

**CS FOR HOUSE BILL NO. 136(STA)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 4/29/96  
Referred: Finance

Sponsor(s): REPRESENTATIVE MARTIN

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the establishment and operation of the Alaska Railroad  
2 Commission to determine whether sale of the Alaska Railroad is in the best  
3 interest of the state; and providing for an effective date."

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

5 \* **Section 1.** ALASKA RAILROAD COMMISSION. (a) The Alaska Railroad  
6 Commission is established as an agency of the legislative branch. The commission consists  
7 of five members. One member shall be appointed by the governor, one member shall be  
8 appointed by the president of the senate, one member shall be appointed by the speaker of the  
9 house of representatives, one member shall be appointed jointly by the governor, president of  
10 the senate, and speaker of the house of representatives from among the employees of the  
11 Alaska Railroad Corporation who are members of a bargaining unit representing employees  
12 of the railroad, and one member shall be appointed jointly by the governor, president of the  
13 senate, and speaker of the house of representatives who is a representative of the major  
14 customers of the Alaska Railroad Corporation. The persons making appointments to the

1 commission shall give consideration to the appointment of persons who have experience  
2 involving corporate mergers and acquisitions. A vacant seat on the commission shall be filled  
3 in the manner that the seat was originally filled.

4 (b) A member of the Alaska Railroad Commission who is a public member is entitled  
5 to compensation at a rate of \$250 for each day the member is engaged in the actual  
6 performance of duties as a commission member. The commission may provide for  
7 compensation for partial days during which a member who is a public member is engaged in  
8 actual performance of duties as a commission member. In addition, a member who is a public  
9 member is entitled to per diem and travel expenses authorized for boards and commissions  
10 under AS 39.20.180. A member of the commission who is not a public member is entitled  
11 to the member's usual compensation and travel and per diem expenses as a legislator, state  
12 employee, or employee of the Alaska Railroad. In this subsection, a public member of the  
13 commission is a member who is not a legislator, state employee, or employee of the Alaska  
14 Railroad.

15 (c) Subject to appropriations for the purpose, the Alaska Railroad Commission may  
16 contract for professional services as the commission considers necessary. Contracts for  
17 professional services under this subsection are exempt from AS 36.30.

18 (d) The Alaska Railroad Commission shall contract for preparation of an evaluation  
19 of the Alaska Railroad as a going concern by a qualified railroad appraiser. The commission  
20 shall give a preference to a private entity based in the state for the contract to perform the  
21 evaluation. The evaluation shall be submitted to the governor and the Legislative Budget and  
22 Audit Committee before November 1, 1996. The Alaska Railroad Corporation shall pay for  
23 the evaluation from corporate receipts of the Alaska Railroad Corporation. The contract for  
24 the evaluation under this subsection is exempt from AS 36.30.

25 (e) On September 1, 1996, and November 1, 1996, the Alaska Railroad Commission  
26 shall submit a report to the Legislative Budget and Audit Committee detailing the progress  
27 of the commission in implementing this section and the problems encountered by the  
28 commission. The Legislative Budget and Audit Committee may request that the commission  
29 appear before the committee to brief the committee on the progress of the commission in  
30 performing the commission's functions under this section.

31 (f) By January 13, 1997, the Alaska Railroad Commission shall determine whether or

1 not it is in the best interest of the state to sell the Alaska Railroad and all other assets of the  
2 Alaska Railroad Corporation classified as necessary for the operation of the railroad. In  
3 reaching its determination under this subsection, the commission shall

4 (1) identify all assets, real and personal and tangible and intangible, of the  
5 Alaska Railroad Corporation and classify those assets as necessary for the operation of the  
6 railroad or as other assets of the corporation;

7 (2) consider the effect of a sale of the Alaska Railroad on the state, on  
8 customers, lessees, and employees of the railroad, and on municipalities served or affected by  
9 the railroad;

10 (3) consider the effect of privatization of the Alaska Railroad and the  
11 conditions of a sale upon the long-term profitability of the railroad;

12 (4) consider the ability of the state to obtain enforceable assurances of  
13 continued operation of the railroad at necessary levels of service;

14 (5) consider foreseeable economic effects of a sale of the railroad; and

15 (6) consider the value to the state of direct oversight of operations of the  
16 Alaska Railroad Corporation as currently provided under law.

