitute "The chairman and one other member"

4/2/69 #6 Page 4, Line 4: After the word "director" add: "if not a member of the commission"

4/8/69 #1 Page 4, Line 5: After the period add: "The combined salary of an executive director who is a member of the commission may not exceed that of a superior court judge."

see p. 692

4/2/69 #2 Page 8, Line 16: After the period add: "Such a certificate is subject to modification where there are areas of conflict with other public utilities."

4/2/69 #3 Page 19, Line 19: After the word "depreciation" insert a comma.

4/2/69 #7 Page 23, Line 23: Delete \$500, substitute \$1,000

4/9/69 #12 Page 27, Line 21: Insert after "regulated" "or municipal"

4/9/69 #9 { Page 29, Between Lines 14 and 15: Insert "(b) Municipally owned utilities (except those consenting to all provisions of this chapter) are exempt from the provisions of this chapter if there is no other utility in the integrated economic area or in an adjacent service area competing or having the potential to compete with any one of the municipally owned utilities.

Page 29, Between Lines 9 and 10: Insert "(8) 'integrated economic area' means an area that has met the standards for incorporation as a borough under AS 07.10.030 or for mandatory incorporation as a borough under Sec. 3, Ch. 52, SLA 1963."

- # 4 - replaced by #9
- # 8 - wa.
- # 10 - failed
- # 11 - w/d.

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

JUNEAU  
ALASKA 99801

**MEMORANDUM**

April 15, 1969

Mr. Jackson:

A draft amendment to CSNB 202 am, to be offered in the Senate by the Commerce Committee, is attached. It does the three things Mr. Banfield said it should do: 1) it restores the SB 128 exemptions for municipally owned and operated utilities (except for the regulatory-fee exemption, of course, which is no longer appropriate); 2) it provides for this type of utility consenting to coverage by the chapter; and 3) it leaves the commission with authority to determine service areas for this type of utility when there is a conflict.

This amendment leaves this type of utility subject to the certificate requirement -- proposed AS 42.05.221. (Also see proposed secs. 231 -- 281.) Subsection (d) of that section is the provision allowing the commission to "eliminate competition and duplication of facilities by delineating the service area or areas of each utility, . . ." (This is point 3, above.) It also leaves them subject to proposed secs. 291 -- 351, Services and Facilities; secs. 451 -- 501, Accounts, Records and Reports; secs. 541 -- 621, Judicial Review, Penalties and Enforcement; and secs. 631 -- 701, General Provisions.

Using the SB 128 exemptions also leaves this type of utility subject to proposed sec. 401, Apportionment of Joint Rates, and subject to all the rate-regulation provisions (proposed secs. 361 -- 441) for service furnished outside the corporate limits of the municipality.

The consent provision in the amendment is taken, essentially, from some earlier bill, and is stated quite simply. It leaves three areas of questions unanswered: 1) Is the municipal consent irrevocable? If not, to what extent is it revocable? 2) How is municipal consent given? How is it revoked? Must there be a writing? Filed with the commission? Is it a decision of the utility manager or by majority vote of the governing body of the municipality? 3) Must municipal consent be for coverage by all provisions of the chapter (as the language in the amendment seems to require), or may the municipality choose which provisions it will consent to?

SENATOR BRAD PHILLIPS

# ALASKA STATE SENATE

POUCH Y  
JUNEAU ALASKA 99801

P O BOX 34  
ANCHORAGE ALASKA 99501

February 7, 1969

SENATE BILL NO. 128 was introduced at the request of the Governor and represents substantial changes in the Public Service Commission. At the time the bill was introduced, the Governor forwarded to the Senate a four-page letter of explanation. I have asked that a limited number of copies of this letter be printed and if anyone has particular interest in this Governor's letter, he may send for it by addressing a note to

Mr. John Elliott  
Executive Director  
Legislative Affairs Agency  
Pouch Y  
Juneau, Alaska 99801

and it will be mailed at no cost.



Brad Phillips  
President of the Senate

KEITH H. MILLER  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 7, 1969

SB 128

The Honorable Jay S. Hammond  
Chairman, Senate Rules Committee  
Alaska State Legislature  
Juneau, Alaska 99801

Dear Mr. Chairman:

Pursuant to State law and the Uniform Rules of the Legislature, I am transmitting herewith a bill entitled "An Act relating to the regulation of public utilities, defining the composition, powers and duties of the Public Service Commission; and providing for an effective date."

The attached bill would effect a number of important changes in the existing Public Service Commission Act.

It will substantially strengthen the regulatory authority of the Commission in certain respects. It will broaden the Commission's base of jurisdiction; it provides a reasonable and workable means of engendering compliance and enforcement; and it gives the Commission the ability to effectively regulate within its sphere of jurisdiction.

The bill does not repeal and re-enact the entire existing PSC Act. The first several sections of Chapter 42.05 are retained or simply revised. This has the effect of leaving the composition of the Commission as it is. Revisions are included, however, which would provide means for removing a commissioner from office: either by the same procedure in which he is appointed or for cause. These removal methods are designed to provide continuity of policy of the Commission. At the same time it affords an essential ability for change in event of incompetence, etc.

Due to the rapidly increasing workload of the commissioners and the need to retain well qualified and competent men on the Commission, the bill proposes an annual salary of \$5,000.

