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Introduced: 2/10/69
Referred: State Affairs
and Finance

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 134

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 Alaska Transportation Com-
7 mission, defining its powers and duties; and pro-
8 viding for an effective date."

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

10 * Section 1. AS 42.07 is repealed and re-enacted to read:

11 CHAPTER 7. ALASKA TRANSPORTATION COMMISSION ACT.

12 Sec. 42.07.011. CREATION AND COMPOSITION. (a) There is created
13 the Alaska Transportation Commission within the Department of Commerce.
14 The commission shall consist of three members who shall be appointed
15 by the governor and confirmed by the legislature in joint session.

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

19 Sec. 42.07.021. TERM OF OFFICE, VACANCY. (a) The commissioners
20 first appointed under this chapter, shall continue in office for
21 terms of two, four and six years respectively, but their successors
22 shall each be appointed for a term of six years unless appointed to
23 fill an unexpired term. A commissioner, upon the expiration of his
24 term, shall continue to hold office until his successor shall be duly
25 appointed and qualified. The term of a member shall begin on
26 February 1.

27 (b) A vacancy arising in the office of commissioner shall be
28 filled by appointment by the governor and confirmed by the legis-
29 lature in joint session and an appointee selected to fill such

1 vacancy shall hold office for the balance of the full term for which
2 his predecessor on the commission was appointed.

3 If the legislature is not in session when a vacancy is filled,
4 the appointment made by the governor shall be subject to the approval
5 of the legislature when next convened.

6 (c) A vacancy in the commission shall not impair the authority
7 of a quorum of commissioners to exercise all the powers and perform
8 all the duties of the commission.

9 Sec. 42.07.031. REMOVAL OF COMMISSIONERS. (a) The governor
10 may remove a commissioner from office by and with the consent of a
11 majority of the legislature.

12 (b) The governor may remove a commissioner from office for
13 cause including but not limited to incompetence, neglect of duty or
14 misconduct in office. A commissioner, to be removed for cause, shall
15 be given a copy of the charges against him and afforded an opportunity
16 to be publicly heard in person or by counsel in his own defense upon
17 not less than 10 days notice. If a commissioner is removed for
18 cause, the governor shall file with the secretary of state a complete
19 statement of all charges made against such commissioner and his
20 finding thereon, together with a complete record of the proceedings.

21 (c) Subsections (a) and (b) of this section provide two separate
22 and distinct methods for removal of a commissioner from office.

23 Sec. 42.07.041. QUORUM. Two members of the commission shall
24 constitute a quorum for the transaction of business, for the per-
25 formance of a duty, or for the exercise of a power of the commission.

26 Sec. 42.07.051. QUALIFICATIONS. (a) Each commissioner shall
27 be a citizen of the United States and a resident of the State of Alaska.

28 (b) Each commissioner shall be appointed with due regard to his
29 fitness and ability to exercise the powers and duties of the

1 commission, based upon his experience and familiarity with the
2 principles of public utility regulation or his educational and
3 experience background in the fields of engineering or transportation
4 or law or business administration, finance and accounting.

5 Sec. 42.07.061. OATH OF OFFICE. Each commissioner and each
6 person appointed to a civil executive office by the commission, before
7 entering upon the duties of his office shall take and subscribe to the
8 oath prescribed for principal officers of the state.

9 Sec. 42.07.071. RESTRICTIONS ON COMMISSIONERS AND EMPLOYEES.
10 No commissioner nor an employee or agent of the commission may have
11 any official or professional relation or connection with, or hold
12 stock or securities or have a pecuniary interest in any business or
13 agency subject to regulation under this chapter. Membership in a
14 cooperative association is not a "pecuniary interest" within the
15 meaning of this section. If a commissioner or employee becomes the
16 owner of such stocks or securities or becomes pecuniarily interested
17 in such business or agency otherwise than voluntarily, his office or
18 employment shall become vacant unless within a reasonable time he
19 divests himself of such ownership or interest.

