

Introduced: 3/4/76
Referred: Commerce and
Judiciary

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

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2 HOUSE BILL NO. 851

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the quasi-judicial regulatory
7 agencies in state government; and providing for an
8 effective date."

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

10 * Section 1. AS 42.05.010 is amended to read:

11 Sec. 42.05.010. ALASKA PUBLIC UTILITIES COMMISSION CREATED. There
12 is created [WITHIN THE DEPARTMENT OF COMMERCE] the Alaska Public Utili-
13 ties Commission. The commission is a quasi-judicial regulatory agency
14 within the meaning of art. III, secs. 22 and 26, of the Constitution of
15 the State of Alaska. The commission may request, and the Departments of
16 Administration and Commerce and Economic Development shall provide,
17 administrative support services. However, the commission is not a divi-
18 sion in either department, and its members, executive director and
19 employees are not subject to the direction of the commissioner of either
20 department.

21 * Sec. 2. AS 42.05.035 is amended to read:

22 Sec. 42.05.035. REMOVAL OF COMMISSIONERS. The governor may remove
23 a commissioner from office for cause, including but not limited to
24 incompetence, neglect of duty or misconduct in office, by and with the
25 consent of a majority of the members of the legislature in joint session.

26 * Sec. 3. AS 42.05.111 is amended to read:

27 Sec. 42.05.111. LEGAL COUNSEL. (a) The attorney general is legal
28 counsel for the commission. He shall assign an assistant attorney
29 general to the commission on a full-time basis. He shall advise and

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1 assist the commission in legal matters arising in the discharge of its
2 duties and represent the commission in actions to which it is a party
3 whether in state or federal courts. He shall also represent the commis-
4 sion in proceedings before federal regulatory agencies if so requested
5 by the commission. If, in the opinion of the commission, the public
6 interest is not adequately represented by counsel in a proceeding, the
7 attorney general or his designated assistant attorney general, upon
8 request of the commission, shall represent the public interest.

9 (b) If the attorney general is unable to assign an assistant
10 attorney general to the commission on a full-time basis, the [THE] com-
11 mission may employ [TEMPORARY] legal counsel to advise and assist the
12 commission in legal matters arising in the discharge of its duties and
13 to represent the commission in actions or proceedings to which it is a
14 party, in which the state has an interest, or in which there is a public
15 interest [FROM TIME TO TIME IN PROCEEDINGS BEFORE THE COMMISSION IN
16 WHICH THE ATTORNEY GENERAL IS REPRESENTING THE PUBLIC INTEREST OR A
17 PARTY BEFORE THE COMMISSION].

18 * Sec. 4. AS 42.05.111 is amended by adding new subsections to read:

19 (c) Legal counsel employed by the commission under (b) of this
20 section shall be selected by the commission from a list of at least
21 three but not more than five candidates submitted by the attorney
22 general. The commission may request additional candidates for considera-
23 tion. After appointment, legal counsel is subject to removal by the
24 commission only for cause.

25 (d) With the approval of the commission, the legal counsel may
26 employ additional attorneys or other persons needed to carry out his
27 duties.

28 * Sec. 5. AS 42.05.121(a) is amended to read:

29 (a) The commission may employ an executive director who shall have

1 had at least five years of experience in an administrative capacity and
2 who is experienced in public utility management or regulation. The
3 executive director may be one of the commission members. The commission
4 may employ engineers, hearing officers, experts, clerks, accountants,
5 and other agents and assistants it considers necessary. The executive
6 director, if not a member of the commission, and all other employees
7 and agents of the commission, other than legal counsel, are in the
8 classified service under AS 39.25. Legal counsel employed by the com-
9 mission under sec. 111(b) - (d) of this chapter are in the partially
10 exempt service under AS 39.25. The combined salary of an executive
11 director who is a member of the commission may not exceed that of a
12 superior court judge.

13 * Sec. 6. AS 42.05 is amended by adding a new section to read:

14 Sec. 42.05.133. BUDGETS. The commission shall submit a budget of
15 its anticipated needs for each fiscal year to the governor and to the
16 legislature under the Executive Budget Act (AS 37.07).