*Lead source  
of 90%  
bill  
(SB 128)  
Acc sectional analysis  
of CSMB 202 (4/9/69)  
by Hae. Jud. Comm. (HHA)*

Introduced: 2/28/69  
Referred: Commerce  
and Finance

1 IN THE SENATE

BY RADER AND  
JOSEPHSON

2 SENATE BILL NO. 214

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Public Service Commission."

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

8 \* Section 1. AS 42.05.640(2) is amended to read:

9 (2) "public utility" or "utility" includes every corporation,  
10 whether municipal, public, cooperative, or otherwise, company, indivi-  
11 dual, or association of individuals, their lessees, trustees, [OR]  
12 receivers appointed by a court, and persons affiliated with a public  
13 utility through stock ownership as a parent corporation or subsidiary  
14 corporation to an extent that the commission finds that the affiliation  
15 has an effect on the rates or service of the utility, that owns,  
16 operates, manages, or controls any water, oil or gas well or any  
17 plant, pipeline, or system for

18 (A) the generation, transmission, or distribution of  
19 electric energy and power, or the furnishing of telephone or  
20 telegraph communications, any of which produce an annual gross  
21 income in excess of \$25,000;

22 (B) the production by gas or oil well, transmission or  
23 distribution by pipeline of natural or manufactured gas, ultimately  
24 used by the public for heat, light or power [THE DISTRIBUTION TO  
25 THE PUBLIC FOR COMPENSATION OF HEAT, NATURAL OR MANUFACTURED GAS];  
26 or

27 (C) the furnishing to the public, or to a public utility  
28 for resale to the public, for compensation, of water, heat, gas,  
29 or petroleum or petroleum products by pipeline, or community sewer

TRANSMITTAL MEMORANDUM

March 4, 1969

By: Don Hall  
Executive Director  
Alaska Public Service Commission

Re: SB 128 Comments and Suggestions

Major Policy Decisions

In transmitting my comments on SB 128 I think it is important to inform everyone who is interested in the Bill that the Alaska Public Service Commission did not submit any legislative proposal to extend its jurisdiction in any manner whatsoever. Specifically it did not recommend that gas and oil pipelines or municipally owned and operated utilities be regulated. This does not indicate that the Commission is either for or against the idea. The Commission's reason for taking a neutral position on this important subject is first, because it feels such legislation should properly emanate from other sources and second, because it believe any attempt to suggest legislation in this area would be misinterpreted as a self-serving bureaucratic effort motivated solely by a desire to arrogate additional powers to the Commission.

Chairman Clouse and Commissioners Lounsbury and Zerbetz and I were given an opportunity to review early drafts of the Administration's proposed legislation affecting the APSC. We made numerous suggestions which, for the most part, are embodied in SB 128. I have not commented on the wisdom or need for regulating municipal utilities or pipelines because the Commission feels, as I previously indicated, that this is a matter requiring major policy decisions which already have been decided by the Administration and rightfully should be resolved by the legislative process.

Funding

I have been informed that the Commission's original budget proposal, seeking an appropriation of \$347,800, was to be submitted at the time SB 128 was introduced. This budget was designed mainly to enable the Commission to meet the greatest regulatory challenge in its history--that of preparing, in advance, to regulate the purchaser of the Alaska Communication System. Incidentally (although it has nothing to do with SB 128) the ACS Sale bids were opened March 1, 1969 and it is my understanding that I will be designated to represent Governor Miller, and the State of Alaska, in the evaluation of the bids at Scott Air Force Base in Illinois. Arrangements have been made for financial and engineering consultants, specializing

Introduced: 2/28/69  
Referred: Commerce  
and Finance

BY RADER

1 IN THE SENATE

2 SENATE BILL NO. 215

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to members of the Public Service  
7 Commission."

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

9 \* Section 1. AS 42.05 is amended by adding a new section to read:

10 Sec. 42.05.035. REMOVAL. Before the expiration of the term of a  
11 member of the commission, the governor may remove him from office only  
12 for cause and only with the concurrence of a majority of the members  
13 of the legislature in joint session. When the legislature is not in  
14 session the governor may, with the written concurrence of a majority of  
15 the legislative council acting individually or at a council meeting,  
16 temporarily suspend a member for cause until the legislature, no later  
17 than 30 days after convening its next regular session, acts upon the  
18 issue of the member's removal from office. Failure of the legislature  
19 to concur in the member's removal, within that time, reinstates him.

20 \* Sec. 2. AS 42.05.110 is amended to read:

21 Sec. 42.05.110. COMPENSATION OF MEMBERS OF THE COMMISSION.  
22 Members of the commission are entitled to the per diem established  
23 by law for other boards and commissions and shall be paid for their  
24 necessary travel expense. Members of the commission are entitled to  
25 the salary received by judges of the superior court.  
26  
27  
28  
29

SB 215

INDEX TO SB 54

Don Hall

Feb., 1969

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## UTILITY COMMISSION DATA

### I. Number of Commissions 57

- A. Includes District of Columbia and Puerto Rico; these and 48 others have one commission.
- B. Alaska and Arkansas are the only states that have two commissions.
  - (a) Alaska has ATC and APSC.
  - (b) Arkansas has a Commerce Commission and a Public Service Commission.
- C. Kentucky has 3 Commissions
  - (a) State Corporation Commission
  - (b) Department of Motor Transportation
  - (c) Railroad Commission

### II. Number of Commissioners

- A. 36 have 3 full time commissioners.
- B. 4 have 3 part time commissioners.
  - APSC in Alaska, Del., Ky. RR Comm., and Md.
- C. 1 (NY) has 5 full time commissioners plus 2 part time commissioners.
- D. 1 (Va) has 1 full time commissioner plus 2 part time commissioners.
- E. 7 have 5 full time commissioners.
  - Calif., Ga., Ill., Mo., Neb., N.C., and Penn.
- F. 1 (Hawaii) has 5 part time commissioners.
- G. 1 (Ark. Commerce Comm.) has 6 full time commissioners.
- H. 2 (Mass. and S.C.) have 7 full time commissioners.
- I. 3 (Ky. Dept. of Motor Trans., Oregon, and R.I.) have 1 commissioner.
- J. 1 (Alaska Trans. Comm.) has 2 full time and 1 part time commissioner.