17 (g) Notwithstanding the determination of the commission under (f) of this section,  
18 before January 13, 1997, the Alaska Railroad Commission shall also

19 (1) recommend specific conditions to be attached to a sale of the Alaska  
20 Railroad, including requirements that the purchaser of the railroad agree to

21 (A) continue operation of the railroad, as an active and functioning  
22 transportation system, for a minimum of 20 years following the date of sale of the  
23 railroad;

24 (B) accept assignment of all contracts, including agreements with  
25 connecting carriers, shippers, or other persons concerning services, operation, property,  
26 and facilities of the Alaska Railroad Corporation, entered into by the Alaska Railroad  
27 Corporation and in effect on the date of the sale of the Alaska Railroad, provided that  
28 the contracts are assignable under terms of the contract or that the other parties to the  
29 contract consent to the assignment; this subparagraph does not apply to executive  
30 employment contracts;

31 (C) accept assignment of collective bargaining agreements with labor

1 organizations that represent employees of the Alaska Railroad that are in effect on the  
2 date of transfer of ownership of the Alaska Railroad until expiration of the agreements;

3 (D) as a condition of the sale and before the transfer of ownership of  
4 the Alaska Railroad, negotiate collective bargaining agreements, including provisions  
5 for future retirement benefits if appropriate, to take effect upon the expiration of the  
6 collective bargaining agreements that are in effect on the date of transfer of ownership  
7 of the Alaska Railroad;

8 (E) accept assignment of the retirement obligations owed to employees  
9 of the Alaska Railroad at the time of transfer of ownership of the Alaska Railroad;

10 (F) purchase the Alaska Railroad for an amount that is equal to or  
11 exceeds the fair market value of the Alaska Railroad and the assets of the Alaska  
12 Railroad Corporation that are necessary for the operation of the railroad; and

13 (G) provide proof of financial ability to abide by the terms of sale and  
14 to operate the railroad as an active and functioning transportation system;

15 (2) recommend specific procedures and a schedule of events to be followed  
16 in selling the Alaska Railroad;

17 (3) evaluate the prospects for and effects of operation of the Alaska Railroad  
18 under private ownership;

19 (4) recommend procedures for the disposal of real property of the Alaska  
20 Railroad Corporation that is not necessary for operation of the Alaska Railroad to the state or  
21 to private persons;

22 (5) identify measures necessary to assure continued use of the railroad right-of-  
23 way corridor for transportation, communication, and transmission purposes and support  
24 functions associated with these purposes; and

25 (6) identify conditions or terms of a sale of the Alaska Railroad that may be  
26 necessary for consistency with the Alaska Railroad Transfer Act of 1982 (P.L. 97-468, Title  
27 IV) and AS 42.40 (Alaska Railroad Corporation Act).

28 (h) The Alaska Railroad Commission shall submit a comprehensive report of its  
29 determination, recommendations, identifications, and evaluations made under (f) and (g) of this  
30 section and of the evaluation of the Alaska Railroad under (d) of this section to the governor  
31 and the Legislative Budget and Audit Committee before January 13, 1997.

1 (i) Except as provided under this subsection, the meetings of the Alaska Railroad  
2 Commission shall be open to the public and shall provide an opportunity for public comment.  
3 A subject may not be considered at an executive session unless the subject is mentioned in  
4 the motion calling for the executive session or is auxiliary to a subject mentioned in the  
5 motion. An action may not be taken at an executive session. Only the following subjects  
6 may be discussed in an executive session:

7 (1) matters, the immediate knowledge of which would clearly have an adverse  
8 effect upon the finances of the Alaska Railroad Corporation;

9 (2) unless the person has requested to have the subjects discussed in public,  
10 subjects that tend to prejudice the reputation and character of a person;

11 (3) matters that, by law or municipal charter or ordinance, are permitted to be  
12 kept confidential from public disclosure;

13 (4) matters pertaining to personnel;

14 (5) matters pertaining to the legal position of the Alaska Railroad Corporation;

15 (6) land acquisition or disposal; and

16 (7) proprietary or other information of a type treated as confidential under the  
17 standards and practices of the United States Interstate Commerce Commission, including  
18 practices that protect information associated with specific shippers, divisions, and contract rate  
19 agreements.

20 (j) Notwithstanding AS 42.40.220 and other provisions of AS 42.40, the Alaska  
21 Railroad Commission shall have access to financial records, contracts, legal documents, and  
22 other records and documents of the Alaska Railroad Corporation that the commission  
23 determines are necessary to perform the commission's functions under this section. The  
24 members and staff of the commission shall maintain the confidentiality of confidential records  
25 and documents provided by the corporation to the commission.

26 (k) The Alaska Railroad Commission may not expend more than a total of \$250,000  
27 to perform the commission's functions under this section.

28 \* **Sec. 2.** This Act is repealed June 30, 1997.

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