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1 IN THE SENATE

BY THE RULES COMMITTEE

2

CS FOR SENATE BILL NO. 509 (Rules)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

ELEVENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act establishing telecommunications divisions in
7 the Department of Commerce and Economic Development;
8 transferring telecommunications functions to those
9 divisions; and changing the name of the department to
10 the Department of Commerce, Economic Development, and
11 Telecommunications; and providing for an effective
12 date."

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

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* Section 1. INTENT AND PURPOSE. The legislature finds and declares that

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(1) adequate telecommunications facilities and services available

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at reasonable and affordable rates are essential to the conduct of govern-

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ment, commerce and private life and that these facilities and services should

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be available, to the extent possible, to all agencies and citizens of the

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state regardless of location;

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(2) the generation, processing, exchange and use of information

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have become increasingly vital elements of social, economic, political and

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government processes, and constitute both an integral part of and an essen-

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tial element in support of those processes;

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(3) telecommunications may often offer the only effective alter-

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native to time-consuming and increasingly expensive transportation of persons

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and the information they possess;

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(4) current and projected public, business and government needs

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for additional and enhanced telecommunications and information transfer

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services and equipment are highly diverse, reflecting the increasingly com-

1 plex and interactive character of the social and economic systems and in-
2 stitutions of the state, and the increasingly important and diversified role
3 of information in these systems and institutions;

4 (5) the future development of the state's public and private
5 sectors will depend greatly on the innovative use of new telecommunications
6 services and techniques now becoming available;

7 (6) telecommunications can help reduce the isolation of Alaskans
8 within the state and from the remainder of the states of the United States
9 and the countries of the world;

10 (7) the existing locally controlled and operated public noncommer-
11 cial radio and television system must continue to be encouraged and supported
12 by the state, and, in order to provide this service to all of Alaska's citi-
13 zens, planned growth of the system must be supervised and coordinated by the
14 state;

15 (8) improved and more widely available educational opportunities
16 for all Alaskans can be greatly facilitated by exploiting the ability of
17 telecommunications technologies to make available the highest quality edu-
18 cation and instruction in all parts of the state;

19 (9) it is in the interest of all citizens of the state for the
20 state to facilitate the development of both basic and advanced telecommuni-
21 cations services and facilities to be available to all its citizens for their
22 individual and mutual benefit; and

23 (10) these goals can be best accomplished by coordinating all of
24 the state telecommunications activities through one department, to assure
25 increased efficiency in providing the public benefits of

26 (A) comprehensive telecommunications planning for the state;

27 (B) increased accountability for adequate, reliable, and
28 cost-effective telecommunications system development;

29 (C) increased effectiveness in coordinating and assisting

1 public service telecommunications users;

2 (D) the establishment of consistent public policy for the
3 state related to telecommunications systems and services, and better public
4 understanding of the state's policies and programs.

5 * Sec. 2. AS 44.33 is amended by adding new sections to read:

6 ARTICLE 11. TELECOMMUNICATIONS.

7 Sec. 44.33.501. TELECOMMUNICATIONS DIVISIONS. There is estab-
8 lished in the department

9 (1) a division of public telecommunications services; and

10 (2) a division of telecommunications systems.

11 Sec. 44.33.503. DEPUTY COMMISSIONER. (a) The telecommunications
12 divisions shall be administered by a deputy commissioner of the depart-
13 ment appointed by the governor.

14 (b) The deputy commissioner shall

15 (1) provide executive direction for the activities of the
16 telecommunications divisions;

17 (2) perform other departmental duties as may be assigned by
18 the commissioner.

