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1 IN THE SENATE

BY THE TRANSPORTATION COMMITTEE

2

CS FOR SENATE BILL NO. 352 (Transportation)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act establishing the Alaska Railroad Corpora-
7 tion to operate the Alaska Railroad with a board of
8 nine directors responsible for management of the
9 corporation; requiring the board to appoint a chief
10 executive officer to manage the daily affairs and
11 operations of the corporation; authorizing the
12 board to adopt rules to carry out its functions;
13 authorizing the corporation to issue bonds and notes;
14 authorizing the corporation to own and manage all
15 property acquired by the corporation or transferred
16 to the state under 45 U.S.C. 1201 - 1214 (Alaska
17 Railroad Transfer Act of 1982); authorizing the
18 corporation to exercise eminent domain; exempting
19 the corporation from AS 19, AS 23.40, AS 30.15,
20 AS 35, AS 37.05, AS 37.07, AS 37.10.010 - 37.10.060,
21 37.10.085, AS 37.20, AS 37.25, AS 38, AS 39, and
22 AS 44.62.040 - 44.62.320; and providing for an
23 effective date."

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

25 * Section 1. LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature
26 finds that

27 (1) it is the policy of the state to

28 (A) provide safe, economical, and efficient transportation
29 to residents, businesses, visitors, and military installations in the

1 state;

2 (B) foster and promote the long-term economic growth and
3 development of the state;

4 (C) develop and implement plans for a transportation net-
5 work;

6 (D) foster and promote the development of the state's land
7 and natural resources;

8 (2) the Alaska Railroad is an essential part of the state trans-
9 portation network that may, unless preserved by state action, cease to be a
10 transportation option in Alaska;

11 (3) the federal government has offered to the state the option
12 of taking over the Alaska Railroad to ensure its continued existence; and

13 (4) it is in the state's best interest to accept the railroad
14 under the terms and conditions offered by the United States government.

15 (b) It is the purpose of this Act to

16 (1) create a viable economic entity with the powers and duties
17 necessary to operate and manage the Alaska Railroad pending eventual trans-
18 fer of the railroad to the private sector for its ownership or operation or
19 both consistent with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of
20 1982);

21 (2) provide for the level of transportation service that best
22 satisfies the needs of the people of the state consistent with the other
23 findings and policies of this section;

24 (3) create a public corporation with the powers, duties, and
25 functions needed to operate the Alaska Railroad and manage its rail, indus-
26 trial, port and other properties in the best interest of the people of the
27 state by ensuring that the corporation will

28 (A) be exclusively responsible for the management of the
29 financial and legal obligations of the Alaska Railroad;

1 (B) operate the railroad as a common carrier subject to the
2 jurisdiction of the United States Interstate Commerce Commission
3 consistent with 45 U.S.C. 1207;

4 (C) have the ability to raise capital by issuing obliga-
5 tions exempt from federal and state taxation and applying for federal
6 money to which the state may be entitled or that may be available;

7 (D) carry out its responsibilities on a self-sustaining
8 basis;

9 (E) provide the best possible combination of types and
10 levels of safe, efficient, and economical transportation to meet the
11 overall needs of the state, supported when necessary by state invest-
12 ment;

13 (F) provide for the prudent operation of the railroad
14 according to sound business management practices; and

15 (G) preserve the integrity of the railroad utility corridor
16 for transportation, communication, and transmission purposes;

17 (4) ensure that borrowing by the corporation does not directly
18 or indirectly endanger the state's own borrowing capacity.

19 * Sec. 2. AS 42 is amended by adding a new chapter to read:

20 CHAPTER 40. ALASKA RAILROAD CORPORATION.

21 ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

22 Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is
23 established the Alaska Railroad Corporation. The corporation is a
24 public corporation and is an instrumentality of the state within the
25 Department of Commerce and Economic Development. The corporation has
26 a legal existence independent of and separate from the state. The
27 exercise by the corporation of the powers provided in this chapter is
28 considered an essential government function of the state.

29 Sec. 42.40.020. BOARD OF DIRECTORS. (a) The powers of the

1 corporation are vested in the board of directors. The board consists
2 of the commissioner of commerce and economic development, the chief
3 executive officer of the corporation, and seven members appointed by
4 the governor. The seven appointed members must be registered voters
5 in the state except as provided in (b) and (c) of this section. No
6 more than two appointed members may be from any one of the four judi-
7 cial districts in the state. Two of the appointed members must have
8 at least five years experience as owners or managers of a business in
9 the state. Except for the commissioner, the chief executive officer,
10 and the member appointed under (d) of this section, a member may not
11 be a state officer or employee.