57 Total

### III. Financing of Commission operations

- A. Power to assess cost of special investigations against the regulated utilities.
  - (a) 24 Commissions do
  - (b) 29 Commissions do not
  - (c) 4 Commissions facts unknown
- B. Power to charge fees for special transactions and proceedings (i.e. application fees, etc.).
  - (a) 29 Commissions do
  - (b) 24 Commissions do not
  - (c) 4 Commissions facts unknown
- C. Per cent of Commission expenditures paid from general tax funds.
  - (a) 13 Commissions 100%
  - (b) 8 Commissions None
  - (c) 7 20% or less
  - (d) 5 20% to 50%
  - (e) 3 50% to 75%
  - (f) 4 75% to 99%
  - (g) 17 Commissions percentage not known
- D. Power to assess fees for general regulation
  - (a) 31 Commissions do in varying percentages
  - (b) 16 Commissions do not
  - (c) 10 Commissions facts unknown

SUMMARY

Rank of Alaska Public Service Commission compared with All Other State Regulatory Agencies  
in Respect to the Following:

<u>Subject</u>	<u>No.</u>	<u>Rank</u>	<u>Alaska</u>	<u>No.</u>	<u>Rank</u>
No. of Regulated Electric, Gas and Telephone Utilities	60	28			
Total No. of Regulated Electric Utilities	35	14			
No. of <u>Private</u> Electric Utilities Regulated	24	1			
No. of <u>Publicly-Owned</u> Electric Utilities Regulated *32 other commissions share 21st place.	0	21*			
No. of Regulated Cooperative Electric Utilities	11	14			
No. of Regulated Gas Utilities	3	45			
No. of <u>Private</u> Gas Utilities Regulated	3	44			
No. of <u>Publicly-Owned</u> Gas Utilities Regulated #41 other commissions share 12th place.	0	12#			
No. of Regulated Telephone Utilities	22	33			

No. of Employees:

	<u>No.</u>	<u>Ratio (a)</u>	<u>No.</u>	<u>Ratio</u>
Professional Staff	4	1		
Clerical Staff	3	3/4		
Total Staff	7		50	

(a) The nationwide average ratio is 2 clerical employees for each professional employee.

N.Y. LEGISLATIVE GROUP SAYS PSC REGULATION IS A "FIASCO," COSTING CONSUMERS MILLIONS:

A bipartisan committee of the New York State legislature charges that the Public Service Commission's regulatory operation is a "fiasco" that costs New York consumers millions of dollars a year.

Assemblyman Albert Blumenthal of Manhattan, chairman of the Joint Legislative Committee on Consumer Protection, said that its year-long study indicates that the PSC either refuses or is unable to control the State's power companies, "resulting in incredible waste and extravagance." Mr. Blumenthal released the study findings last week on the same day he introduced--on behalf of the committee--10 bills designed to reorganize the commission and its method of regulating utility rates.

"The blunt truth is fully established by the fact," the Manhattan legislator said, "that New York consumers pay more for electric power at all levels of consumption than consumers in any other State of the Union." (FPC figures indicate that only Alaska's rates are higher)...What is strange about this is that the consumer pays in countless hidden ways for the failures of the Public Service Commission.

"He pays in higher electric and gas bills. He pays in receiving inadequate interest on his deposit money. He even pays the taxes for the utility companies--96% of the dividend payments made by Consolidated Edison are tax-free dividends."

Inefficiency Produces Higher Profits: Mr. Blumenthal observed that Consolidated Edison's profit picture is not the result of any "superior management. Indeed, what is so paradoxically tragic about this company's earnings is that the more inefficient the company, the more its profit margin goes up, accordingly."

The committee's report on the regulatory commission's activities was the first legislative examination of state utilities regulation in more than 30 years. The New York Times observed, editorially, that the report findings "confirm a long series of similar complaints by municipal and consumer spokesmen."

PSC chairman James A. Lundy, reacting to disclosure of the legislative committee's report, denied the charges and claimed it lacked objectivity and was an attempt "to castigate, vilify and malign the commission." He was particularly irked by a portion of the findings that referred to a "cozy intimacy among the utilities, convicted contractors, utility suppliers and the Public Service Commission."

The Blumenthal committee recommendations--contained in the 10 new bills--include one to broaden the PSC to include representatives of both political parties as well as consumer groups. Its present makeup is five Republicans appointed by the Governor for ten-year terms.

Others would: establish a consumer counsel to represent the public in all commission actions; require that any request for a rate increase be accompanied by a cost-of-service study showing clearly the current and proposed rates for all categories; require that all utility contracts for construction or improvement exceeding \$25,000 in any year be let to the lowest bidder in public bids; create a temporary commission to recommend further legislation completely overhauling and simplifying all laws relating to public utilities.