19 Sec. 44.33.507. POWERS AND DUTIES OF THE TELECOMMUNICATIONS DIVI-
20 SIONS. (a) The telecommunications divisions shall

21 (1) advise the governor on matters of policy and comprehen-
22 sive state planning for telecommunications services;

23 (2) make an annual report to the governor and to the legis-
24 lature on the activities of the telecommunications divisions;

25 (3) provide for representation of the public interest in
26 matters pertaining to the availability, adequacy, cost and design of
27 telecommunications services and facilities before state and federal
28 legal and regulatory forums;

29 (4) coordinate, manage, and supervise existing state programs

1 in telecommunications, including the management of those telecommuni-
2 cation services for the state obtained from common carriers and from the
3 communications industry;

4 (5) when requested provide technical and consulting assist-
5 ance to the executive, judicial, and legislative branches of state
6 government, to the University of Alaska, and to private noncommercial
7 agencies which request such assistance in facility procurement and
8 leasing and in identifying long-range goals and objectives for the state
9 and its political subdivisions in all aspects of telecommunications,
10 including public, educational, and instructional telecommunications;

11 (6) prepare and maintain a state comprehensive telecommuni-
12 cations development plan to further state telecommunications development
13 and to meet state telecommunications needs and prepare and maintain a
14 comprehensive inventory of all state communications facilities;

15 (7) procure services from private enterprise whenever feas-
16 ible; contract for the construction, management, operation and main-
17 tenance of telecommunications systems and develop a procurement policy
18 under AS 37.05; the procurement policy will account for all factors when
19 deciding the method of procurement, including lease, purchase, rental,
20 or combinations of lease, purchase and rental; the factors include but
21 are not limited to life cycle costing, direct or secondary impacts which
22 may reasonably be expected in long distance or local telephone rates,
23 and realizeable improvements and cost factors in both state government
24 and the affected portions of the communications industry;

25 (8) provide information and assistance to state agencies to
26 promote governmental coordination and unity in the preparation of agency
27 plans and programs involving the use of telecommunications;

28 (9) apply for and accept federal and private money, property,
29 or assistance, that may be appropriated, granted or otherwise made

1 available to the telecommunications divisions and use and disperse money
2 and property for purposes consistent with the terms of AS 44.33.501 -
3 44.33.517 subject to reasonable limitations imposed by the grantor;

4 (10) participate with other countries, provinces, states or
5 governmental units in international or interstate planning, and assist
6 Alaska's local governments, governmental conferences and councils, in
7 planning and coordinating their activities relating to telecommuni-
8 cations;

9 (11) provide for the orderly transition to new telecommuni-
10 cations services and systems by state agencies;

11 (12) serve as a clearinghouse for information, data, and other
12 materials which may be necessary or helpful to federal, state or local
13 governmental agencies in the development of telecommunication systems;
14 and

15 (13) coordinate their services and activities with those of
16 other state departments and agencies to the fullest extent possible to
17 avoid unnecessary duplication.

18 (b) The telecommunications divisions may

19 (1) coordinate their functions with local, regional, state
20 and federal officials, private groups and individuals, and with offi-
21 cials, of other countries, provinces and states;

22 (2) enter into contracts and subcontracts on behalf of the
23 state to carry out the provisions of AS 44.33.501 - 44.33.517;

24 (3) act for the state in the initiation, investigation,
25 evaluation of or participation in programs related to the purposes of
26 the telecommunications divisions which involve more than one government
27 or governmental unit;

28 (4) on behalf of the state, apply for, accept and expend
29 gifts or grants made to the state if the gifts or grants are for the

1 purposes of furthering the objectives of the telecommunications divi-
2 sions;

3 (5) hold public hearings to obtain information for the pur-
4 pose of carrying out the provisions of AS 44.33.501 - 44.33.517.

5 (c) In proceedings before the Alaska Public Utilities Commission
6 the department shall reimburse the Alaska Public Utilities Commission
7 for the reasonable costs of obtaining outside counsel under AS 42.05.-
8 111(b) if the attorney general elects to represent the telecommuni-
9 cations divisions.

10 Sec. 44.33.509. DIVISION OF PUBLIC TELECOMMUNICATIONS SERVICES.

11 (a) The division of public telecommunications services shall be ad-
12 ministered by a director appointed by the commissioner.