12 (b) One member of the board shall be a person who has at least
13 10 years of experience in railroad management. A person who is not a
14 resident of the state may be appointed under this subsection.

15 (c) One member of the board shall be or have been an executive
16 official of a United States railroad and shall be selected in accor-
17 dance with any requirements imposed under 49 U.S.C. (Interstate Com-
18 merce Act). A person who is not a resident of the state may be ap-
19 pointed under this subsection.

20 (d) One member shall be an employee who is a member of a bar-
21 gaining unit representing employees of the corporation.

22 (e) Except for the commissioner of commerce and economic devel-
23 opment and the chief executive officer of the corporation, the members
24 of the board shall be confirmed by a majority of the members of each
25 house of the legislature in joint session. A member appointed by the
26 governor has the full powers and responsibilities of a confirmed board
27 member until the member is rejected by the legislature.

28 Sec. 42.40.030. TERM OF OFFICE. Except for the commissioner of

1 commerce and economic development and the chief executive officer of
2 the corporation, members of the board serve for staggered terms of
3 five years each at the pleasure of the governor.

4 Sec. 42.40.040. VACANCIES. (a) A vacancy on the board is
5 filled by appointment by the governor, and the appointment must be
6 confirmed by the members of each house of the legislature in joint
7 session. A member appointed to fill a vacancy holds office for the
8 balance of the term for which the member's predecessor was appointed.

9 (b) A vacancy on the board does not impair the authority of a
10 quorum of members to exercise the powers and perform the duties of the
11 board.

12 (c) A member of the board whose term has expired shall serve
13 until a successor has been appointed.

14 Sec. 42.40.050. COMPENSATION AND EXPENSES. (a) An appointed
15 member of the board is entitled to compensation at a rate of \$250 for
16 each day the member is engaged in the actual performance of duties as
17 a member of the board. The board may provide by rule for compensation
18 for partial days during which an appointed member is engaged in actual
19 performance of duties as a member of the board.

20 (b) In addition to compensation under (a) of this section, an
21 appointed member of the board is entitled to per diem and travel
22 expenses authorized by law for state boards and commissions.

23 Sec. 42.40.060. BOARD OFFICERS. (a) The board shall elect from
24 its membership a chairman and vice-chairman and prescribe their duties
25 by rule.

26 (b) The board shall appoint a secretary and prescribe the duties
27 of the secretary.

28 ARTICLE 2. MANAGEMENT.

29 Sec. 42.40.100. MANAGEMENT BY THE BOARD. The board is

1 responsible for the management of the corporation but shall delegate
2 certain powers and duties to the chief executive officer in accordance
3 with AS 42.40.120. In managing the corporation the board shall

4 (1) be responsible for the management of the financial and
5 legal obligations of the Alaska Railroad;

6 (2) operate the Alaska Railroad as a common carrier subject
7 to the jurisdiction of the United States Interstate Commerce Commis-
8 sion consistent with 45 U.S.C. 1207;

9 (3) generally manage the corporation on a self-sustaining
10 basis;

11 (4) apply to the legislature for an appropriation to be
12 used to provide a particular service that is not otherwise self-
13 sustaining if a subsidy is required to maintain that service;

14 (5) provide for safe, efficient, and economical transporta-
15 tion to meet the overall needs of the state;

16 (6) raise needed capital by issuing obligations of the
17 corporation while ensuring that borrowing by the corporation does not
18 directly or indirectly endanger the state's own borrowing capacity;

19 (7) review all private and state land disposal proposals to
20 aid in planning for future development or expansion of transportation
21 services;

22 (8) ensure that the accounting and procurement procedures
23 of the corporation meet accepted railroad industry standards.

24 Sec. 42.40.110. EXECUTIVE OFFICERS. (a) The board shall ap-
25 point the chief executive officer of the corporation who serves at the
26 pleasure of the board. The board shall fix compensation for the chief
27 executive officer.

28 (b) The chief executive officer of the corporation shall appoint
29 and fix the compensation for other executive officers. The

1 compensation for an executive officer appointed under this subsection
2 is subject to board approval.

3 Sec. 42.40.120. DELEGATION. (a) The board shall by rule dele-
4 gate to the chief executive officer powers and duties necessary or
5 appropriate for the management of the daily affairs and operations of
6 the corporation. The board may by rule require the exercise of a
7 delegated power or duty to be subject to board approval.

8 (b) Within 60 days after its first meeting, the board shall by
9 rule delegate the following activities of the corporation to the chief
10 executive officer or other executive officers designated by the board:

11 (1) leasing, granting easements in, issuing permits for the
12 use of, or conveying other interests in property;

13 (2) establishing specific rates, tariffs, divisions, and
14 contract rate agreements;

15 (3) making routine changes in service levels;

16 (4) establishing procurement and accounting procedures for
17 the corporation; and

18 (5) performing procurement activities.

