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CS FOR SENATE BILL NO. 86(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered:
Referred:

Sponsor(s): SENATOR COGHILL

A BILL

FOR AN ACT ENTITLED

"An Act relating to the sale or other disposal, leasing, or encumbrance of Alaska Railroad Corporation land; and providing for an effective date."

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

*** Section 1.** AS 42.40.120(b) is amended to read:

(b) Within 60 days after its first meeting, the board shall delegate the following activities of the corporation to the chief executive officer or other executive officers designated by the board:

(1) leasing subject to **AS 42.40.350(b) and (d)** [AS 42.40.285 AND 42.40.350(b) AND (d)], granting easements in, issuing permits for the use of, or conveying other interests in property that do not constitute a transfer of the corporation's entire interest in land;

(2) establishing specific rates, tariffs, divisions, and contract rate agreements;

(3) making routine changes in service levels;

(4) establishing procurement and accounting procedures for the corporation; and

(5) performing procurement activities.

*** Sec. 2.** AS 42.40.120(b), as amended by sec. 1 of this Act, is amended to read:

(b) Within 60 days after its first meeting, the board shall delegate the following activities of the corporation to the chief executive officer or other executive officers designated by the board:

(1) leasing subject to **AS 42.40.285 and 42.40.350(b) and (d)** [AS 42.40.350(b) AND (d)], granting easements in, issuing permits for the use of, or conveying other interests in property that do not constitute a transfer of the corporation's entire interest in land;

(2) establishing specific rates, tariffs, divisions, and contract rate agreements;

(3) making routine changes in service levels;

(4) establishing procurement and accounting procedures for the corporation; and

(5) performing procurement activities.

*** Sec. 3.** AS 42.40.120(c) is amended to read:

(c) Notwithstanding (a) and (b) of this section, specific board approval is required for the following:

(1) issuing bonds upon approval by the legislature;

(2) mortgaging or pledging corporation assets;

(3) donating property or other assets belonging to the corporation;

(4) acting as a surety or guarantor;

(5) adopting a long-range capital improvement and program plan;

(6) adopting annual reports;

(7) effecting general, comprehensive increases and decreases in rates;

(8) expanding or reducing services in a major way;

(9) expanding the main or branch rail lines including spur, industrial, team, switching, or side tracks, other than performing routine track alignment as necessary to maintain existing service levels;

(10) selecting independent auditors and accountants;

(11) entering into collective bargaining agreements;

(12) adopting annual budgets;

(13) beginning a capital project with an estimated completion cost of more than $500,000 or an estimated completion time of more than one year;

(14) exchanging, donating, selling, or otherwise conveying**, disposing of, or encumbering** its entire interest in land [SUBJECT TO APPROVAL BY THE LEGISLATURE];

(15) exercising the power of eminent domain.

*** Sec. 4.** AS 42.40.120(c), as amended by sec. 3 of this Act, is amended to read:

(c) Notwithstanding (a) and (b) of this section, specific board approval is required for the following:

(1) issuing bonds upon approval by the legislature;

(2) mortgaging or pledging corporation assets;

(3) donating property or other assets belonging to the corporation;

(4) acting as a surety or guarantor;

(5) adopting a long-range capital improvement and program plan;

(6) adopting annual reports;

(7) effecting general, comprehensive increases and decreases in rates;

(8) expanding or reducing services in a major way;

(9) expanding the main or branch rail lines including spur, industrial, team, switching, or side tracks, other than performing routine track alignment as necessary to maintain existing service levels;

(10) selecting independent auditors and accountants;

(11) entering into collective bargaining agreements;

(12) adopting annual budgets;

(13) beginning a capital project with an estimated completion cost of more than $500,000 or an estimated completion time of more than one year;

(14) exchanging, donating, selling, or otherwise conveying [, DISPOSING OF, OR ENCUMBERING] its entire interest in land **subject to approval by the legislature**;

(15) exercising the power of eminent domain.

*** Sec. 5.** AS 42.40.285, as amended by sec. 15 of this Act, is amended to read:

Sec. 42.40.285. Legislative approval required. Unless the legislature approves the action by law, the corporation may not

(1) [REPEALED

(2)] issue bonds;

(2) [(3)] extend railroad lines; this paragraph does not apply to a spur, industrial, team, switching, or side track;

(3) [(4) REPEALED

(5)] apply for or accept a grant of federal land within a municipality; before approving an action under this paragraph, the legislature must determine that the federal land is required for essential railroad purposes; this paragraph does not apply to the application for or acceptance of a grant of federal land associated with

(A) the Anchorage-Wasilla line change project on Elmendorf Air Force Base and Fort Richardson;

(B) the Fairbanks intermodal rail yard expansion project;

(C) a conveyance of rail properties of the Alaska Railroad under the original Alaska Railroad Transfer Act of 1982 as set out in Title VI, P.L. 97-468; in this subparagraph, "rail properties of the Alaska Railroad" has the meaning given in 45 U.S.C. 1202(10)**;**

(4) exchange, donate, sell, or otherwise convey its entire interest in land;

(5) lease land for a period in excess of 95 years unless the corporation reserves the right to terminate the lease if the land is needed for railroad purposes.

*** Sec. 6.** AS 42.40.350(b) is amended to read:

(b) Railroad utility corridors shall be of a width at least 100 feet on both sides of the centerline of the extended main or branch line, unless the corporation does not own or control sufficient land to allow a corridor of that width. Railroad utility corridors may be surveyed by the metes and bounds method. The corporation may not convey **or encumber** its entire interest in land within a utility corridor except as

provided in **AS 42.40.120(c)(14)** [AS 42.40.285], 42.40.370(d)**,** and 42.40.400. However, the corporation may lease, subject to [AS 42.40.285 AND] (d) of this section, grant easements in or permits for, or otherwise authorize use of portions of a utility corridor for transportation, communication, and transmission purposes and support functions associated with those purposes, and for commercial and other uses authorized under this chapter if the use does not restrict other parallel uses of the utility corridor.

