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1 IN THE HOUSE

BY THE COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 545 (Commerce)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the provision of statewide enter-
7 tainment, educational and public television services."

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

9 * Section 1. AS 44 is amended by adding a new chapter to read:

10 CHAPTER 55. ALASKA SATELLITE USERS ASSOCIATION.

11 Sec. 44.55.010. ALASKA SATELLITE USERS ASSOCIATION. There is
12 created the Alaska Satellite Users Association. The association is a
13 public nonprofit corporation and government instrumentality but has a
14 legal existence independent of and separate from the state.

15 Sec. 44.55.020. PURPOSE OF ASSOCIATION. (a) The purpose of the
16 association is to make available to Alaskan users, through cooperative
17 purchasing and utilization, satellite communications services as re-
18 quired for television programming, special television services, data
19 transmission, radio broadcast, and other broadband uses.

20 (b) The association shall act as a cooperative purchaser of tele-
21 communications services to the various categories of users of these
22 services in Alaska, with all services to be provided at cost.

23 Sec. 44.55.030. INITIAL BOARD OF DIRECTORS. (a) The association
24 shall initially be governed by a five-member board of directors con-
25 sisting of the following persons:

26 (1) one member designated by the Alaska Broadcasters Asso-
27 ciation who is a representative of a television broadcasting station
28 licensed by the Federal Communications Commission;

29 (2) two members appointed by the governor, composed of the

1 following:

2 (A) one person from the staff of either the University
3 of Alaska or the Department of Education who is involved in the use
4 of television in education;

5 (B) one person from the Office of the Governor, office
6 of telecommunications or an executive department who is competent
7 and knowledgeable in broadcast engineering and technology related
8 to television and data transmission;

9 (3) one member designated by the Alaska Cable Television
10 Association who is a representative of a cable television service facil-
11 ity in Alaska certified with a Federal Communications Commission "Cer-
12 tificate of Compliance"; and

13 (4) one member chosen by the Alaska Mini-TV Association from
14 candidates designated or nominated by active organizations having pri-
15 marily rural interests.

16 (b) The members receive no salary for their service as directors
17 of the association, but are entitled to per diem and travel expenses
18 authorized by law.

19 Sec. 44.55.040. TERM OF OFFICE. The term of office of the members
20 of the initial board of directors is 18 months or until their successors
21 are elected under the charter of the association after its approval.
22 Members of the regular board shall serve for staggered terms as provided
23 in the charter.

24 Sec. 44.55.050. ARTICLES OF INCORPORATION. (a) The initial board
25 of directors shall adopt initial bylaws for the operation of the asso-
26 ciation. Until the preparation and adoption of permanent articles of
27 incorporation under (b) of this section, the association shall operate
28 under this chapter as its corporate charter.

29 (b) Within 12 months of the first meeting of the initial board of

1 directors, the board shall prepare articles of incorporation of the
2 association as a nonprofit corporation, consistent with the provisions
3 of AS 10.20 and this chapter, for approval by the membership of the
4 association after review by the commissioner. The board of directors of
5 the corporation may not consist of more than five members.

6 Sec. 44.55.060. ELECTION OF BOARD OF DIRECTORS OF CORPORATION.

7 (a) At the first annual meeting of the association, no sooner than 18
8 months after the first meeting of the initial board, the board of direc-
9 tors of the corporation, consisting of not more than five members, shall
10 be elected in the manner provided in the articles of incorporation and
11 bylaws, subject to (b) of this section.

12 (b) So long as there continues to be direct state funding of the
13 association under sec. 140 or 160 of this chapter, two members of the
14 board of directors shall be chosen by the governor in the same manner as
15 for the initial board under sec. 30 of this chapter.

16 Sec. 44.55.070. POWERS OF THE ASSOCIATION. The association has
17 the general power to

- 18 (1) adopt, alter and use a corporate seal;
- 19 (2) prescribe, adopt, amend and repeal bylaws;
- 20 (3) sue and be sued in its own name;
- 21 (4) employ personnel and to fix, change and pay compensation
22 for their services as the association may determine;
- 23 (5) make and execute agreements, contracts and other instru-
24 ments necessary or convenient in the exercise of its powers and func-
25 tions, including contracts with any person, firm, corporation, govern-
26 ment agency or other entity, including contracts with its own members;
- 27 (6) lease or otherwise contract for communications channel
28 capability from suppliers or users of telecommunications services,
29 particularly, but not limited to, suppliers of entertainment and educa-

1 tional television programming and data transmission over long distances,
2 and including from its own members;

3 (7) contract out any or all of the operations of the associ-
4 ation with appropriate contract supervision by the board through its
5 executive director;

6 (8) provide technical advice and assistance to members, mem-
7 ber associations, and individual users which relate to services provided
8 by the association;

9 (9) receive, administer and comply with the conditions and
10 requirements of an appropriation, gift, grant or donation of property or
11 money;

12 (10) acquire, hold, use, lease, sell or otherwise dispose of
13 property of any kind, real, personal or mixed or any interest in it;

14 (11) adopt, amend and repeal bylaws necessary for the exercise
15 and performance of its powers and duties or to govern the rendering of
16 service;

17 (12) determine, fix, alter, charge and collect rates, fees,
18 rentals and other charges to reimburse the association for the use of
19 facilities and services of the association;

20 (13) do all acts and things necessary, convenient or desirable
21 to carry out the powers granted or implied in this chapter.