17 * Sec. 7. AS 42.06.020 is amended to read:

18 Sec. 42.06.020. ALASKA PIPELINE COMMISSION CREATED. There is
19 created [WITHIN THE DEPARTMENT OF COMMERCE] the Alaska Pipeline Commis-
20 sion, to regulate pipeline facilities and pipeline carriers, to regulate
21 the access of information concerning pipeline facilities and carriers
22 to this state, and to represent the interests of the state in any pro-
23 ceedings relating to them as provided for in this chapter. The commis-
24 sion is a quasi-judicial regulatory agency within the meaning of art.
25 III, secs. 22 and 26, of the Constitution of the State of Alaska. The
26 commission may request, and the Departments of Administration and Com-
27 merce and Economic Development shall provide, administrative support
28 services. However, the commission is not a division in either depart-
29 ment, and its members, executive director and employees are not subject

1 to the direction of the commissioner of either department.

2 * Sec. 8. AS 42.06.050 is amended to read:

3 Sec. 42.06.050. REMOVAL OF COMMISSIONERS. The governor may remove
4 a commissioner from office for cause, including but not limited to
5 incompetence, neglect of duty or misconduct in office, by and with the
6 consent of a majority of the members of the legislature in joint session.

7 * Sec. 9. AS 42.06.110 is amended to read:

8 Sec. 42.06.110. LEGAL COUNSEL. (a) The attorney general is legal
9 counsel for the commission. He shall assign an assistant attorney
10 general to the commission on a full-time basis. He shall advise and
11 assist the commission in legal matters arising in the discharge of its
12 duties and represent the commission in actions to which it is a party
13 whether in state or federal courts. He shall also represent the commis-
14 sion in proceedings before federal regulatory agencies if so requested
15 by the commission. If, in the opinion of the commission, the public
16 interest is not adequately represented by counsel in a proceeding, the
17 attorney general or his designated assistant attorney general, upon
18 request of the commission, shall represent the public interest.

19 (b) If the attorney general is unable to assign an assistant
20 attorney general to the commission on a full-time basis, the [THE] com-
21 mission may employ [TEMPORARY] legal counsel to advise and assist the
22 commission in legal matters arising in the discharge of its duties and
23 to represent the commission in actions or proceedings to which it is a
24 party, in which the state has an interest, or in which there is a public
25 interest [FROM TIME TO TIME IN MATTERS IN WHICH THE COMMISSION IS
26 INVOLVED].

27 * Sec. 10. AS 42.06.110 is amended by adding new subsections to read:

28 (c) Legal counsel employed by the commission under (b) of this
29 section shall be selected by the commission from a list of at least

1 three but not more than five candidates submitted by the attorney
2 general. The commission may request additional candidates for considera-
3 tion. After appointment, legal counsel is subject to removal by the
4 commission only for cause.

5 (d) With the approval of the commission, the legal counsel may
6 employ additional attorneys or other persons needed to carry out his
7 duties.

8 * Sec. 11. AS 42.06.120(c) is amended to read:

9 (c) The executive director, his deputy, [AND] his secretary, and
10 legal counsel employed under sec. 110(b) - (d) of this chapter are in
11 the partially exempt service described in AS 39.25. All other employees
12 of the commission [, OTHER THAN LEGAL COUNSEL,] are in the classified
13 service under AS 39.25.

14 * Sec. 12. AS 42.06 is amended by adding a new section to read:

15 Sec. 42.06.135. BUDGETS. The commission shall submit a budget of
16 its anticipated needs for each fiscal year to the governor and to the
17 legislature under the Executive Budget Act (AS 37.07).

18 * Sec. 13. AS 42.07.011(a) is amended to read:

19 (a) There is created the Alaska Transportation Commission [WITHIN
20 THE DEPARTMENT OF COMMERCE]. The commission is a quasi-judicial regu-
21 latory agency within the meaning of art. III, secs. 22 and 26, of the
22 Constitution of the State of Alaska. The commission may request, and
23 the Departments of Administration and Commerce and Economic Development
24 shall provide, administrative support services. However, the commission
25 is not a division in either department, and its members, executive direc-
26 tor and employees are not subject to the direction of the commissioner
27 of either department. The commission consists of three members appointed
28 by the governor and confirmed by the legislature in joint session.