20 Sec. 42.07.081. COMPENSATION OF MEMBERS OF COMMISSION. The
21 commissioners shall be employees of the state within the partially
22 exempt service under AS 39.25.

23 Sec. 42.07.091. PRINCIPAL OFFICE, SEAL. (a) The commission
24 shall establish a principal office. For the convenience of the
25 public or of parties to a proceeding the commission may hold hearings
26 or other proceedings at another location.

27 (b) The commission shall have an official seal.

28 Sec. 42.07.101. LEGAL COUNSEL. (a) The attorney general is
29 legal counsel for the commission. He shall advise the commission in

1 legal matters arising in the discharge of its duties and represent
2 the commission in suits to which it is a party. The attorney general
3 may represent the public interest in any proceeding before the com-
4 mission.

5 (b) The commission may employ temporary legal counsel from
6 time to time in proceedings before the commission in which the attorney
7 general is representing the public interest or a party before the
8 commission.

9 Sec. 42.07.111. EMPLOYMENT AND COMPENSATION OF COMMISSION
10 PERSONNEL. (a) The commission may employ an executive director who
11 shall be an experienced administrator. The commission may employ
12 engineers, hearing officers, experts, clerks, accountants, and other
13 agents and assistants as it considers necessary. The executive
14 director and all other employees and agents of the commission, other
15 than legal counsel, shall be appointed to their positions in accordance
16 with AS 39.25.020(2) and shall be in the classified service under
17 AS 39.25.

18 (b) In addition to its staff of regular employees the commission
19 may contract for and engage the services of such consultants, experts
20 and hearing officers as the commission considers necessary for the
21 purpose of developing information or conducting studies, investiga-
22 tions, hearings or other proceedings.

23 Sec. 42.07.121. ANNUAL REPORT. The commission shall publish
24 an annual report reviewing its work and submit it to the legislature
25 by February 15 of each year. In addition, the report shall contain
26 information and data which bears a significant relationship to the
27 development and regulation of transportation in the state.

28 **ARTICLE 2. POWERS AND DUTIES OF THE COMMISSION;**
29 **ACTS DEEMED THOSE OF THE COMMISSION.**

1 Sec. 42.07.131. GENERAL POWERS AND DUTIES OF THE COMMISSION.

2 The Alaska Transportation Commission shall supervise and regulate
3 transportation within the state as provided in this chapter and in
4 chapters 02.05, 42.10 and 42.15 and may do all things, whether
5 specifically designated in this chapter or in AS 02.05, 42.10 or
6 42.15, or in addition thereto, which are necessary or convenient in
7 the exercise of such power and jurisdiction.

8 Sec. 42.07.141. COMMISSION AUTHORITY LIMITED BY FEDERAL LAW.

9 The provisions of this chapter and AS 02.05, 42.10 and 42.15, apply
10 to transportation carriers engaged in foreign commerce and interstate
11 commerce to the extent permitted by the constitution and laws of the
12 United States.

13 Sec. 42.07.151. ADMINISTRATIVE AUTHORITY OF COMMISSION; RULES,
14 REGULATIONS AND HEARING PROCEDURES. (a) The commission may make
15 such regulations, not inconsistent with the law, as may be necessary
16 or proper in the exercise of its powers or for the performance of its
17 duties under this chapter.

18 (b) The commission shall by regulation establish rules of
19 practice and procedure, consistent with due process of law which
20 govern the conduct of all investigations, hearings and proceedings
21 which it holds. Technical rules of evidence need not apply to
22 investigations, hearings and proceedings before the commission.

23 (c) The commission, each commissioner or an employee authorized
24 by the commission may administer oaths, certify to all official acts,
25 and issue subpoenas, subpoenas duces tecum and other process to compel
26 the attendance of witnesses and the production of testimony, records,
27 papers, accounts and documents in an inquiry, investigation, hearing,
28 or proceeding before the commission in any part of the state. The
29 commission may petition a court of this state to enforce its subpoenas,

1 subpoena duces tecum or other process.