*** Sec. 7.** AS 42.40.350(b), as amended by sec. 6 of this Act, is amended to read:

(b) Railroad utility corridors shall be of a width at least 100 feet on both sides of the centerline of the extended main or branch line, unless the corporation does not own or control sufficient land to allow a corridor of that width. Railroad utility corridors may be surveyed by the metes and bounds method. The corporation may not convey [OR ENCUMBER] its entire interest in land within a utility corridor except as provided in **AS 42.40.285** [AS 42.40.120(c)(14)], 42.40.370(d), and 42.40.400. However, the corporation may lease, subject to **AS 42.40.285 and** (d) of this section, grant easements in or permits for, or otherwise authorize use of portions of a utility corridor for transportation, communication, and transmission purposes and support functions associated with those purposes, and for commercial and other uses authorized under this chapter if the use does not restrict other parallel uses of the utility corridor.

*** Sec. 8.** AS 42.40.350(c) is amended to read:

(c) The corporation may lease, subject to [AS 42.40.285 AND] (d) of this section, grant easements in or permits for, or otherwise authorize use of portions of rail land. **The** [HOWEVER, THE] corporation may [NOT] convey **or encumber** its entire interest in rail land [EXCEPT] as provided in **AS 42.40.120(c)(14), 42.40.285(2)** [AS 42.40.285, 42.40.352], 42.40.370(d), and 42.40.400.

*** Sec. 9.** AS 42.40.350(c), as amended by sec. 8 of this Act, is amended to read:

(c) The corporation may lease, subject to **AS 42.40.285 and** (d) of this section, grant easements in or permits for, or otherwise authorize use of portions of rail land. **However, the** [THE] corporation may **not** convey [OR ENCUMBER] its entire interest in rail land **except** as provided in **AS 42.40.285, 42.40.352**

[AS 42.40.120(c)(14), 42.40.285(2)], 42.40.370(d), and 42.40.400.

*** Sec. 10.** AS 42.40.350(d) is amended to read:

(d) A lease**,** [OR] disposal**, or encumbrance** of land approved by the **board** [LEGISLATURE] under **AS 42.40.120(c)(14)** [AS 42.40.285] by the corporation to a party other than the state shall be made at fair market value as determined by a qualified appraiser or by competitive bid.

*** Sec. 11.** AS 42.40.350(d), as amended by sec. 10 of this Act, is amended to read:

(d) A lease **or** [,] disposal [, OR ENCUMBRANCE] of land approved by the **legislature** [BOARD] under **AS 42.40.285** [AS 42.40.120(c)(14)] by the corporation to a party other than the state shall be made at fair market value as determined by a qualified appraiser or by competitive bid.

*** Sec. 12.** AS 42.40.352 is repealed and reenacted to read:

Sec. 42.40.352. Public notice and accounting for sale or other disposal or encumbrance of land. (a) Before exchanging, donating, selling, or otherwise conveying, disposing, or encumbering the corporation's entire interest in land under AS 42.40.120(c)(14), the corporation shall

(1) publish public notice of the proposed action; and

(2) provide notice to persons having a leasehold interest in the land proposed to be sold and offer the leaseholders the right of first refusal.

(b) The corporation shall separately account for the proceeds from the exchange, donation, sale, or other conveyance or disposal of the corporation's entire interest in land and shall report the earnings and balance in the account in the annual report required by AS 42.40.260. Money in the account may be appropriated in accordance with 45 U.S.C. 1207(a) (Alaska Railroad Transfer Act of 1982).

*** Sec. 13.** AS 42.40.352, as repealed and reenacted by sec. 12 of this Act, is repealed and reenacted to read:

Sec. 42.40.352. Sale of land not necessary for railroad purposes. (a) The corporation may sell land if the board finds (1) the land is not necessary for railroad purposes, and (2) the sale of the land is in the best interest of the state. The sale of land is subject to the terms and conditions of AS 42.40.285, 42.40.350(d), and this section.

(b) Before offering land for sale under this section, the corporation shall

(1) publish public notice of the proposed sale that includes the finding by the board that the land is not necessary for railroad purposes and that the sale is in the best interest of the state;

(2) provide notice to persons having a leasehold interest in the land proposed to be sold and offer the leaseholders the right of first refusal; and

(3) receive legislative approval under AS 42.40.285.

(c) The corporation shall separately account for the proceeds from the sale of land under this section and shall report the earnings and balance in the account in the annual report required by AS 42.40.260. Money in the account may be appropriated in accordance with 45 U.S.C. 1207(a)(5) (Alaska Railroad Transfer Act of 1982).

*** Sec. 14.** AS 42.40.410 is amended to read:

Sec. 42.40.410. Federal land. Except as provided in **AS 42.40.285(3)** [AS 42.40.285(5)], the corporation may submit applications on its own behalf as an instrumentality of the state for acquisition of federal land available under federal law that will enhance the operations of the corporation if it is available under a federal law other than the Alaska Statehood Act of 1958 (P.L. 85 - 508, 72 Stat. 339), as amended. The corporation may receive in its own name conveyances of all interests in federal land.

*** Sec. 15.** AS 42.40.285(1) and 42.40.285(4) are repealed.

*** Sec. 16.** Sections 1, 3, 6, 8, 10, 12, 14, and 15 of this Act take effect immediately under AS 01.10.070(c).

*** Sec. 17.** Sections 2, 4, 5, 7, 9, 11, and 13 of this Act take effect three years after the effective date of secs. 1, 3, 6, 8, 10, 12, 14, and 15 of this Act.