

## **Sponsor Statement**

### **HB 520**

HB 520, introduced by request of the Attorney General, deals with reimbursement by state agencies and the public advocacy role of the AG's office before the Regulatory Commission of Alaska (RCA).

#### **I. Reimbursement**

HB 520 exempts state agencies from reimbursing the Regulatory Commission of Alaska for commission costs in proceedings to which the state agency is a party. The commission has the power under AS 42.05.651 and AS 42.06.610 to allocate its costs for its proceedings among the parties to the proceedings "as is just under the circumstances." The commission takes that power a step too far by interpreting this statute to permit it to order state agencies appearing before it as parties to pay commission costs even though this point is not stated explicitly. This bill explicitly exempts state agencies from paying commission costs, but would not affect the commission's ability to require reimbursement from parties that are not state agencies.

The Administration believes that it is appropriate to exempt state agencies because allowing one state agency to order another agency to pay its costs provides no net fiscal benefit to the State of Alaska. In fact, the agency subject to the order expends resources to prepare and request an appropriation from the legislature to pay the commission and the legislature expends resources examining and acting on the request.

There are other reasons why state agencies should be exempt from payment. Requiring an agency to pay commission costs out of the agency's budget discourages agencies from filing cases or appearing as parties before the commission. The Department of Law (DOL) participates as a party in commission proceedings to protect the State of Alaska's interests as owner of its oil and gas resources. Under AS 42.04.070(c), the DOL, at the commission's request, may also participate when it is in the public interest for the attorney general to do so. Finally, under AS 44.23.020(e), the DOL may elect to participate as a public advocate for regulatory affairs before the commission.

The DOL considers the public interest involved and the efficient use of its limited resources when deciding whether to become a party to protect the public interest in a commission proceeding. The possibility that the DOL will be required to remit payments to the commission should not be part of that decision.

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## **II. Public Advocacy by the AG before the RCA**

Under AS 42.04.070(c) and AS 44.23.020(e), the Attorney General (AG) may participate as the public advocate for regulatory affairs before the commission. This bill would allow the AG or the AG's designee access to utility or pipeline carrier records necessary to carry out this public advocacy function in the same manner as commission public advocacy staff previously did when participating as a party in commission adjudicatory proceedings. Parties before the commission routinely submit expert testimony to support their positions. In certain cases, the DOL needs to contract with experts for a specialized analysis and testimony in order to fulfill its public advocate duty. The DOL has insufficient resources available to pay for such expertise. Therefore, this bill provides that a utility, pipeline carrier, or pipeline whose filing is the subject of an adjudicatory proceeding before the commission must pay the costs of experts retained by the DOL acting in its role as public advocate. This new provision is necessary in order to ensure that the rate-paying public is adequately represented before the commission. The bill takes an approach similar to that of the insurance code, where the director of insurance may retain professionals and experts as examiners, the reasonable cost of which shall be paid by the insurer being examined, under AS 21.06.140(d).

Finally, this bill clarifies that the general costs of public advocacy on matters before the commission will continue to be paid from the existing regulatory cost charge mechanism under AS 42.05.254 and AS 42.06.286.

Historically, personnel within the RCA performed advocacy on behalf of the public interest. Therefore, the cost of that advocacy was a part of the commission's budget funded by receipts from the regulatory cost charge. Executive Order 111, which went into effect on July 1, 2003, transferred the responsibility for public advocacy from the commission to the attorney general and established the public advocacy function within the Department of Law. Accordingly, commission personnel who were once responsible for public advocacy now act under the direction of the DOL. The bill amends existing statutes to expressly provide that regulatory cost charge receipts continue to pay the costs associated with the public advocacy function that is now administered by the DOL. It does not alter the regulatory cost charge mechanism in any way.

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