

Original sponsor: Rules Committee
by request of the Governor

Offered: 4/15/69
Referred: Rules

1 IN THE SENATE

BY THE FINANCE 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 AS 42.07.010 - 42.07.150 are repealed.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, shall
26 continue to hold office until his successor is appointed and qualified.
27 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. TERM OF OFFICE. The commission shall serve at
8 the pleasure of the governor.

9 Sec. 42.07.041. QUORUM. Two members of the commission constitute
10 a quorum for the transaction of business, for the performance of a duty,
11 or for the exercise of a power of the commission.

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

14 (b) Each commissioner shall be appointed with regard to his
15 fitness and ability to exercise the powers and duties of the commission,
16 based upon his experience and familiarity with the principles of public
17 utility regulation or his educational and experience background in the
18 fields of engineering or transportation or law or business administra-
19 tion, finance and accounting.

20 Sec. 42.07.061. OATH OF OFFICE. Each commissioner, before
21 entering upon the duties of his office, shall take the oath prescribed
22 for principal officers of the state.

23 Sec. 42.07.071. RESTRICTIONS ON COMMISSIONERS AND EMPLOYEES. No
24 commissioner, employee or agent of the commission may have an official
25 or professional relation or connection with, or hold stock or securities
26 or have a pecuniary interest in, any business or agency subject to
27 regulation under this chapter. Membership in a cooperative association
28 is not a "pecuniary interest" within the meaning of this section. If a
29 commissioner or employee becomes the owner of such stocks or securities

1 or becomes pecuniarily interested in such a business or agency otherwise
2 than voluntarily, his office or employment shall become vacant unless
3 within a reasonable time he divests himself of the ownership or interest.

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

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

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

12 Sec. 42.07.101. LEGAL COUNSEL. (a) The attorney general is the
13 legal counsel for the commission. He shall advise the commission in
14 legal matters arising in the discharge of its duties and represent the
15 commission in suits to which it is a party. The attorney general may
16 represent the public interest in any proceeding before the commission.

17 (b) The commission may employ temporary legal counsel in pro-
18 ceedings before the commission in which the attorney general is repre-
19 senting the public interest or a party before the commission.

20 Sec. 42.07.111. EMPLOYMENT AND COMPENSATION OF COMMISSION PERSON-
21 NEL. (a) The commission may employ engineers, hearing officers, ex-
22 perts, clerks, accountants, and other agents and assistants it considers
23 necessary. Employees and agents of the commission, other than legal
24 counsel, are in the classified service under AS 39.25.

25 (b) In addition to its staff of regular employees the commission
26 may contract for and engage the services of the consultants, experts
27 and hearing officers the commission considers necessary for the purpose
28 of developing information or conducting studies, investigations, hearings
29 or other proceedings.

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

6 ARTICLE 2. POWERS AND DUTIES OF THE COMMISSION

7 Sec. 42.07.131. GENERAL POWERS AND DUTIES OF THE COMMISSION.
8 The Alaska Transportation Commission shall supervise and regulate
9 transportation within the state as provided in this chapter and in
10 AS 02.05, 42.10 and 42.15, and may do all things, whether specifically
11 designated in this chapter or in AS 02.05, 42.10 or 42.15, or in
12 addition thereto, which are necessary or convenient in the exercise of
13 this power and jurisdiction.

14 Sec. 42.07.141. COMMISSION AUTHORITY LIMITED BY FEDERAL LAW. The
15 provisions of this chapter and AS 02.05, 42.10 and 42.15, apply to
16 transportation carriers engaged in foreign commerce and interstate
17 commerce to the extent permitted by the constitution and laws of the
18 United States.

19 Sec. 42.07.151. ADMINISTRATIVE AUTHORITY OF COMMISSION: REGULA-
20 TIONS AND HEARING PROCEDURES. (a) The commission may adopt regulations,
21 not inconsistent with the law, necessary or proper in the exercise of
22 its powers or for the performance of its duties under this chapter.

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

26 (c) Common law on statutory rules of evidence apply to investiga-
27 tions, hearings and proceedings before the commission, except when the
28 commission determines that their application is not required in order
29 to assure fair treatment of all parties and that the evidence is

1 relevant and of the sort on which responsible persons are accustomed to
2 rely in the conduct of serious matters.

3 (d) The commission, each commissioner or an employee authorized
4 by the commission may administer oaths, certify to all official acts,
5 and issue subpoenas and other process to compel the attendance of
6 witnesses and the production of testimony, records, papers, accounts
7 and documents in an inquiry, investigation, hearing, or proceeding
8 before the commission in any part of the state. The commission may
9 petition a court of this state to enforce its subpoenas or other pro-
10 cess.

11 Sec. 42.07.161. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT. (a)
12 The Administrative adjudication procedures of the Administrative Pro-
13 cedure Act (AS 44.62) do not apply to adjudicatory proceedings of the
14 commission except that final administrative determinations by the
15 commission are subject to judicial review as provided in AS 44.62.560 -
16 44.62.570.

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

19 Sec. 42.07.171. INVESTIGATIONS AND HEARING: ACTIONS OF THE
20 COMMISSION. An investigation or hearing which the commission has power
21 to undertake or to hold may be undertaken or held by or before any one
22 or more commissioners designated for the purpose by the commission. The
23 testimony and evidence in an investigation or hearing may be taken by
24 the commissioner or commissioners to whom the investigation or hearing
25 has been assigned. All investigations or hearings before or by a com-
26 missioner or commissioners are considered to be the investigations and
27 hearings of the commission. A determination or order of a commissioner
28 or commissioners upon such an investigation or hearing, so undertaken
29 is not effective until approved and confirmed by at least a quorum of

1 the commission. Upon confirmation, the determination or order is the
2 determination or order of the commission.

3 Sec. 42.07.181. HEARING OFFICERS AND AGENTS. (a) In an investi-
4 gation or hearing, the commission may appoint a hearing officer or
5 special agent to administer oaths, examine witnesses and receive evi-
6 dence in any locality within the state which the commission may desig-
7 nate. The testimony and evidence so received has the same effect as if
8 received by the commission, or any one or more of the commissioners, as
9 provided in sec. 171 of this chapter.

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

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

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

23 (7) commissioners of the Alaska Transportation Commission.

24 * Sec. 4. All litigations, hearings, investigations and other proceed-
25 ings whatsoever, pending under any law repealed by this Act, shall continue
26 in full effect, and may be continued and completed under the provisions of
27 this Act. All certificates, orders, rules, regulations, or tariffs made,
28 issued, or filed under any law repealed by this Act, and in full effect
29 upon the effective date of this Act, shall remain in full effect for the

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

6 * Sec. 5. 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. 6. This Act takes effect on the day after its passage and approval
9 or on the day it becomes law without approval.

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