2 Sec. 42.07.161. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT.

3 (a) The administrative adjudication procedures of the Administrative
4 Procedure Act (AS 44.62) do not apply to adjudicatory proceedings of
5 the commission except that final administrative determinations by the
6 commission are subject to judicial review as provided in AS 44.62.560 -
7 44.62.570.

8 (b) The Administrative Procedure Act shall apply to regulations
9 adopted by the commission except interpretative rules, general state-
10 ments of policy, rules of agency organization, procedure, or practice
11 or in a situation in which the agency for good cause finds (and
12 incorporates the finding and a brief statement of the reasons therefor
13 in the rules issued) that notice and public procedure thereon are
14 impracticable, unnecessary, or contrary to the public interest.

15 Sec. 42.07.171. INVESTIGATIONS AND HEARINGS--ACTIONS DEEMED
16 THOSE OF THE COMMISSION. An investigation or hearing which the com-
17 mission has power to undertake or to hold may be undertaken or held
18 by or before any one or more commissioners designated for the purpose
19 by the commission. The testimony and evidence in an investigation or
20 hearing may be taken by the commissioner or commissioners to whom such
21 investigation or hearing has been assigned. All investigations or
22 hearings before or by a commissioner or commissioners shall be deemed
23 to be the investigations and hearings of the commission. A determina-
24 tion or order of a commissioner or commissioners upon such an investi-
25 gation or hearing, so undertaken shall not be effective until approved
26 and confirmed by at least a quorum of the commission. Upon confirma-
27 tion, such determination or order shall be the determination or order
28 of the commission.

29 Sec. 42.07.181. HEARING OFFICERS AND AGENTS. (a) In an

1 investigation or hearing, the commission may appoint a hearing
2 officer or special agent who shall have the power to administer oaths
3 and examine witnesses and receive evidence in any locality within the
4 state which the commission may designate. The testimony and evidence
5 so taken or received shall have the same force and effect as if taken
6 or received by the commission, or any one or more of the commissioners,
7 as provided in AS 42.07.171.

8 (b) The appointment of a hearing officer or special agent shall
9 be by written order of the commission. The order shall prescribe the
10 duties of the hearing officer or agent. The hearing officer or agent
11 has the investigative powers specifically delegated to him by the
12 commission. The commission may conduct any number of investigations
13 or hearings contemporaneously through different hearing officers or
14 agents, and may delegate to the hearing officer or agent the taking
15 of all testimony. The decision of the commission shall be based
16 upon all testimony and records. The recommendations made by a
17 hearing officer or agent are advisory and do not preclude further
18 investigation or the taking of further testimony if the commission
19 so orders.

20 (c) A commissioner may serve as a hearing officer.

21 * Sec. 2. AS 32.25.120 is amended by adding a new subsection to read:

22 (7) commissioners of the Alaska Transportation Commission.

23 * Sec. 3. All litigations, hearings, investigations and other pro-
24 ceedings whatsoever, pending under any law repealed by this Act, shall
25 continue and remain in full force and effect, and may be continued and
26 completed under the provisions of this Act. All certificates, orders,
27 rules, regulations, or tariffs made, issued, or filed under any law
28 repealed by this Act, and in full force and effect upon the effective date
29 date of this Act, shall remain in full force and effect for the term issued,

1 or until revoked, vacated, or modified under the provisions of this Act.
2 All existing contracts and obligations of the commission, entered into or
3 created under any law repealed by this Act, and in force and effect upon
4 the effective date of this Act, shall remain in full force and effect and
5 shall continue to be performed by the commission.

6 * Sec. 4. The following laws are repealed: AS 42.10.060, 42.10.370,
7 02.05.020, 02.05.200(a) and 02.05.220.

8 * Sec. 5. This Act takes effect on the day after its passage and
9 approval or on the day it becomes law without approval.
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