

Original sponsor: Finance Committee

Offered: 4/1/80

1 IN THE SENATE

BY THE RULES COMMITTEE

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CS FOR SENATE BILL NO. 509 (Rules) am

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IN THE LEGISLATURE OF THE STATE OF ALASKA

4

ELEVENTH LEGISLATURE - SECOND SESSION

5

A BILL

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For an Act entitled: "An Act establishing telecommunications divisions in

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the Department of Commerce and Economic Development;

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transferring telecommunications functions to those

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divisions; and changing the name of the department to

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the Department of Commerce, Economic Development, and

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Telecommunications; and providing for an effective

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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 or certified  
16 and franchised utilities whenever feasible; contract for the construc-  
17 tion, management, operation and maintenance of telecommunications  
18 systems and develop a procurement policy under AS 37.05; the procurement  
19 policy will account for all factors when deciding the method of pro-  
20 curement, including lease, purchase, rental, or combinations of lease,  
21 purchase and rental; the factors include but are not limited to life  
22 cycle costing, direct or secondary impacts which may reasonably be  
23 expected in long distance or local telephone rates, and realizeable  
24 improvements and cost factors in both state government and the affected  
25 portions of the communications industry;

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

29 (9) apply for and accept federal and private money, property,

1 or assistance, that may be appropriated, granted or otherwise made  
2 available to the telecommunications divisions and use and disperse money  
3 and property for purposes consistent with the terms of AS 44.33.501 -  
4 44.33.517 subject to reasonable limitations imposed by the grantor;

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

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

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

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

19 (b) The telecommunications divisions may

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

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

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

29 (4) on behalf of the state, apply for, accept and expend

1 gifts or grants made to the state if the gifts or grants are for the  
2 purposes of furthering the objectives of the telecommunications divi-  
3 sions;

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

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

11 Sec. 44.33.509. DIVISION OF PUBLIC TELECOMMUNICATIONS SERVICES.

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

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

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

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

25 (B) the University of Alaska; and

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

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

1 (A) the division shall encourage responsible local  
2 control of all public broadcast entities in the state;

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

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

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

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

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

16 (A) state agencies,

17 (B) federal agencies,

18 (C) private agencies;

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

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

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

1 (7) assistance to advisory councils representative of the  
2 specialized instructional, public broadcasting, health or safety-related,  
3 public participation, or regional interests described in this section,  
4 as necessary to perform assigned division functions.

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

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

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

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

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

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

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

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

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

1 vices; and

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

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

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

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

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

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

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

1 (2) manage centrex and other telephone-related services of  
2 the state;

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

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

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

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

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

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

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

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

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

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

29 (6) "public broadcasting" means the delivery of radio or

1 television noncommercial programming intended for the general public by  
2 any method of telecommunications;

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

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

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

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

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

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

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

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

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

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

1 \* Sec. 6. AS 44.42.020 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (b) The department may

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

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

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

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

28 \* Sec. 8. All references to the Department of Commerce and Economic  
29 Development and to the commissioner of commerce and economic development in

1 the Alaska Statutes shall be read as the Department of Commerce, Economic  
2 Development, and Telecommunications and the commissioner of commerce, eco-  
3 nomic development, and telecommunications, respectively, in order to carry  
4 out the intent and purpose of this Act.

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

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

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

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

23 \* Sec. 13. AS 14.58 is repealed.

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

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