13 (b) The division of public telecommunications services shall pro-
14 vide technical consultation and grants to educational and public tele-
15 communications users in order to assist in the comprehensive development
16 of telecommunications services for all specialized public purposes. The
17 division shall provide

18 (1) coordination and support to telecommunications services
19 for instruction, including technical assistance and assistance in pre-
20 preparation of applications for grants related to program development as
21 may be requested by

22 (A) public school districts and the Department of Edu-
23 cation;

24 (B) the University of Alaska; and

25 (C) other state agencies as approved by the deputy
26 commissioner;

27 (2) coordination and support for all public broadcasting
28 functions in the state as follows:

29 (A) the division shall encourage responsible local

1 control of all public broadcast entities in the state;

2 (B) the division may contract with competent stations or
3 production centers for services;

4 (C) the division shall receive and review requests for
5 operating and capital support from public broadcasting entities,
6 and may award grants to those entities;

7 (D) the division shall pursue the development of public
8 broadcast services to all residents of the state;

9 (E) the division may not control or be responsible for
10 the program content or policy of public broadcasters except that
11 grants or technical assistance may not be given to a broadcaster
12 who is in violation of federal or state laws or regulations;

13 (3) coordination and support for health and safety-related
14 functions, including the administrative and client services provided by

15 (A) state agencies,

16 (B) federal agencies,

17 (C) private agencies;

18 (4) coordination and support to telecommunications services
19 for public participation in state-financed services, as may be statu-
20 torily required or otherwise appropriate;

21 (5) assistance to the regionalization of instructional tele-
22 communications services by local school districts or other local and
23 regional education agencies, through design, development, and promotion
24 by the division of public telecommunications services;

25 (6) establishment of operational policies by the division of
26 public telecommunications services; for public service telecommunica-
27 tions uses, after consideration of the recommendations of the Public
28 Telecommunications Advisory Board;

29 (7) assistance to advisory councils representative of the

1 specialized instructional, public broadcasting, health or safety-related,
2 public participation, or regional interests described in this section,
3 as necessary to perform assigned division functions.

4 (c) The division of public telecommunications services may not
5 own, operate, or be the licensee of a public noncommercial broadcast
6 station or production center.

7 (d) Nothing in this section is intended to imply division re-
8 sponsibility for programming content. Program design, production, and
9 use remain the responsibility of the program-sponsoring agency, not the
10 division.

11 Sec. 44.33.511. PUBLIC TELECOMMUNICATIONS ADVISORY BOARD. (a)
12 There is the Public Telecommunications Advisory Board in the department.
13 The board shall advise the division of public telecommunications ser-
14 vices with regard to the policies and regulations of the division.

15 (b) The board consists of 10 members appointed as follows:

16 (1) two members appointed by the state Board of Education
17 (AS 14.07.080), one of whom shall also be a member of a local school
18 board;

19 (2) one member of the house of representatives appointed by
20 the speaker of the house;

21 (3) one member of the senate appointed by the president of
22 the senate;

23 (4) one member of the judicial system appointed by the chief
24 justice of the supreme court;

25 (5) two members appointed by the commissioner of the Depart-
26 ment of Health and Social Services, including one member from the Ad-
27 visory Council on Emergency Medical Services (AS 18.08.020) from a list
28 of nominees provided by the Advisory Council on Emergency Medical Ser-
29 vices; and

1 (6) three members who are employees, officers, or directors
2 of public nonprofit broadcasting stations, appointed by vote of the
3 public broadcast licensees; the election shall be conducted by the
4 division of public telecommunications services.

5 (c) Members of the board shall be appointed to overlapping terms
6 of four years. Three of the first appointments to the board shall be
7 for two-year terms, three for three-year terms and three for four-year
8 terms. Terms of office expire on June 30. Before the expiration of the
9 term of a member, the appointing authority shall appoint a successor to
10 succeed the member whose term is expiring. A successor shall assume
11 board member duties on July 1 following the appointment. A person
12 appointed to the board may not serve more than two consecutive terms, or
13 a maximum of eight years. Unless a vacancy is caused by the normal
14 expiration of a member's term, the appointing authority shall make an
15 appointment to become immediately effective for the duration of the
16 unexpired term.

17 (d) The board shall meet in public session quarterly and may hold
18 public hearings and other meetings as necessary throughout the state.
19 The board shall determine an appropriate quorum for conducting business.

