

Original sponsor: Rules Committee  
by request of the Governor

Offered: 3/11/69  
Referred: Finance

CS Finance

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE

2 CS FOR 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 providing  
8 for an effective date."

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

10 \* Section 1. AS 42.07.010 - 42.07.150 are repealed.

11 \* Sec. 2. AS 42.07 is amended by adding new sections to read:

12 CHAPTER 7. ALASKA TRANSPORTATION COMMISSION ACT.

13 ARTICLE 1. ESTABLISHMENT OF TRANSPORTATION COMMISSION.

14 Sec. 42.07.011. CREATION AND COMPOSITION. (a) There is created  
15 the Alaska Transportation Commission within the Department of Commerce.  
16 The commission consists of three members appointed by the governor and  
17 confirmed by the legislature in joint session.

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

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

28 (b) A vacancy arising in the office of commissioner shall be  
29 filled by appointment by the governor and confirmed by the legislature

1 in joint session and an appointee selected to fill a vacancy shall hold  
2 office for the balance of the full term for which his predecessor on  
3 the commission was appointed.

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

7 Sec. 42.07.031. REMOVAL OF COMMISSIONERS. The governor may remove  
8 a commissioner from office for cause including but not limited to in-  
9 competence, neglect of duty or misconduct in office. A commissioner,  
10 to be removed for cause, shall be given a copy of the charges against  
11 him and afforded an opportunity to be publicly, or privately if he  
12 requests it, heard in person or by counsel in his own defense upon not  
13 less than 10 days notice. If a commissioner is removed for cause, the  
14 governor shall file with the secretary of state a complete statement  
15 of all charges made against the commissioner and his finding, on the  
16 charges, together with a complete record of the proceedings.

17 Sec. 42.07.041. QUORUM. Two members of the commission constitute  
18 a quorum for the transaction of business, for the performance of a duty,  
19 or for the exercise of a power of the commission.

20 Sec. 42.07.051. QUALIFICATIONS. (a) Each commissioner shall be  
21 a citizen of the United States and a resident of the state.

22 (b) Each commissioner shall be appointed with regard to his  
23 fitness and ability to exercise the powers and duties of the commission,  
24 based upon his experience and familiarity with the principles of public  
25 utility regulation or his educational and experience background in the  
26 fields of engineering or transportation or law or business administra-  
27 tion, finance and accounting.

28 Sec. 42.07.061. OATH OF OFFICE. Each commissioner and the  
29 executive director of the commission, before entering upon the duties

1 of his office, shall take the oath prescribed for principal officers  
2 of the state.

3 Sec. 42.07.071. RESTRICTIONS ON COMMISSIONERS AND EMPLOYEES. No  
4 commissioner, employee or agent of the commission may have an official  
5 or professional relation or connection with, or hold stock or securities  
6 or have a pecuniary interest in, any business or agency subject to  
7 regulation under this chapter. Membership in a cooperative association  
8 is not a "pecuniary interest" within the meaning of this section. If a  
9 commissioner or employee becomes the owner of such stocks or securities  
10 or becomes pecuniarily interested in such a business or agency otherwise  
11 than voluntarily, his office or employment shall become vacant unless  
12 within a reasonable time he divests himself of the ownership or interest.

13 Sec. 42.07.081. MEMBERS IN PARTIALLY EXEMPT SERVICE. The com-  
14 missioners are employees of the state in the partially exempt service  
15 under AS 39.25.

16 Sec. 42.07.091. PRINCIPAL OFFICE; SEAL. (a) The commission  
17 shall establish a principal office. For the convenience of the  
18 public or of parties to a proceeding the commission may hold hearings  
19 or other proceedings at another location.

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

21 Sec. 42.07.101. LEGAL COUNSEL. (a) The attorney general, or  
22 another attorney selected by the commission, is legal counsel for the  
23 commission. He shall advise the commission in legal matters arising  
24 in the discharge of its duties and represent the commission in suits  
25 to which it is a party. The attorney general may represent the public  
26 interest in any proceeding before the commission.

27 (b) The commission may employ temporary legal counsel in pro-  
28 ceedings before the commission in which the attorney general is  
29 representing the public interest or a party before the commission.

1           Sec. 42.07.111. EMPLOYMENT AND COMPENSATION OF COMMISSION PERSON-  
2 NEL. (a) The commission may employ an executive director who shall be  
3 an experienced administrator. The commission may employ engineers,  
4 hearing officers, experts, clerks, accountants, and other agents and  
5 assistants it considers necessary. The executive director and all  
6 other employees and agents of the commission, other than legal counsel,  
7 are in the classified service under AS 39.25.

8           (b) In addition to its staff of regular employees the commission  
9 may contract for and engage the services of the consultants, experts  
10 and hearing officers the commission considers necessary for the purpose  
11 of developing information or conducting studies, investigations,  
12 hearings or other proceedings.

13           Sec. 42.07.121. ANNUAL REPORT. The commission shall publish an  
14 annual report reviewing its work and submit it to the legislature by  
15 February 15 of each year. In addition, the report shall contain infor-  
16 mation and data which bear a significant relationship to the developmen  
17 and regulation of transportation in the state.

