

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 205

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY SENATORS WIELECHOWSKI AND FRENCH

Introduced: 1/19/10

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the power of the Regulatory Commission of Alaska to adjust a rate
2 charged or to be changed by a public utility that is a commercial enterprise operating
3 for profit when the commission determines that the rate or a factor affecting that rate
4 compensates for a utility's negligent conduct, recklessness, or intentional violation of a
5 law."

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

7 * **Section 1.** AS 42.05.431(a) is amended to read:

8 (a) When the commission, after an investigation and hearing, finds that a rate
9 demanded, observed, charged, or collected by a public utility for a service subject to
10 the jurisdiction of the commission, or that a classification, rule, regulation, practice, or
11 contract affecting the rate, is unjust, unreasonable, unduly discriminatory or
12 preferential, the commission shall determine a just and reasonable rate, classification,
13 rule, regulation, practice, or contract to be observed or allowed and shall establish it by

1 order. **However, in an order established under this subsection that applies to a**
2 **public utility that is a commercial enterprise operating for profit, the commission**
3 **may not compensate the utility for its negligent conduct, recklessness, or**
4 **intentional violation of the law.** A municipality may covenant with bond purchasers
5 regarding rates of a municipally owned utility, and the covenant is valid and
6 enforceable and is considered to be a contract with the holders from time to time of the
7 bonds. The financial covenants contained in mortgages and other debt instruments of
8 cooperative utilities organized under AS 10.25 are also valid and enforceable, and
9 rates set by the commission must be adequate to meet those covenants. However, a
10 cooperative utility that is negotiating to enter a mortgage or other debt instrument that
11 provides for a times-interest-earned ratio (TIER) greater than the ratio the commission
12 most recently approved for that cooperative shall submit the mortgage or debt
13 instrument to the commission before the instrument takes effect. The commission may
14 disapprove the instrument within 60 days after its submission. If the commission has
15 not acted within 60 days, the instrument is considered to be approved.