20 (e) Members of the board serve without compensation, but are
21 entitled to per diem and travel expenses authorized under AS 39.20.180.

22 Sec. 44.33.513. DIVISION OF TELECOMMUNICATIONS SYSTEMS. (a) The
23 division of telecommunications systems shall be administered by a direc-
24 tor appointed by the commissioner.

25 (b) Except as provided in (c) of this section, the division of
26 telecommunications systems shall

27 (1) plan, design, construct, manage and operate all tele-
28 communications systems owned or leased by state executive agencies;

29 (2) manage centrex and other telephone-related services of

1 the state;

2 (3) be responsible for state telecommunications systems and
3 design generally; and

4 (4) coordinate with executive agencies in performing their
5 data and word processing tasks.

6 (c) Nothing in AS 44.33.501 - 44.33.517 prohibits a state agency
7 from developing telecommunications systems within its own agency if the
8 commissioner gives written authorization for the agency to engage in its
9 own design, development, management, or operation. The commissioner may
10 authorize independent development only upon a showing of necessity.

11 (d) An agency authorized to develop an internal telecommunications
12 system shall, to the maximum feasible extent, coordinate its design,
13 development, management, and operation with the division of telecommuni-
14 cations systems.

15 Sec. 44.33.517. DEFINITIONS. In AS 44.33.501 - 44.33.517,

16 (1) "board" means the Public Telecommunications Advisory
17 Board;

18 (2) "commissioner" means the commissioner of the Department
19 of Commerce, Economic Development, and Telecommunications;

20 (3) "department" means the Department of Commerce, Economic
21 Development, and Telecommunications;

22 (4) "deputy commissioner" means the deputy commissioner of
23 telecommunications in the department who administers the telecommuni-
24 cations divisions;

25 (5) "executive agencies" means all departments, divisions and
26 offices in the executive branch of state government but does not mean
27 the University of Alaska;

28 (6) "public broadcasting" means the delivery of radio or
29 television noncommercial programming intended for the general public by

1 any method of telecommunications;

2 (7) "public service telecommunications" means telecommuni-
3 cations which serve public broadcasting, general educational, instruc-
4 tional, medical, safety, emergency, or public participation functions;

5 (8) "telecommunications" means the transmission and reception
6 of messages, impressions, pictures and signals by means of electro-
7 magnetic transmission with or without benefit of a closed transmission
8 medium including all instrumentalities, facilities, apparatus, and
9 services, whether conveyed by cable, wire, radiated through space, or
10 transmitted through other media within a specified area or between
11 designated points;

12 (9) "telecommunications systems" means those systems in which
13 the principal service and functions are telecommunications;

14 (10) "telecommunications divisions" means the division of
15 public telecommunications services and the division of telecommuni-
16 cations systems.

17 * Sec. 3. AS 44.15.010(8) is amended to read:

18 (8) Department of Commerce, [AND] Economic Development,
19 and Telecommunications

20 *Sec. 4. AS 44.21.160 is amended by adding a new subsection to read:

21 (f) The department and its division of data processing shall
22 coordinate with the divisions of telecommunications of the Department of
23 Commerce, Economic Development, and Telecommunications in providing for
24 the effective transfer of information by telecommunications through the
25 establishment of compatible systems and common standards.

26 * Sec. 5. AS 44.33.020 is amended by adding a new paragraph to read:

27 (24) study, design, implement, and manage the telecommunica-
28 tions systems and services of the state under AS 44.33.501 - 44.33.517.