22 Sec. 44.55.080. ELIGIBILITY FOR MEMBERSHIP. (a) Any person,
23 business, or other entity in the state who has a present or prospective
24 need for the services provided by the association is eligible for mem-
25 bership in the association, including, but not limited to, the follow-
26 ing:

27 (1) public or privately owned, federally licensed broad-
28 casting facilities;

29 (2) cable television operations certified with a Federal

1 Communications Commission "Certificate of Compliance";

2 (3) state or federal agencies (to the extent permitted by
3 applicable law) which provide medical services and which have a need for
4 the services of the association, and including nonprofit health corpora-
5 tions;

6 (4) theater television enterprises;

7 (5) departments, agencies, or offices of the state that have
8 now or may develop a need to use television or data transmission in the
9 conduct of their operations;

10 (6) local governments or agencies or entities of local
11 governments that have now or may develop a need to use television or
12 data transmission in the conduct of their operations;

13 (7) any other private business or nonprofit entity which
14 can demonstrate to the board of directors that it cannot feasibly obtain
15 television or data transmission services without participation in the
16 association.

17 (b) Each of the following state agencies is empowered to join the
18 association:

19 (1) any state executive agency at the department or division
20 level;

21 (2) the executive Office of the Governor;

22 (3) the Legislative Affairs Agency;

23 (4) the Alaska Court System;

24 (5) the University of Alaska;

25 (6) any other state agency or entity created as an instru-
26 mentality of the state.

27 Sec. 44.55.090. EXECUTIVE DIRECTOR. The association may employ an
28 executive director and such other personnel as are necessary to carry
29 out the purposes of this chapter.

1 Sec. 44.55.100. TAX EXEMPTION. The exercise of the powers granted
2 by this chapter will be in all respects for the benefit of the people of
3 the state, for their well-being and prosperity and for the improvement
4 of their social and economic conditions, and the association is not re-
5 quired to pay a tax or assessment on any property owned by the associ-
6 ation under the provisions of this chapter or upon the income from it.

7 Sec. 44.55.110. SERVICES OF GOVERNMENT AGENCIES AND COST OF SER-
8 VICES. All officers, departments, boards, agencies, divisions and
9 commissions of the state may render those services to the association as
10 are within the area of their respective governmental functions and as
11 are requested by the association. The cost and expense of services
12 requested by the association shall, at the request of the officer,
13 department, board, agency, division or commission rendering the service,
14 be paid by the association.

15 Sec. 44.55.120. RESTRICTIONS ON ASSOCIATION. (a) Decisions,
16 choices, and orders regarding programming and data content shall be made
17 by the individual members, not by the association acting as a corporate
18 body nor by the executive director or other employee of the association.

19 (b) The association may not engage in the business of providing
20 message toll service or provide a substitute for usual methods of tele-
21 phonic communication except as directly related to services otherwise
22 authorized in this chapter.

23 (c) The association may not act as a communications common carrier
24 as defined by applicable state and federal law.

25 Sec. 44.55.130. DUES OF ASSOCIATION. (a) Subject to the pro-
26 visions of sec. 140 of this chapter relating to the declining state
27 subsidy of the association, the board of the association shall establish
28 a schedule of assessment of members of the association which shall
29 allocate cost of operation of the association among the members of the

1 association on a pro rata basis according to actual use of services of
2 the association.

3 (b) Costs of operation of the association shall be allocated to
4 and assessed against agencies of the state participating in the associa-
5 tion and utilizing services of the association on the same basis as
6 non-state users.

7 (c) The board may adjust membership fees of a member to reflect
8 services provided by that member under sec. 70(5) and (6) of this chap-
9 ter.

10 Sec. 44.55.140. DECLINING STATE SUBSIDY OF THE ASSOCIATION.

11 During the first year of operation, the state shall cover the initial
12 cost of the operation of the association less an assessment to each
13 member which shall be determined by the initial board of directors of
14 the association. The assessment under this section shall be based on
15 savings which benefit that member, and which arise out of services
16 provided by the association during the first year of operation. Subject
17 to legislative appropriation and the availability of loans under sec.
18 160 of this chapter, the state shall continue to pay a share of the cost
19 of the association which will decline from the cost covered during the
20 first year by the state by 20 per cent each year for five fiscal years
21 following the first meeting of the initial board of directors. There-
22 after, the full cost of the association shall be borne by the members of
23 the association according to sec. 130 of this chapter, unless there is a
24 finding by the commissioner under sec. 160(b) of this chapter of im-
25 paired solvency of the association.

