

Original sponsors: Haugen, Eliason
and Freeman

Offered: 3/16/76
Referred: Finance

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2

CS FOR HOUSE BILL NO. 741

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

NINTH LEGISLATURE - SECOND SESSION

5

A BILL

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For an Act entitled: "An Act establishing the Alaska Highway Board; prescribing its organization, powers and duties; and providing for an effective date."

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

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* Section 1. AS 44.44.010 is amended to read:

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Sec. 44.44.010. ORGANIZATION; ADMINISTRATION [COMMISSIONER OF HIGHWAYS]. (a) There is created the Alaska Highway Board in the Department of Highways. The department is under the control and supervision of the board. Administrative authority and those duties that may be prescribed by law, or delegated to him by the board, are vested in the commissioner.

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(b) The principal executive officer of the Department of Highways is the commissioner of highways.

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* Sec. 2. AS 44.44 is amended by adding a new section to read:

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Sec. 44.44.015. APPOINTMENT AND TERM OF OFFICE OF COMMISSIONER; VACANCY. (a) The governor shall appoint the commissioner of highways from a list of qualified persons nominated by the Alaska Highway Board subject to the right of the governor to request additional nominations. The appointment shall be confirmed by a majority of the members of the legislature in joint session. The commissioner of highways serves for a term of five years. He may be removed during his term of office by four members of the board for cause. In this subsection, "cause" means

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(1) incompetency which is the inability or the unintentional or intentional failure to perform the duties of the commissioner;

1 (2) immorality which is the commission of an act which,
2 under the laws of the state, constitutes a crime involving moral turpi-
3 tude; or

4 (3) malfeasance or misfeasance in office which includes, but
5 is not limited to, the failure of the commissioner to comply with the
6 regulations adopted by the board.

7 (b) If a vacancy occurs in the office of the commissioner of high-
8 ways, the governor shall appoint a successor for the unexpired term in
9 the same manner as provided for original appointment.

10 * Sec. 3. AS 19.05.010 is amended to read:

11 Sec. 19.05.010. BOARD [DEPARTMENT] TO SUPERVISE HIGHWAY SYSTEM.
12 The department is responsible for the planning, construction, mainte-
13 nance and [,] protection [AND CONTROL] of the state highway system
14 under the supervision and control of the Alaska Highway Board.

15 * Sec. 4. AS 19.05.020 is amended to read:

16 Sec. 19.05.020. REGULATIONS. Subject to the Administrative Proce-
17 cedure Act (AS 44.62), the board [THE DEPARTMENT] shall promulgate [ADOPT
18 RULES AND] regulations necessary to carry out the purpose of chs. 5 -
19 25 of this title.

20 * Sec. 5. AS 19.05.130 is amended by adding a new paragraph to read:

21 (14) "board" means the Alaska Highway Board.

22 * Sec. 6. AS 19 is amended by adding new chapters to read:

23 CHAPTER 7. ALASKA HIGHWAY BOARD.

24 Sec. 19.07.010. BOARD CREATED. There is created the Alaska
25 Highway Board in the Department of Highways. The board consists of
26 five members appointed by the governor, subject to confirmation by a
27 majority of the members of the legislature in joint session.

28 Sec. 19.07.020. QUALIFICATIONS. Each board member shall be a
29 resident of the state for one year before appointment and while serving

1 on the board. One member shall be appointed from each judicial district
2 and one shall be appointed at large.

3 Sec. 19.07.030. TERM OF OFFICE; VACANCIES. The members of the
4 board shall be appointed for staggered five-year terms, with the term
5 of office of one member expiring each year. The first members appointed
6 serve for terms of one, two, three, four, and five years. Initial
7 terms date from February 1 immediately preceding appointment. If a
8 vacancy occurs, the governor shall fill it by appointment for the
9 unexpired term, and the appointment shall be submitted to the legisla-
10 ture for confirmation at the next regular or special session.

11 Sec. 19.07.040. REMOVAL OF BOARD MEMBERS. The governor may
12 remove a board member for inefficiency, neglect of duty, or misconduct
13 in office by delivering to him a written copy of the charges and giving
14 him an opportunity to be heard in person or through counsel at a public
15 hearing before the governor or his designee upon at least 10 days
16 notice by certified or registered mail. The member has the right to
17 confrontation by and cross-examination of all witnesses against him.
18 Upon removal the governor or his designee shall file a complete state-
19 ment of all charges made against the member and the findings in the
20 office of the lieutenant governor.

21 Sec. 19.07.050. OFFICERS. The chairman and vice-chairman shall
22 be elected from among the board members for a one-year term, and no
23 member of the board may serve as chairman for more than two consecutive
24 one-year terms.

25 Sec. 19.07.060. MEETINGS, RULES, VOTES REQUIRED. (a) The board
26 shall prescribe its own rules of procedure. A quorum is a majority of
27 the members of the board.