29 * Sec. 6. AS 44.42.020 is amended to read:

1 Sec. 44.42.020. POWERS AND DUTIES. (a) The department shall

2 (1) plan, design, construct and maintain all state modes of
3 transportation and transportation facilities [, COMMUNICATION FACILI-
4 TIES,] and all docks, floats, breakwaters, buildings and similar faci-
5 lities;

6 (2) study existing transportation modes and facilities [AND
7 COMMUNICATION FACILITIES] in the state to determine how they might be
8 improved or whether they should continue to be maintained;

9 (3) study alternative means of improving transportation [AND
10 COMMUNICATION] in the state with regard to the economic costs of each
11 alternative and its environmental and social effects;

12 (4) develop a comprehensive, long-range intermodal trans-
13 portation plan for the state;

14 (5) study alternatives to existing modes of transportation in
15 urban areas and develop plans to improve urban transportation;

16 (6) cooperate and coordinate with and enter into agreements
17 with federal, state and local government agencies and private organiza-
18 tions and persons in exercising its powers and duties;

19 (7) manage, operate, and maintain state transportation faci-
20 lities [, COMMUNICATION FACILITIES,] and all docks, floats, breakwaters
21 and buildings, including all state highways, vessels, railroads, pipe-
22 lines, airports, and aviation facilities;

23 (8) study alternative means of transportation in the state,
24 considering the economic, social, and environmental impacts of each
25 alternative;

26 (9) coordinate and develop state and regional transportation
27 systems, considering deletions, additions, and the absence of altera-
28 tions;

29 (10) develop facility program plans for transportation [AND

1 COMMUNICATION FACILITIES] and state buildings, docks and breakwaters
2 required to implement the duties set out in this section, including but
3 not limited to (A) functional performance criteria; and (B) schedules
4 for completion;

5 (11) supervise and maintain all state automotive and mechan-
6 ical equipment, aircraft, and vessels, except vessels and aircraft used
7 by the Department of Fish and Game or the Department of Public Safety;
8 [AND]

9 (12) supervise aeronautics [AND COMMUNICATIONS] inside the
10 state, under AS 02.10; and [.]

11 (13) complete and maintain a current inventory of public
12 facilities, including a projection of the serviceability of the facili-
13 ties and projections of replacements and additions to facilities needed
14 to provide the level of services programmed by the various user agencies,
15 for municipalities with populations of less than 12,000 and for unincor-
16 porated communities, and perform those duties on a cooperative basis
17 with larger municipalities.

18 (b) The department may

19 (1) engage in experimental projects relating to available or
20 future modes of transportation and any means of improving existing
21 transportation facilities and service [AND COMMUNICATION];

22 (2) exercise the power of eminent domain, including the
23 declaration of taking as provided in AS 09.55.

24 * Sec. 7. AS 44.42.055(b)(3)(F) is amended to read:

25 (F) [COMMUNICATIONS FACILITIES AND] transportation
26 facilities;

27 * Sec. 8. All references to the Department of Commerce and Economic
28 Development and to the commissioner of commerce and economic development in
29 the Alaska Statutes shall be read as the Department of Commerce, Economic

1 Development, and Telecommunications and the commissioner of commerce, eco-
2 nomic development, and telecommunications, respectively, in order to carry
3 out the intent and purpose of this Act.

4 * Sec. 9. The balance of the appropriation to the Department of Trans-
5 portation and Public Facilities found in sec. 23, page 48, lines 15 - 37, and
6 sec. 25, page 79, lines 31 - 36, and page 80, lines 1 - 22, ch. 80, SLA 1979,
7 are transferred to the Department of Commerce, Economic Development, and
8 Telecommunications.

9 * Sec. 10. The balance of the appropriation to the Alaska Public Broad-
10 casting Commission found in sec. 23, page 9, line 23, ch. 80, SLA 1979, is
11 transferred to the Department of Commerce, Economic Development, and Telecom-
12 munications.

13 * Sec. 11. The balances of the appropriations for capital projects made
14 to the Alaska Public Broadcasting Commission in sec. 25, page 55, lines 28 -
15 36, and page 56, lines 4 - 12, ch. 80, SLA 1979, are transferred to the
16 Department of Commerce, Economic Development, and Telecommunications.

17 * Sec. 12. The unexpended balances of any other appropriations for capi-
18 tal projects made to the Alaska Public Broadcasting Commission and the De-
19 partment of Transportation and Public Facilities, division of communications,
20 are transferred to the Department of Commerce, Economic Development, and
21 Telecommunications.

22 * Sec. 13. AS 14.58 is repealed.

23 * Sec. 14. This Act takes effect July 1, 1980.

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