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1 IN THE HOUSE

2 HOUSE BILL NO. 312

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act creating the Alaska Railroad Authority; and
7 providing for an effective date."

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

9 * Section 1. LEGISLATIVE FINDINGS AND POLICY. (a) The legislature
10 finds that there is a vast potential in Alaska natural resources and that
11 extension of the Alaska railroad into natural resource areas is necessary
12 for the achievement of the goals of lower freight costs and long-term
13 economic growth. Development of natural resources in the state will be
14 accelerated and facilitated by the creation of an instrumentality of the
15 state with power to incur debt for construction, and with power to own and
16 operate railroads.

17 (b) It is declared to be the policy of the state, in the interest of
18 promoting the general welfare of the state, to reduce consumer costs and
19 otherwise to encourage the long-term economic growth of the state through
20 the establishment of railroad extensions by creating a public corporation
21 with the powers, duties, and functions as provided in this Act.

22 * Sec. 2. AS 44 is amended by adding a new chapter to read:

23 CHAPTER 87. ALASKA RAILROAD AUTHORITY.

24 ARTICLE 1. CREATION AND ORGANIZATION.

25 Sec. 44.87.010. ALASKA RAILROAD AUTHORITY CREATED. There is
26 created the Alaska Railroad Authority. The authority is a public cor-
27 poration of the state in the Department of Transportation and Public
28 Facilities, but with a separate and independent legal existence.

29 Sec. 44.87.015. MEMBERSHIP OF THE AUTHORITY. (a) The authority

1 consists of the commissioner of transportation and public facilities,
2 two members of the senate appointed by the president of the senate, two
3 members of the house appointed by the speaker of the house, and two
4 members from the public appointed by the governor. The appointment of
5 each director other than the commissioner of transportation and public
6 facilities and directors appointed by the legislature is subject to
7 confirmation by the legislature.

8 (b) A director must be a resident of the state and a qualified
9 voter at the time of appointment and comply with the requirements of
10 AS 39.50.

11 (c) The term of office of a director shall be two years. A
12 vacancy in the directorship occurring other than by expiration of a
13 term shall be filled in the same manner as the original appointment for
14 the unexpired term only.

15 (d) The commissioner of revenue and the commissioner of commerce
16 and economic development may attend and participate in meetings of the
17 authority but may not vote.

18 Sec. 44.87.020. OFFICERS AND QUORUM. The board shall elect one
19 member as chairman. Other officers may be elected as the board deter-
20 mines. The powers of the authority are vested in the board. Four
21 directors of the authority constitute a quorum. Action may be taken
22 and motions and resolutions adopted by the authority at a meeting by
23 the affirmative vote of at least four directors. The directors serve
24 without compensation, but they are entitled to the same travel expenses
25 and per diem provided by law for board members.

26 Sec. 44.87.025. STAFF. The authority shall employ an executive
27 director who may employ additional staff as necessary. In addition to
28 its staff of regular employees, the authority may contract for and
29 engage the services of the bond counsel, consultants, experts, and

1 financial advisors it considers necessary for the purpose of developing
2 information, investigations, hearings, or other proceedings.

3 ARTICLE 2. PURPOSE AND POWERS.

4 Sec. 44.87.030. PURPOSE OF THE AUTHORITY. The purpose of the
5 authority is to acquire, lease, construct, operate, and maintain rail-
6 road facilities in the state. The authority shall enter into talks
7 with the federal government and the governments of the provinces of
8 Canada regarding an international rail connection. The authority shall
9 also enter into talks with the federal government concerning the
10 acquisition of the Alaska railroad and access across public lands to
11 energy resource areas.