28 (b) The votes of the board members shall be recorded, and effec-
29 tive action requires the affirmative vote of a majority of the board

1 members present. No board member may, with respect to a matter before
2 the board, vote for or on behalf of, or in any way exercise the vote
3 of, another member of the board.

4 (c) The board shall meet at least once quarterly at a time and
5 place determined by the chairman, and at other times and places as the
6 chairman, a majority of the members of the board, or the commissioner
7 of highways consider necessary.

8 Sec. 19.07.070. OFFICE. The board shall maintain its office at
9 the principal office of the department.

10 Sec. 19.07.080. COMPENSATION AND PER DIEM. Members of the board
11 serve without compensation but are entitled to per diem and travel
12 expenses as may be authorized by law for boards and commissions.

13 Sec. 19.07.090. DEFINITIONS. In this chapter "board" means the
14 Alaska Highway Board.

15 CHAPTER 8. DEPARTMENTAL ORGANIZATION: DECENTRALIZATION:

16 REGIONAL AND STATE ADVISORY BOARDS.

17 Sec. 19.08.010. ORGANIZATION: DECENTRALIZATION. The commissioner
18 is responsible for the supervision and control of the organization,
19 management and operation of the department. However, the commissioner
20 shall, by regulation, decentralize the administration and operation of
21 the department consistent with the provisions of this chapter. He shall
22 appoint, with the approval of the governor, a regional highways director
23 in each of the state's six major physiographic regions and shall pre-
24 scribe the organization, powers and duties of that office consistent
25 with the provisions of this chapter and this title.

26 Sec. 19.08.020. REGIONAL HIGHWAY ADVISORY BOARDS. (a) The com-
27 missioner shall establish a regional highway advisory board in each of
28 the state's six major physiographic regions comprised of residents of
29 the respective regions. The boards shall advise the commissioner and

1 shall, with the assistance of the regional highway director, prepare
2 recommendations on highway-related public policy, departmental operations
3 and capital improvements programming within their respective regions.

4 (b) To avoid duplication of governmental agencies or disruption of
5 on-going regional transportation efforts, the commissioner may designate
6 an existing nonprofit, public interest regional organization as a
7 regional highway advisory board if the composition of the governing body
8 of that regional organization as prescribed in its charter, articles of
9 incorporation or bylaws meets the requirements for representation pre-
10 scribed for a regional highway advisory board under sec. 30(a) of this
11 chapter.

12 Sec. 19.08.030. MEMBERSHIP. (a) The membership of each regional
13 highway advisory board shall provide for the balanced representation of
14 both public and private interests within the region and for the effec-
15 tive representation of the interests of highway users, motor vehicle
16 operators, and regulated carriers. The membership of each regional
17 advisory board may not exceed 20 and in any event shall comprise an un-
18 even number of members. A majority of the total membership of a board
19 shall be elected public officials of municipalities organized under
20 AS 29 and located in the region.

21 (b) Each mayor of a unified municipality, borough, home rule or
22 first class city exercising planning and zoning powers shall appoint one
23 member to the regional highway advisory board in which the municipality
24 is located. The commissioner shall appoint individuals to the remaining
25 seats on each board, subject to the membership limitations of (a) of
26 this section. His appointments shall be made from lists of nominees
27 submitted by the governing bodies of municipalities located within each
28 region and by organizations headquartered within each region.

29 Sec. 19.08.040. ADVISORY BOARD ORGANIZATION. Each board shall

1 prescribe its own rules of procedure which shall include, but are not
2 limited to, provisions for the election of a presiding officer annually,
3 for regular and special meetings of the board, a quorum at these meet-
4 ings and for the number of votes required to take effective action.

5 Sec. 19.08.050. STATE HIGHWAY ADVISORY BOARD. There is created
6 the state Highway Advisory Board consisting of the presiding officers
7 of the six regional transportation advisory boards. This board shall
8 meet at least annually in the fall quarter of each calendar year to

9 (1) review the work of the regional highway advisory boards
10 during the previous year;

11 (2) review the department's proposed capital improvements
12 program;

13 (3) prepare recommendations on statewide highway policy,
14 departmental operations and capital improvements programming for pre-
15 sentation toward consideration by the governor in accordance with the
16 provisions of this title.

17 CHAPTER 9. STATE TRANSPORTATION PLAN.

18 Sec. 19.09.010. STATE TRANSPORTATION PLAN. The commissioner shall
19 develop and keep current by periodic revision, at intervals not less
20 frequent than five years, a comprehensive intermodal long-range trans-
21 portation plan for the state. The state plan shall consider means and
22 costs of improving existing modes and facilities, state subsidies, and
23 the costs and benefits of new transportation modes and facilities.