March 1969

Sectional Analysis of SB 128 and HB 202 (~~Insofar as the House Bill corresponds with the Senate Bill~~)

By George Bensch  
Assistant Attorney General

The following brief sectional analysis of SB 128 (which is identical to HB 202 <sup>except for the exemptions section</sup>) covers primarily those sections which make substantial changes in the existing law or language. This bill was drafted on the premise that

(1) the public <sup>interest</sup> requires that the commission's jurisdiction should encompass all public utilities whether publicly owned or otherwise, and whether large or small;

(2) regulation should be directed to the benefit of the public; ~~and~~ the creation of utility monopolies and other benefits accruing to the utilities are the results of good regulation, but not the purpose;

(3) good regulation in the public interest can only be accomplished where the regulatory body has the jurisdiction and authority to do whatever is necessary to accomplish it;

(4) special exemptions from the commission's jurisdiction create regulatory problems which go far beyond the usual intended objective of the exemption and substantially disrupt the regulatory processes; more orderly, uniform and fair regulation will result if the question of regulatory need is left to the discretion of the commission;

(5) the commissioners appointed to the commission will be competent in that capacity;

(6) the commissioners will exercise good judgment in regulating; and

(7) the commission will have an adequate and competent staff.

In drafting this bill the

March 1967

Sectional Analysis of SB 128 and HB 202 (~~insofar as the House Bill~~  
~~corresponds with the Senate Bill~~)

The following brief sectional analysis of SB 128 <sup>(which covers primarily)</sup> covers primarily those sections which make substantial changes in the existing law of language. This bill was drafted on the premise that

- (1) the public <sup>interest</sup> requires that the commission's jurisdiction should encompass all public utilities whether publicly owned or otherwise, and whether large or small;
- (2) regulation should be directed to the benefit of the public; ~~and~~ the creation of utility monopolies and other benefits accruing to the utilities are the results of good regulation, but not the purpose;
- (3) good regulation in the public interest can only be accomplished where the regulatory body has the jurisdiction and authority to do whatever is necessary to accomplish it;
- (4) special exemptions from the commission's jurisdiction create regulatory problems which go far beyond the usual intended objective of the exemption and substantially disrupt the regulatory processes; more orderly, uniform and fair regulation will result if the question of regulatory need is left to the discretion of the commission;
- (5) the commissioners appointed to the commission will be competent in that capacity;
- (6) the commissioners will exercise good judgment in regulating; and
- (7) the commission will have an adequate and competent staff.

SECTIONAL ANALYSIS OF CSHE 202

*By George Farned*

*March, 1969*

\* Sec. 42.05.020. Composition of Alaska Public Service Commission.

I have already commented at length on subsection (b) so will avoid repeating here.

\* Sec. 42.05.030. Term of Office; Vacancy.

Changes made here are appropriate.

\* Sec. 42.05.035 and .071.

No significant changes made.

\* Sec. 42.05.081. Oath of Office.

The change here is appropriate.

\* Sec. 42.05.091. Compensation of Members of Commission.

The question of dual salaries has already been brought to the Committee's attention.

\* Sec. 42.05.101 and .111.

No significant changes made.

\* Sec. 42.05.121. Employment of Commission Personnel.

The matter of a commissioner also serving as executive director has already been discussed. This, however, is optional. The question should be thoroughly researched before implementation.

The elimination of provisions for employing hearing officers has merit provided it does not contribute to delay rather than remedy the P.S.C. sad experiences with hearing officers in the past.

I agree that it is much more desirable to have the Commission hear all formal proceedings rather than use hearing officers. I do not foresee any problems from the

\* Sec. 42.05.131. Restrictions on Members and Employees.



EXCERPTS FROM U. S. SUPREME COURT STATE-  
MENTS ON RATE MAKING VALUE, 1909-1942

1909

Willcox v Consolidated Gas Co. 212 US 19:

There must be a fair return upon the reasonable value of the property at the time it is being used for the public. . . . And we concur with the court below in holding that the value of the property is to be determined as of the time when the inquiry is made regarding the rates. If the property, which legally enters into the consideration of the question of rates, has increased in value since it was acquired, the company is entitled to the benefit of such increase.

1913

Minnesota Rate Cases, 230 US 352, 33 S Ct 729:

The making of a just return for the use of the property involves the recognition of its fair value if it be more than its cost. The property is held in private ownership and it is that property, and not the original cost of it, of which the owner may not be deprived without due process of law.

1918

Denver v Denver Union Water Co. 246 US 178, PUR1918C 640:

What we have said establishes the propriety of estimating complainant's property on the basis of present market values as to land, and reproduction cost, less depreciation, as to structures.

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simply by an arithmetical calculation. It said that it is nevertheless helpful to consider separately debt, preferred stock, and common equity, prior to consideration of the overall return.

The indented quotation is from "Public Utilities Fort-

Michigan," December 15, 1918.

STUDY OF STATE SUPERVISION OVER  
MUNICIPALLY OWNED UTILITIES

Prepared by the City of Fairbanks  
Office of the City Attorney  
January 3, 1961

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CITY OF KETCHIKAN STATEMENT IN OPPOSITION TO THE PASSAGE OF  
SENATE BILL NUMBER 128

SENATE COMMERCE COMMITTEE

Submitted by Elmer B. Titus, Utilities Manager, on behalf of  
the City of Ketchikan, March 5, 1969

Mr. Chairman, Members of the Committee:

For the record, I am Elmer Titus, Manager of Ketchikan Public Utilities, City of Ketchikan, Alaska, representing the views of the City Council and the Advisory Board for Ketchikan Public Utilities.