12 Sec. 44.87.035. POWERS OF THE AUTHORITY. In furtherance of its
13 corporate purposes, the authority may

- 14 (1) sue and be sued;
- 15 (2) have a seal and alter it at pleasure;
- 16 (3) make and alter bylaws for its organization and internal
17 management;
- 18 (4) adopt regulations governing the exercise of its corporate
19 powers;
- 20 (5) acquire by construction, purchase, gift or lease facili-
21 ties in the state;
- 22 (6) improve, equip and operate railroad facilities in the
23 state;
- 24 (7) issue revenue bonds for the acquisition, construction,
25 or improvement of railroad facilities in the state;
- 26 (8) sell, lease as lessor or lessee, exchange, donate,
27 convey or encumber by mortgage or by creation of any other security
28 interest, real or personal property owned by it, or in which it has an
29 interest, when, in the judgment of the authority, the action is in

1 furtherance of its corporate purposes;

2 (9) accept gifts, grants or loans from, and enter into con-
3 tracts with a federal agency, an agency of the state, a municipality, a
4 private organization, an agency of a foreign government or other
5 source;

6 (10) deposit or invest its funds, subject to agreements with
7 bondholders;

8 (11) contract with any person for the improvement, construc-
9 tion, acquisition, operation and maintenance of its railroad facili-
10 ties, or for the security of bonds issued by the authority;

11 (12) establish, levy, and collect fares and other charges for
12 the use of its railroad facilities;

13 (13) enter into contracts or agreements with respect to the
14 exercise of any of its powers, and do all things necessary to carry out
15 its corporate purposes and exercise the powers granted in this chapter;

16 (14) exercise the power of eminent domain in accordance with
17 AS 09.55.250 - 09.55.410.

18 ARTICLE 3. FINANCIAL PROVISIONS.

19 Sec. 44.87.040. BONDS OF THE AUTHORITY. (a) The authority may
20 issue revenue bonds in accordance with AS 44.87.035(7) on which the
21 principal and interest are payable

22 (1) exclusively from the income or other money derived from
23 its railroad facilities; or

24 (2) from its income and receipts or other assets generally,
25 or a designated part of them.

26 (b) Bonds shall be authorized by resolution of the authority, and
27 shall be dated and shall mature as the resolution may provide, except
28 that no bond shall mature more than 40 years from the date of its
29 issue. Bonds shall bear interest at the rate or rates, be in the

1 denominations, be in the form, either coupon or registered, carry the
2 registration privileges, be executed in the manner, be payable in the
3 medium of payment, at the place or places, and be subject to the terms
4 of redemption which the resolution or a subsequent resolution may
5 provide.

6 (c) All bonds, regardless of form or character, shall be negoti-
7 able instruments for all the purposes of the Uniform Commercial Code.

8 (d) All bonds may be sold at public or private sale in the manner,
9 for the price or prices, and at the time or times which the authority
10 may determine.

11 (e) The superior court has jurisdiction to hear and determine
12 actions or proceedings relating to the authority, including actions or
13 proceedings brought by or for the benefit or security of a holder of
14 its bonds or by a trustee for or other representative of the holders.

15 Sec. 44.87.045. TRUST INDENTURES AND TRUST AGREEMENTS. In the
16 discretion of the authority, an issue of bonds may be secured by a
17 trust indenture or trust agreement between the authority and a corporate
18 trustee (which may be a trust company, bank, or national banking
19 association, with corporate trust powers, located inside or outside the
20 state) or by a secured loan agreement or other instrument or under a
21 resolution giving powers to a corporate trustee by means of which the
22 authority may

23 (1) make and enter into any covenants and agreements with
24 the trustee or the holders of the bonds which the authority may deter-
25 mine to be necessary or desirable, including, without limitation,
26 covenants, provisions, limitations and agreements as to

27 (A) the application, investment, deposit, use and dis-
28 position of the proceeds of the bonds of the authority or of money
29 or other property of the authority or in which it has an interest;

1 (B) the terms and conditions upon which additional
2 bonds of the authority may be issued;

3 (2) pledge, mortgage or assign money, leases, agreements,
4 property or other assets of the authority; and

5 (3) provide for any other matters which affect the security
6 or protection of the bonds.

7 Sec. 44.87.050. VALIDITY OF PLEDGE. It is the intention of the
8 legislature that a pledge made in respect of bonds be valid and binding
9 from the time the pledge is made; that the money or property so pledged
10 and thereafter received by the authority be immediately subject to the
11 lien of the pledge without physical delivery or further act; and that
12 the lien of the pledge be valid and binding as against all parties
13 having claims of any kind in tort, contract or otherwise against the
14 authority irrespective of whether the parties have notice. Neither the
15 resolution, trust agreement nor any other instrument by which a pledge
16 is created need be recorded or filed under the provisions of the Uniform
17 Commercial Code to be valid, binding or effective against the parties.