24 Sec. 19.09.020. PUBLIC PARTICIPATION. In developing and revising
25 the plan prescribed in sec. 10 of this chapter, the commissioner shall
26 seek public review and evaluation by any reasonable means and shall

27 (1) consult and cooperate with officials and representatives
28 of the federal government, other governments, interstate commissions
29 and authorities, local agencies and authorities, interested corporations

1 and other organizations concerning problems affecting transportation in
2 the state; and

3 (2) request and receive from an agency or other unit of state
4 government or of a political subdivision of it, or from a public author-
5 ity, the assistance and data that may be necessary to enable the commis-
6 sioner to carry out his responsibilities under this section.

7 Sec. 19.09.030. LEGISLATIVE REVIEW. The commissioner shall submit
8 copies of proposed policies and plans annually to the legislature within
9 10 days after the legislature convenes. The legislature may approve,
10 reject or modify the policies and plans by concurrent resolution. If
11 the legislature fails to act during the legislative session the policies
12 and plans are approved.

13 Sec. 19.09.040. PUBLIC DOCUMENT. Copies of the plan, as revised,
14 shall be kept on file as a public document in the office of the commis-
15 sioner and at each regional or district office of the department.

16 Sec. 19.09.050. PUBLIC HEARINGS AND SURVEYS. (a) When a major
17 new state transportation facility or a significant extension or altera-
18 tion of an existing system or facility is proposed, the department shall
19 give notice of the proposal and of the opportunity to request a public
20 hearing to the governing body of an affected municipality and residents
21 of each affected community. The purpose of this notice is to provide
22 information to the governing body and those residents and provide an
23 opportunity for informed public review of a proposal from the earliest
24 time practicable.

25 (b) In giving notice under this section, the notice shall describe
26 the project, invite written comments regarding the proposal, inform that
27 all current and relevant information regarding the proposal will be made
28 available in at least one designated location within the affected com-
29 munity, and inform that basic information regarding the proposal will be

1 provided upon the request of any person. The notice shall also inform
2 that a public hearing will be held upon the written request of the
3 governing body of an affected municipality or of at least 20 interested
4 residents of the affected community.

5 (c) If the governing body of an affected municipality requests a
6 hearing, the hearing shall be sponsored by or take place before that
7 governing body. Otherwise the public hearing may be held by the Alaska
8 Highway Board at any convenient location. If a public hearing is held,
9 the deadline for written comment may be not earlier than 30 days follow-
10 ing the hearing.

11 (d) At a public hearing the department shall describe the pro-
12 posal, identify the essential considerations in favor of and in opposi-
13 tion to it, and receive comments and answer questions from any interested
14 person. In addition, at a hearing, to the extent they have been devel-
15 oped, the department shall present its recommendations regarding the
16 proposal, its costs and benefits, its environmental and social effects,
17 and the alternatives which have been considered including the alterna-
18 tive of not constructing a facility.

19 (e) The department shall conduct surveys of the residents of each
20 affected community to enable the residents to express opinions regarding
21 the proposal.

22 (f) Within 90 days following a hearing the department shall pre-
23 pare and mail to the governing body of an affected municipality and to
24 each known interested person a report which summarizes the oral testi-
25 mony and written comments received and the results of surveys and other
26 relevant data and which informs whether and to what extent the proposal
27 has been modified as a result of public comments, surveys and other
28 relevant data.

29 (g) This section does not apply to improvements or modifications

1 to existing facilities which do not significantly affect the environment
2 nor to actions and repairs which may be necessary to meet a disaster or
3 emergency which threatens human lives.

4 (h) For purposes of this section,

5 (1) "affected community" means a municipality or an unincor-
6 porated village of 25 or more persons which is directly served by an
7 existing facility, or where an existing facility is actually located or
8 in which a proposed facility would actually be located, or which would
9 be directly served by a proposed facility;

10 (2) "municipality" means a home rule or general law borough
11 or city including but not limited to a unified municipality organized
12 under AS 29.68.

13 Sec. 19.09.060. REGULATIONS. The commissioner shall adopt regu-
14 lations under the Administrative Procedure Act (AS 44.62) to implement
15 this chapter.

16 * Sec. 7. If at any time legislation is enacted creating a Department of
17 Transportation, including but not limited to the consolidation within that
18 department of the functions, powers and duties of the existing Department of
19 Highways and the divisions of marine transportation, waters and harbors,
20 aviation and communications of the Department of Public Works, the Alaska
21 Highway Board, its members, officers and employees, functions, duties, and
22 responsibilities shall be transferred from the Department of Highways to the
23 Department of Transportation, and the board's name shall be changed from the
24 Alaska Highway Board to the Alaska Transportation Board. The board shall
25 have the same authority with respect to the Department of Transportation, and
26 the commissioner of transportation, as the board had with respect to the
27 Department of Highways, and the commissioner of highways.

28 * Sec. 8. This Act takes effect July 1, 1976.
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