The City of Ketchikan is opposed to the passage of Senate Bill 128, an act granting the Alaska Public Service Commission regulatory authority and jurisdiction over municipally-owned utilities.

Historically, public service commissions were created to provide for the regulation of utilities to protect the interest of the consumer-public from gouging and poor service from private utilities. The need for this type of protection for the public against privately-owned utilities is still apparent; however, since the consumer-public served by municipally-owned utilities is adequately protected by the regulation and control of locally elected government bodies, the need for such further regulation has not been demonstrated. Such regulation by the State of Alaska as proposed in SB 128, would, in our opinion, constitute an unnecessary interference in the management of cities affairs and create great additional expense in the operation of its utilities which could only result in higher rates for service to be paid by the consumer.

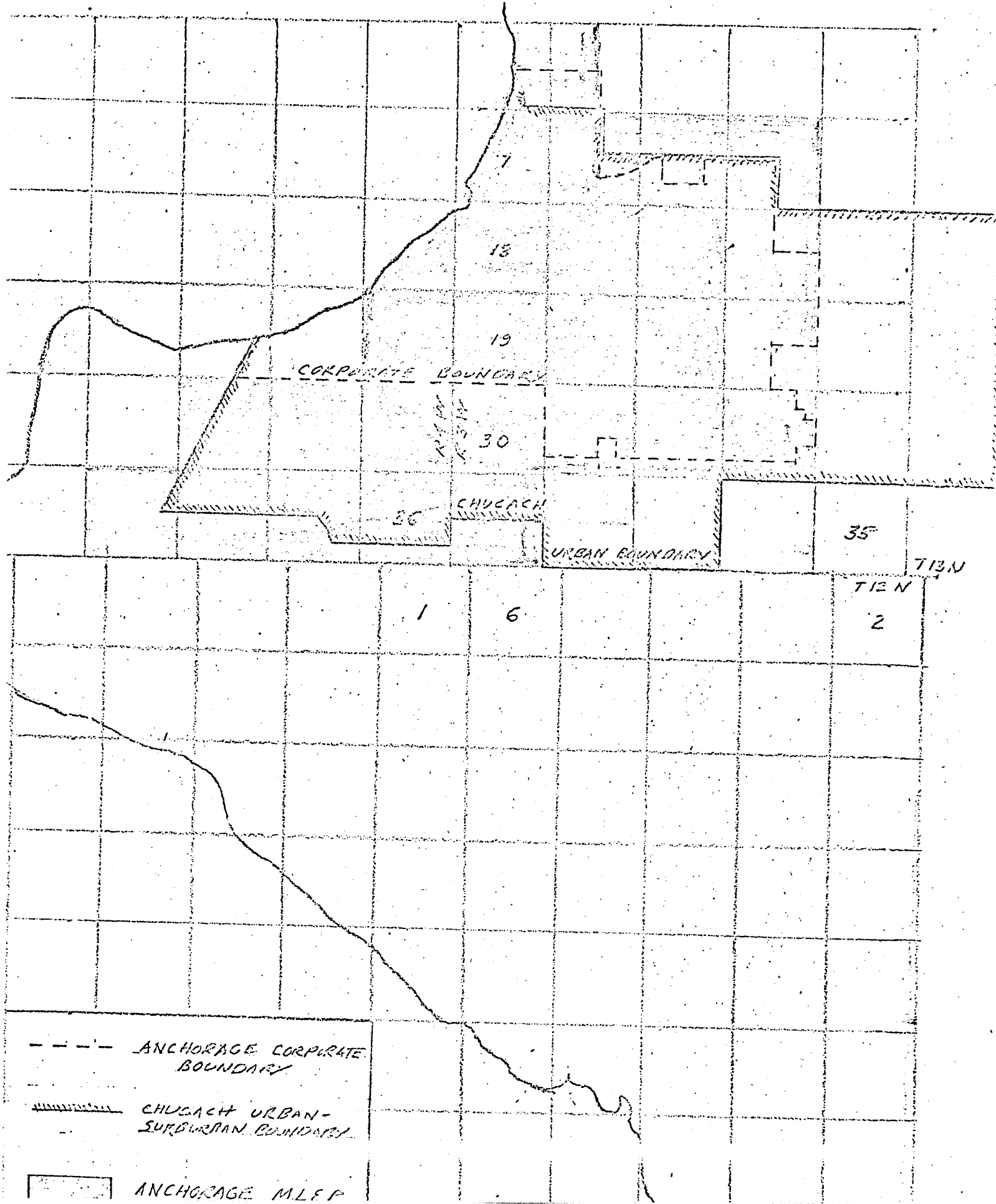
Article 10 of the State Constitution, Section 1, entitled "Purpose and Construction", was designed to allow local charter cities the maximum local control. Section Number 1 reads as follows:

"The purpose of this article is to provide for maximum local self government with a minimum of local government units, and to prevent duplication of tax levying jurisdictions. A liberal construction shall be given to the powers of local government units."