18 Sec. 44.87.055. NONLIABILITY ON BONDS. (a) Neither the members
19 of the authority nor a person executing the bonds is liable personally
20 on the bonds or subject to personal liability or accountability by
21 reason of the issuance of the bonds.

22 (b) The bonds issued by the authority do not constitute an
23 indebtedness or other liability of the state or of a political sub-
24 division of the state, except the authority, but are payable solely
25 from the income and receipts or other funds or property of the author-
26 ity. The authority may not pledge the faith or credit of the state or
27 of a political subdivision of the state (except the authority) to the
28 payment of a bond and the issuance of a bond by the authority does not
29 directly, indirectly or contingently obligate the state or a political

1 subdivision of the state to levy or pledge any form of taxation to the
2 payment of a bond.

3 Sec. 44.87.060. PLEDGE OF THE STATE. (a) The state pledges to
4 and agrees with the holders of bonds issued under this chapter that the
5 state will not limit or alter the rights and powers vested in the
6 authority by this chapter to fulfill the terms of any contract made by
7 the authority with the holders. The state also pledges to and agrees
8 not to impair the rights and remedies of the holders until the bonds,
9 interest on them, interest on unpaid installments of interest on them,
10 and all costs and expenses in connection with any action or proceeding
11 by or on behalf of the holders, are fully met and discharged.

12 (b) The state pledges to and agrees with a federal agency that
13 loans or contributes money for railroad facilities of the authority,
14 that the state will not limit or alter the rights and powers vested in
15 the authority by this chapter to fulfill the terms of any contract made
16 by the authority with the federal agency.

17 (c) The authority is authorized to include the pledge and agree-
18 ment of the state contained in (a) and (b) of this section, insofar as
19 it refers to holders of bonds of the authority, in a contract with the
20 holders, and insofar as it relates to a federal agency, in a contract
21 with a federal agency.

22 Sec. 44.87.065. EXEMPTION FROM TAXATION. The real and personal
23 property of the authority and its assets, income and receipts are de-
24 clared to be property of a political subdivision of the state and,
25 together with the railroad facilities under the jurisdiction of the
26 authority is exempt from all taxes and special assessments of the state
27 or a political subdivision of the state. The bonds of the authority
28 are declared to be issued by a political subdivision of the state for
29 an essential public and governmental purpose and the bonds, and the

1 interest on them, the income from them and the transfer of the bonds,
2 and all assets, and income pledged to pay or secure the payment of the
3 bonds, or interest on them, are exempt from taxation by or under the
4 authority of the state, except for inheritance and estate taxes and
5 taxes on transfers by or in contemplation of death.

6 Sec. 44.87.070. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The
7 bonds of the authority are securities in which all public officers and
8 bodies of the state and all municipalities, all insurance companies and
9 associations and other persons carrying on an insurance business, all
10 banks, bankers, trust companies, savings banks, savings associations,
11 including savings and loan associations and building and loan associa-
12 tions, investment companies and other persons carrying on a banking
13 business, all administrators, guardians, executors, trustees and other
14 fiduciaries, and all other persons who are or who may be authorized to
15 invest in bonds or other obligations of the state, may properly and
16 legally invest funds including capital in their control or belonging to
17 them. The bonds of the authority are also securities which may be
18 deposited with and may be received by all public officers of this state
19 and all municipalities for any purpose for which the deposit of bonds
20 or other obligations of the state is or may be authorized.

21 Sec. 44.87.075. INVESTMENT INCOME. Income from investments of
22 the authority may only be used for the maintenance or improvement of
23 railroad facilities.

24 ARTICLE 4. GENERAL PROVISIONS.

25 Sec. 44.87.100. DEFINITIONS. In this chapter

- 26 (1) "authority" means the Alaska Railroad Authority;
27 (2) "board" means the board of directors of the authority;
28 (3) "railroad facilities" includes rights-of-way, trackbed,
29 engines, cars, freight and passenger terminals, and any other facili-

1 ties or equipment used for the operation of a railroad.

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

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