29 * Sec. 14. AS 42.07.021(d) is amended to read:

1 (d) The governor may remove a commissioner from office for cause,
2 including but not limited to incompetence, neglect of duty or misconduct
3 in office, by and with the consent of a majority of the members of the
4 legislature in joint session. [A COMMISSIONER, TO BE REMOVED FOR CAUSE,
5 SHALL BE GIVEN A COPY OF THE CHARGES AGAINST HIM AND AFFORDED AN OPPOR-
6 TUNITY TO BE PUBLICLY HEARD IN PERSON OR BY COUNSEL IN HIS OWN DEFENSE
7 UPON NOT LESS THAN 10 DAYS NOTICE. IF A COMMISSIONER IS REMOVED FOR
8 CAUSE, THE GOVERNOR SHALL FILE WITH THE LIEUTENANT GOVERNOR A COMPLETE
9 STATEMENT OF ALL CHARGES MADE AGAINST THE COMMISSIONER AND HIS FINDING
10 BASED ON THE CHARGES, TOGETHER WITH A COMPLETE RECORD OF THE PROCEEDINGS.]

11 * Sec. 15. AS 42.07.091 is amended to read:

12 Sec. 42.07.091. LEGAL COUNSEL. (a) The attorney general is the
13 legal counsel for the commission. He shall assign an assistant attorney
14 general to the commission on a full-time basis. He shall advise and
15 assist the commission in legal matters arising in the discharge of its
16 duties and represent the commission in actions [SUITS] to which it is
17 a party whether in state or federal courts. He shall also represent the
18 commission in proceedings before federal regulatory agencies if so
19 requested by the commission. If, in the opinion of the commission, the
20 public interest is not adequately represented by counsel in a proceeding,
21 the [THE] attorney general or his designated assistant attorney general,
22 upon request of the commission, shall [MAY] represent the public inter-
23 est [IN ANY PROCEEDING BEFORE THE COMMISSION].

24 (b) If the attorney general is unable to assign an assistant
25 attorney general to the commission on a full-time basis, the [THE] com-
26 mission may employ [TEMPORARY] legal counsel to advise and assist the
27 commission in legal matters arising in the discharge of its duties and
28 to represent the commission in actions or proceedings to which it is a
29 party, in which the state has an interest, or in which there is a public

1 interest [IN PROCEEDINGS BEFORE THE COMMISSION IN WHICH THE ATTORNEY
2 GENERAL IS REPRESENTING THE PUBLIC INTEREST OR A PARTY BEFORE THE COM-
3 MISSION].

4 * Sec. 16. AS 42.07.091 is amended by adding new subsections to read:

5 (c) Legal counsel employed by the commission under (b) of this
6 section shall be selected by the commission from a list of at least three
7 but not more than five candidates submitted by the attorney general. The
8 commission may request additional candidates for consideration. After
9 appointment, legal counsel is subject to removal by the commission only
10 for cause.

11 (d) With the approval of the commission, the legal counsel may
12 employ additional attorneys or other persons needed to carry out his
13 duties.

14 * Sec. 17. AS 42.07.101(a) is amended to read:

15 (a) The commission may employ engineers, hearing officers, experts,
16 clerks, accountants, and other agents and assistants it considers neces-
17 sary. Employees and agents of the commission, other than legal counsel,
18 are in the classified service under AS 39.25. Legal counsel employed
19 by the commission under sec. 91(b) - (d) of this chapter are in the
20 partially exempt service under AS 39.25.

21 * Sec. 18. AS 42.07 is amended by adding a new section to read:

22 Sec. 42.07.106. BUDGETS. The commission shall submit a budget of
23 its anticipated needs for each fiscal year to the governor and to the
24 legislature under the Executive Budget Act (AS 37.07).

25 * Sec. 19. AS 39.25.110(13) is amended to read:

26 (13) commissioners of the Alaska Public Utilities Commission,
27 Alaska Pipeline Commission, and Alaska Transportation Commission;

28 * Sec. 20. AS 39.25.120(3) is amended to read:

29 (3) attorney members of the staff of the Department of Law

1 and of the Alaska Public Utilities Commission, Alaska Pipeline Commission,
2 and the Alaska Transportation Commission;

3 * Sec. 21. This Act takes effect immediately in accordance with AS 01.10.-
4 070(c).

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