The City Council of Ketchikan has been able to regulate and operate the municipi-

MAP 2 - SHOWING RELATIONSHIP OF  
CHUGACH URBAN ZONE & M.L.E.P. SERVICE AREA

1969



JOURNAL  
SUPPLEMENT

March 30, 1965

SENATE

No. 19

SENATE REQUEST FOR  
SPECIFIC LEGISLATIVE COUNCIL STUDY  
ON C.S.H.B. 138

March 30, 1965

In an effort to conclude proper study on the proposed Public Service Commission legislation and afford the public and interested parties an opportunity to be heard and explain their individual positions on this matter, the Legislative Council is hereby directed to hold public hearings in at least the following cities during the interim period between the First and Second Sessions of the Fourth State Legislature:

Ketchikan	Anchorage/Spenard
Juneau	Kenai Peninsula
Sitka	Matanuska Valley
Fairbanks	Nome

In addition to this, the State Senate specifically requests the Legislative Council to study the following questions which have arisen as the result of the proposed legislation and furnish the Senate with comprehensive answers as soon as possible on each item.

1. Section 42.05.025. Should this section provide for staggered terms to guarantee continuity on the board?
2. Section .035. This section, dealing with the qualification of members, mentions only American citizenship and residency in the State as qualifications, but does mention that appointment should be based on "qualifications" and "experience". What criterion should be specified in the law in connection with "qualifications" and "experience"?
3. Section .055 specifies that employees and Commission members must avoid personal conflicts of interest between their positions with the Commission and PUBLIC UTILITIES. There is no mention of the avoidance of the same conflict of interest as regards air commerce, motor freight transportation, bus transportation, and water transportation. These industries also are regulated by the Commission.
4. Section .095 deals with the executive director. Again there is no residency requirement of "qualification" and "experience" requirements for this key position.
5. Section .105. A possible conflict appears in the relationship of the Attorney General, because he is charged with representing the Commission and at the same time may represent public interests appearing before the Commission. Recommendations as to the separation of these potential conflicts are in order.

ALASKA  
STATE LEGISLATURE

LEGISLATIVE COUNCIL

BOX 2199-JUNEAU

September 28, 1965

MEMORANDUM

SUBJECT: Comparison of Existing Law and Pending Legislation Regarding  
The Public Service Commission

TO: All members of the Legislative Council

I. Composition and Appointment of the PSC

Present Law: The commission is a part of the Department of Commerce /1  
and is composed of three members appointed by the governor. /2  
One member must be a lawyer, one an accountant, and the other an  
engineer. /3

CSHB 138am: The commission is an independent body composed of five  
members appointed by the governor /4 upon the basis of their quali-  
fications and experience. /5

SB 180: Same as CSHB 138am. /6

SB 191: Same as present law.

II. Term of Office, Quorum, Chairman and Compensation

Present law: Members serve at the pleasure of the governor for staggered  
six-year terms; /7 two members constitute a quorum; the governor  
designates the chairman; /8 and members receive no compensation  
other than the usual per diem allowed by law for state boards and  
commissions. /9

CSHB 138 am: Members serve at the pleasure of the governor for stagger-  
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commission elects its own chairman; /12 and members receive  
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state boards and commissions. /13

HB  
138MAJORITY REPORT OF THE SPECIAL COMMITTEE ON HOUSE BILL 138

The special committee on House Bill 138 has had House Bill 138 under consideration and a majority of the committee recommends that the bill be replaced by the Committee Substitute for House Bill 138 and that Committee Substitute for House Bill 138 be passed.

Testimony before the Committees on Judiciary and Commerce demonstrated that the Public Service Commission as presently constituted, is inadequate to Alaska's needs. Among the defects in the constitution of the present Public Service Commission are the following:

1. The commission consists of three members and for purposes of a quorum, no more than one member may be absent.
2. The commissioners receive no annual salary for their services.
3. The qualifications for appointment to the commission are overly restrictive in a state of Alaska's population, if avoidance of conflicts of interest is to be effectuated.

At present, municipally owned utilities are exempt from the operation of the Public Service Commission. The committee finds that this exemption prevents the Public Service Commission from affording consumer protection in rapidly growing population centers and other areas having relatively sophisticated economies. In such areas, testimony revealed that boundary disputes between regulated utilities and municipally owned utilities are beyond the reach of PSC adjudication under existing law. Moreover, the testimony revealed that municipally owned utilities in areas where the municipalities are not the sole providers of utility service, but serve areas outside their boundaries, charge rate differentials to consumers located beyond the city limits, without relation to the actual cost differential of such service.

Heretofore, Alaska law has exempted all municipalities from regulation of the Public Service Commission. Your committee believes that this exemption should not continue in areas where potential conflict exists between a municipally owned utility and another utility, unless the commission is called upon to hear controversies based upon complaints of discrimination originating from an aggrieved consumer. While the state should be slow to expand its authority over local government utilities, and ought not to do so except in the face of demonstrated need, the state should recognize several inescapable facts.

First, majority rule in local government units is no assurance that the individual consumer will receive utility service at just and reasonable rates and under proper standards. The right to adequate utility service is individual and touches the very necessities of life. Therefore the individual consumer should

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April 9, 1969

HOUSE JUDICIARY COMMITTEE

SECTIONAL ANALYSIS OF CSHB 202

The original HB 202 is identical to SB 128 (introduced by request of the governor), except for the exemption section (proposed AS 42.05.691). In the preparation of its committee substitute, the House Judiciary Committee considered the comments and suggestions numerous individuals presented at hearings and meetings held on the PSC bills, particularly the detailed written analyses of Don Hall, executive director of the Alaska Public Service Commission, and Karl Walter, Anchorage City Attorney. (It should also be noted that HB 188 and SB 54 are identical to each other. SB 54 is based on, and is very similar to, 1965 CSHB 138, as is 1967 HB 164.)