26 Sec. 44.55.150. AUDIT. The association shall be subject to audit
27 by the Department of Administration and by the legislative audit divi-
28 sion in the same manner as a state agency.

29 Sec. 44.55.160. LOAN FUND. (a) There is in the Department of

1 Commerce and Economic Development the satellite communications users
2 revolving loan fund, to be administered by the commissioner in compli-
3 ance with this chapter.

4 (b) Loans may be made from the fund to the association upon certi-
5 fication by the commissioner that a loan is necessary to enable the
6 association to accomplish the purposes of secs. 10 - 120 of this chap-
7 ter. No loan may be certified by the commissioner after discontinuance
8 of the direct subsidy under sec. 140 of this chapter unless the com-
9 missioner has made a written finding that the solvency of the associ-
10 ation would be substantially impaired without the loan.

11 (c) If a loan is made to the association from the fund, the asso-
12 ciation shall issue a note to the fund as evidence of the loan. Terms
13 and conditions of each loan shall be determined by the commissioner.
14 The commissioner may sell at par value to the Department of Revenue and
15 the Department of Revenue shall purchase the notes held by the fund as
16 security for loans made under this section.

17 Sec. 44.55.170. DEFINITIONS. In this chapter

18 (1) "association" means the Alaska Satellite Users Associ-
19 ation;

20 (2) "commissioner" means the commissioner of commerce and
21 economic development;

22 (3) "direct state subsidy" means an appropriation, grant or
23 loan to the association and does not include dues or fees paid by a
24 state agency or instrumentality for membership and participation in the
25 association;

26 (4) "member" means a member of the Alaska Satellite Users
27 Association;

28 (5) "user" means a person using the facilities and services
29 of the Alaska Satellite Users Association.

1 * Sec. 2. AS 14.58.050 is amended to read:

2 Sec. 14.58.050. PURPOSE OF COMMISSION. The commission is created
3 to

4 (1) encourage and supervise the development of an integrated
5 public broadcasting system for the state, and

6 (2) serve as the statewide coordinator for all state and
7 local public use of radio and television for educational and other
8 public purposes including [FOR] the coordination of all public broad-
9 casting stations.

10 * Sec. 3. AS 14.58.060 is amended by adding new paragraphs to read:

11 (13) coordinate satellite delivery of educational and public
12 programming and serve as a clearinghouse for information on satellite
13 delivery of noncommercial programming;

14 (14) administer the provision of grants for the development of
15 educational and public programming.

16 * Sec. 4. AS 14.58 is amended by adding new sections to read:

17 Sec. 14.58.065. EDUCATIONAL TELECOMMUNICATIONS CONSORTIUM. (a)

18 There is established under the office of the commissioner of the Depart-
19 ment of Education the educational telecommunications consortium to

20 (1) investigate the practical uses of television and tele-
21 communications techniques to accomplish the goals and duties of educa-
22 tional and other public institutions of the state; and

23 (2) familiarize persons in state and local government and
24 public service nonprofit organizations with the capabilities of tele-
25 vision and telecommunications as they relate to the objectives of the
26 particular agency or organization.

27 (b) Members may include state agencies and private nonprofit
28 entities which have an interest in the use of television and telecom-
29 munications techniques for educational and public purposes.

1 Sec. 14.58.085. PROGRAMMING DEVELOPMENT GRANTS. (a) The commis-
2 sion shall administer a grant program to provide funding or matching
3 funds for the production of television and radio programs for instruc-
4 tional educational and other public purposes.

5 (b) In determining eligibility of applicants and awarding grants
6 under this section, the following factors shall be considered:

7 (1) the relevance of the application and proposal to the
8 educational and public programming needs of the state;

9 (2) the likelihood of continued production of the program
10 through funding other than the initial grant;

11 (3) the competence and fitness of the applicant to carry out
12 the program;

13 (4) the capacity or ability to carry out the proposed program
14 development through existing technical systems.

15 (c) In awarding grants under this section, first priority will be
16 given to traditionally educational projects and second priority to public
17 affairs projects, with appropriate consideration given to the provision
18 of bilingual services in relevant regional areas.

19 (d) Review of applications and awarding of grants under this
20 section is a responsibility of the commission in accordance with
21 standards and guidelines established in this section and by the commis-
22 sion by resolution.

23 (e) The Department of Education shall review all grant applications
24 addressing elementary and secondary education, and submit detailed
25 written recommendations to the commission assessing the need, value and
26 objectives of the proposal.