18           ARTICLE 2. POWERS AND DUTIES OF THE COMMISSION

19           Sec. 42.07.131. GENERAL POWERS AND DUTIES OF THE COMMISSION.  
20 The Alaska Transportation Commission shall supervise and regulate  
21 transportation within the state as provided in this chapter and in  
22 AS 02.05, 42.10 and 42.15, and may do all things, whether specifically  
23 designated in this chapter or in AS 02.05, 42.10 or 42.15, or in  
24 addition thereto, which are necessary or convenient in the exercise of  
25 this power and jurisdiction.

26           Sec. 42.07.141. COMMISSION AUTHORITY LIMITED BY FEDERAL LAW. The  
27 provisions of this chapter and AS 02.05, 42.10 and 42.15, apply to  
28 transportation carriers engaged in foreign commerce and interstate  
29 commerce to the extent permitted by the constitution and laws of the

1 United States.

2 Sec. 42.07.151. ADMINISTRATIVE AUTHORITY OF COMMISSION: REGULA-  
3 TIONS AND HEARING PROCEDURES. (a) The commission may adopt regula-  
4 tions, not inconsistent with the law, necessary or proper in the exer-  
5 cise of its powers or for the performance of its duties under this  
6 chapter.

7 (b) The commission shall adopt regulations, consistent with due  
8 process of law, which govern practice and procedure and the conduct of  
9 all investigations, hearings and proceedings which it holds.

10 (c) Common law on statutory rules of evidence apply to investiga-  
11 tions, hearings and proceedings before the commission, except when the  
12 commission determines that their application is not required in order  
13 to assure fair treatment of all parties and that the evidence is  
14 relevant and of the sort on which responsible persons are accustomed to  
15 rely in the conduct of serious matters.

16 (d) The commission, each commissioner or an employee authorized  
17 by the commission may administer oaths, certify to all official acts,  
18 and issue subpoenas and other process to compel the attendance of  
19 witnesses and the production of testimony, records, papers, accounts  
20 and documents in an inquiry, investigation, hearing, or proceeding  
21 before the commission in any part of the state. The commission may  
22 petition a court of this state to enforce its subpoenas or other pro-  
23 cess.

24 Sec. 42.07.161. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT. (a)  
25 The administrative adjudication procedures of the Administrative Pro-  
26 cedure Act (AS 44.62) do not apply to adjudicatory proceedings of the  
27 commission except that final administrative determinations by the  
28 commission are subject to judicial review as provided in AS 44.62.560 -  
29 44.62.570.

1 (b) Sections 10 - 320, 640 and 650 of the Administrative Procedure  
2 Act apply to regulations adopted by the commission.

3 Sec. 42.07.171. INVESTIGATIONS AND HEARING: ACTIONS OF THE  
4 COMMISSION. An investigation or hearing which the commission has  
5 power to undertake or to hold may be undertaken or held by or before  
6 any one or more commissioners designated for the purpose by the com-  
7 mission. The testimony and evidence in an investigation or hearing  
8 may be taken by the commissioner or commissioners to whom the investi-  
9 gation or hearing has been assigned. All investigations or hearings  
10 before or by a commissioner or commissioners are considered to be the  
11 investigations and hearings of the commission. A determination or  
12 order of a commissioner or commissioners upon such an investigation or  
13 hearing, so undertaken is not effective until approved and confirmed  
14 by at least a quorum of the commission. Upon confirmation, the  
15 determination or order is the determination or order of the commission.

16 Sec. 42.07.181. HEARING OFFICERS AND AGENTS. (a) In an investi-  
17 gation or hearing, the commission may appoint a hearing officer or  
18 special agent to administer oaths, examine witnesses and receive evi-  
19 dence in any locality within the state which the commission may  
20 designate. The testimony and evidence so received has the same effect  
21 as if received by the commission, or any one or more of the commission-  
22 ers, as provided in sec. 171 of this chapter.

23 (b) The appointment of a hearing officer or special agent shall  
24 be by written order of the commission. The order shall prescribe the  
25 duties of the hearing officer or agent. The hearing officer or agent  
26 has the investigative powers specifically delegated to him by the  
27 commission. The commission may conduct any number of investigations  
28 or hearings contemporaneously through different hearing officers or  
29 agents, and may delegate to the hearing officer or agent the taking

1 of all testimony. The decision of the commission shall be based upon  
2 all testimony and records. The recommendations made by a hearing  
3 officer or agent are advisory and do not preclude further investigation  
4 or the taking of further testimony if the commission so orders.

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

6 \* Sec. 3. AS 32.25.120 is amended by adding a new subsection to read:

7 (7) commissioners of the Alaska Transportation Commission.

8 \* Sec. 4. All litigations, hearings, investigations and other pro-  
9 ceedings whatsoever, pending under any law repealed by this Act, shall con-  
10 tinue in full effect, and may be continued and completed under the provisions  
11 of this Act. All certificates, orders, rules, regulations, or tariffs made,  
12 issued, or filed under any law repealed by this Act, and in full effect  
13 upon the effective date of this Act, shall remain in full effect for the  
14 term issued, or until revoked, vacated, or modified under the provisions of  
15 this Act. All existing contracts and obligations of the commission, entered  
16 into or created under any law repealed by this Act, and in effect upon the  
17 effective date of this Act, shall remain in full effect and shall continue  
18 to be performed by the commission.

19 \* Sec. 5. The following laws are repealed: AS 42.10.060, 42.10.370,  
20 02.05.020, 02.05.200(a) and 02.05.220.

21 \* Sec. 6. This Act takes effect on the day after its passage and approval  
22 or on the day it becomes law without approval.  
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