AS 42.05.010. This section implements the recommendation of Don Hall consistent with the practice in many other states where the state name precedes the commission name.

AS 42.05.020. This section is amended in the original bill to provide that the governor shall designate the chairman of the commission. The committee substitute amends the original bill by specifying that his term is four years rather than two years. The reason for this change is that two years seems like too short a term and by lengthening it the chairman is less subject to the pressures of politics.

AS 42.05.030. This section of the original bill is primarily concerned with providing for vacancies in the office of commissioner and specifies that they shall be filled by appointment by the governor and confirmed by the legislature. The committee substitute deletes some unnecessary language regarding the confirmation by the legislature (but confirmation will still be required).

AS 42.05.035. This section provides two methods of removal of commissioners. One is with the consent of a majority of the legislature and the other is for cause, such as incompetence or misconduct. The committee substitute does not change the original bill in this regard.

AS 42.05.040 is not amended by either the original HB 202 or the committee substitute. It states the professional qualifications required of commissioners.

AS 42.05.071. This section begins the entirely revised portion of the PSC Chapter. The old sections 70 - 650 are repealed. Section 71 provides that two members of the commission constitute a quorum. Present law is silent on this point.

AS 42.05.081. This section requires the commissioner and, under the committee substitute, the executive director to take the oath of office required of principle officers of the state. The language in the original bill said each commissioner and "each person appointed to a civil executive office", which language is not appropriate to Alaska law.

AS 42.05.091 provides for compensation of the members. It gives them per diem and travel expenses and an annual salary of \$6,000 (it was \$5,000 in the original bill). The chairman of the commission however, is to serve fulltime and is entitled to the salary of a superior court judge.

A M E N D M E N T S

Offered in the HOUSE

To accompany minority report  
of the special committee on  
HB 138.

To: CS FOR HOUSE BILL NO. 138

Amendment 1:

Page 1, line 6. Beginning on line 6 after the colon delete  
all material through line 8 and insert the following:

"An Act relating to public and municipally owned utilities;  
and providing for an effective date."

Amendment 2:

Page 1, line 10. Beginning with line 10 delete all material  
on pages 1 - 20 and insert the following:

\* Section 1. AS 42.05 is amended by adding a new section to  
Article 7 to read:

Sec. 42.05.615. JUDICIAL HEARINGS. A municipally  
owned utility or a public utility holding a certificate of  
public convenience and necessity issued under this chapter  
may petition the superior court to

(1) resolve a conflict between the petitioner  
and a person, firm, corporation or political subdivision  
regarding areas served by either party;

(2) enjoin a utility from engaging in unfair  
competition which consists of offering customers of a  
competing utility more favorable rates or services than  
those offered to its own customers.

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ALASKA PUBLIC SERVICE COMMISSION

MINORITY REPORT

TO

THE GOVERNOR OF THE STATE OF ALASKA,  
THE SPEAKER OF THE HOUSE OF REPRESENTATIVES,  
AND THE PRESIDENT OF THE SENATE

The majority report recommends amendment of S.B. 107, the proposed Commission bill on public utilities, to exempt municipally owned utilities, cooperatives and public utility districts from regulation primarily as to valuation, depreciation, rates and services. With this recommendation I cannot agree, and I must therefore dissent from the majority recommendation because of its misinterpretation of the legislative mandate, its deviation from the theory and principles of sound utility regulation, and its lack of a factual basis. It is respectfully submitted that S.B. 107 be passed as proposed.

1. The Legislative Mandate. Section 3 of Chapter 156, SLA 1960, conferred the following duty on the Public Service Commission:

To make a careful study of all laws with the administration of which it is charged, of similar federal and state laws pertaining to utility regulation, of the practices of public utilities, and of the authority necessary for the commission to fully protect the public interest in respect to utility regulation; and to make a special written report thereon and of any recommendations it may have thereon,...(Emphasis added)

The mandate clearly states that recommendations as to authority are to be made only as to the authority neces-

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WILLIAM A. EGAN  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

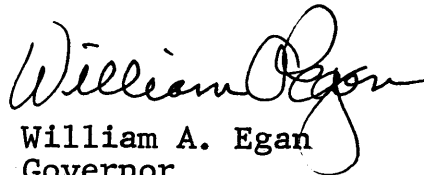
March 13, 1961

Honorable Warren A. Taylor  
Speaker of the House of Representatives  
Alaska State Legislature  
Juneau, Alaska

Dear Mr. Speaker:

Enclosed is minority report in duplicate from  
Karl L. Walter, Jr., a member of the Alaska Public Service  
Commission. I forward this for consideration by appropriate  
committees of the House.

Sincerely,

  
William A. Egan  
Governor

ALASKA STATE SENATE

RULES COMMITTEE

Hon. Robert J. McNealy, President  
Alaska State Senate  
Juneau, Alaska

Re: C.S.H.B. 138

Mr. President:

Your Committee on Rules, to whom was referred the State Affairs Committee report indicating improper handling of C.S.H.B. 138 in the House, has had the same under consideration and recommends that C.S.H.B. 138 be taken from the State Affairs Committee and referred to the Legislative Council for detailed study on the questions submitted for consideration in the attached report.

The Legislative Council is requested to report its findings, recommendations and opinions on C.S.H.B. 138, necessary amendments or proposed substitute legislation, within five days after the convening of the Second Session of the Fourth State Legislature.

Dated this \_\_\_\_\_ day of March, 1965.

Respectfully submitted,

Frank Peratrovich, Chairman

Howard Bradshaw, Member

John B. Hall, Member

Howard W. Pollock, Member

Pearse M. Walsh, Member



STATE OF ALASKA  
DEPARTMENT OF COMMERCE  
BOX 2252  
JUNEAU

March 7, 1961

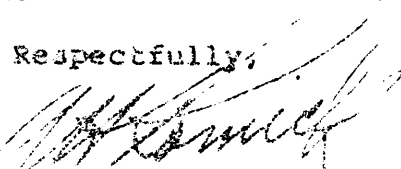
Honorable William A. Egan  
Governor of Alaska  
Juneau, Alaska

Dear Governor Egan:

Please find attached the minority report of  
Karl L. Weiber, Jr., member of the Alaska  
Public Service Commission.

This should be made part of the Commission's  
report previously submitted.

Respectfully,

  
A. H. Ronick  
Commissioner of Commerce

RMR:ps

Encl.

JOURNAL  
SUPPLEMENT

March 30, 1965

SENATE

No. 19

SENATE REQUEST FOR  
SPECIFIC LEGISLATIVE COUNCIL STUDY  
ON C.S.H.B. 138

March 30, 1965

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4. Section .095 deals with the executive director. Again there is no residency requirement of "qualification" and "experience" requirements for this key position.
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# ALASKA LEGISLATIVE COUNCIL

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PUBLIC SERVICE COMMISSION LEGISLATION

A Compendium of Materials

Part II

Testimony of the Alaska Municipal League  
at Ketchikan, October 28, 1965

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January

1966

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ALASKA  
STATE LEGISLATURE

LEGISLATIVE COUNCIL

BOX 2199-JUNEAU

September 28, 1965

MEMORANDUM

SUBJECT: Comparison of Existing Law and Pending Legislation Regarding  
The Public Service Commission

TO: All members of the Legislative Council

I. Composition and Appointment of the PSC

Present Law: The commission is a part of the Department of Commerce  $\angle$ 1  
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K25

APPENDIX A (to Robert M. ...)

Set forth below are the jurisdictional or definitional sections of the regulatory statutes of all states (except Alaska) and the District of Columbia with respect to typical public utilities such as gas, electric, water and telephone companies. Particular attention is given to the provisions relating to the regulation of any aspect of the production, transportation and sale of oil and gas. Iowa, Minnesota and South Dakota have no regulatory statutes applicable to oil and gas and are not covered.

The principal purpose of this summary of statutes is to illustrate that dedication to public service is a prerequisite of utility status in all, or almost all, states and to illustrate the phrases typically used to incorporate the concept of dedication in the regulatory statutes. The statutes, therefore, are collected into groups using the same (or similar) dedication language.

I

TO OR FOR THE PUBLIC, FOR COMPENSATION

(7 States)

1. Arkansas.

Section 73-201(d) of Arkansas Statutes (1949) provides:

"(d) The term 'public utility' when used in this Act, includes persons and corporations, or their lessees, trustees and receivers, now or hereafter owning or operating in this state, equipment or facilities for:

"(1) Producing, generating, transmitting, delivering, or furnishing gas, electricity, steam or other or for, the public for compensation;

MUNICIPAL UTILITIES SYSTEM

Fairbanks, Alaska

October 12, 1965

Mr. Chairman, Members of the Legislative Council, Ladies and Gentlemen:

As Chairman of the Fairbanks Municipal Utilities Board I would like to thank you for scheduling this hearing in Fairbanks, and giving us this opportunity to provide you with our views on the proposed public service legislation.

First off, let me say that this testimony is not on either the original proposal by the attorney general, or the bill as it passed the House of Representatives in the last session of the legislature. We are herein talking about the entire problem with the hope that an entire new bill will come as a result of these hearings throughout the state.

At the very beginning I would like to make it very clear that the Fairbanks Municipal Utilities Board is not against a public service commission. We feel that there are now a few areas where a public service commission can be of service to municipal-owned utilities and their customers. We do, however, want the authority of the public service commission limited to those areas where a service may be provided by the commission which can not be provided by the locally elected boards and councils.

There are two areas where, at this time, the public service commission could provide a service in the North Star Borough. The first is in service area boundary disputes. We feel that there would be an advantage to having a determination from a public service commission prior to any court action. Expensive court action could, in many cases, be averted and, of course, any utility which thought a public service commission ruling legally wrong could always appeal the decision to the courts. The second would be utility customers of a municipal-owned utility who live outside the city limits and cannot vote in a local elections; they would be better off if they had a public service commission to appeal to. The public service commission could also be of service to the elected councils and boards by providing some minimum standard of service so that they would know when they were or were not giving satisfactory service outside the city limits. In local bond elections to upgrade service outside the city limits the question is always raised as to how much service these customers are entitled to.

So much for what we favor. We are absolutely opposed to a public service commission made up of political appointees making decisions that can better be made by local elected boards and councils. We feel it was the intent of the Alaska state constitution to provide a maximum of local self-government. We further feel that the attorney general's original bill and the bill as approved by the State House of Representatives would weaken local government and replace it with a less efficient system that would not respond to the wishes of the people nearly as well as our present system of local boards and councils. We do not understand how an appointed board with probably only one member from the Fairbanks area can better understand the utility needs and problems of the Fairbanks area than do the elected utility board and city council. We can not understand how an appointed board accountable only to a governor in Juneau can be more interested or have more understanding of a local problem than people who are elected by the people they serve.