19 (c) Notwithstanding (a) and (b) of this section, specific board
20 approval is required for the following:

21 (1) conveying the corporation's entire interest in land;

22 (2) issuing notes, debentures, and bonds;

23 (3) mortgaging or pledging corporation assets;

24 (4) donating property or other assets belonging to the
25 corporation;

26 (5) acting as a surety or guarantor;

27 (6) adopting a long-range capital improvement and program
28 plan;

29 (7) certifying annual reports;

1 (8) effecting generally applicable increases and decreases
2 in rates other than those periodically approved by the United States
3 Interstate Commerce Commission;

4 (9) expanding or reducing services in a major way;

5 (10) expanding the main or branch rail lines, other than
6 performing routine track alignment as necessary to maintain service
7 levels in effect on the date of transfer;

8 (11) selecting independent auditors and accountants;

9 (12) exercising the power of eminent domain;

10 (13) entering into collective bargaining agreements; and

11 (14) adopting annual budgets.

12 ARTICLE 3. ADMINISTRATIVE PROVISIONS.

13 Sec. 42.40.150. MEETINGS OF THE BOARD. (a) The chairman of the
14 board shall call meetings of the board at least once every three
15 months and may call other meetings of the board as necessary. The
16 chairman shall preside at meetings.

17 (b) Except for executive sessions, the meetings of the board are
18 public. The board shall provide by rule for a method of providing
19 reasonable notice to the public of its meetings.

20 (c) The board shall keep minutes of each meeting.

21 Sec. 42.40.160. QUORUM AND VOTING. (a) Five voting members of
22 the board constitutes a quorum for the transaction of business.

23 (b) Five affirmative votes are required for board action. The
24 board shall provide by rule for the manner of voting, except that the
25 board may not provide for voting by proxy. The rules may provide for
26 voting and conferring by telecommunication devices.

27 Sec. 42.40.170. EXECUTIVE SESSIONS. (a) The question of hold-
28 ing an executive session shall be determined by a majority vote of the
29 board. A subject may not be considered at an executive session unless

1 it is mentioned in the motion calling for the executive session or is
2 auxiliary to a subject mentioned. An action may not be taken at an
3 executive session.

4 (b) Only the following subjects may be discussed in an executive
5 session:

6 (1) matters, the immediate knowledge of which would clearly
7 have an adverse effect upon the finances of the corporation;

8 (2) unless the person has requested to have the subjects
9 discussed in public, subjects that tend to prejudice the reputation
10 and character of a person;

11 (3) matters that, by law or municipal charter or ordinance,
12 are permitted to be kept confidential from public disclosure;

13 (4) matters pertaining to personnel;

14 (5) matters pertaining to the corporation's legal position;

15 (6) land acquisition or disposal; and

16 (7) proprietary or other information of a type treated as
17 confidential under the standards and practices of the United States
18 Interstate Commerce Commission, including practices that protect
19 information associated with specific shippers, divisions, and contract
20 rate agreements.

21 Sec. 42.40.180. RULES. (a) The board shall adopt rules to
22 carry out its functions and the purposes of this chapter, including
23 rules to safeguard property owned, managed, or transported by the
24 corporation and to protect employees and persons using the
25 corporation's property or services. At least 15 days before the
26 adoption, amendment, or repeal of a rule, the board shall give public
27 notice of the proposed action by publishing a notice in at least three
28 newspapers of general circulation in the state and by mailing a copy
29 of the notice to each person who has requested notice of proposed

1 changes to rules. The notice must state the time, place, and nature
2 of the proceedings and must contain a summary of the subject of the
3 proposed change.

4 (b) On the date and at the time and place designated in the
5 notice required under (a) of this section the board shall provide each
6 interested person an opportunity to present statements in writing
7 concerning the proposed change and shall give members of the public an
8 opportunity to present oral statements for a total period of at least
9 one hour.

10 (c) The board shall consider all relevant matters presented to
11 it before adopting, amending, or repealing a rule. The board may take
12 action on a rule that varies in content from the summary provided with
13 the notice of the proposed change if the subject of the rule was
14 reflected in the summary and it provided reasonable notice to the
15 public as to whether their interests could be affected by the board's
16 action on that subject.

17 (d) The board shall establish in the bylaws of the corporation
18 additional procedures for adopting rules if necessary.

19 Sec. 42.40.190. EMERGENCY RULES. (a) The board shall establish
20 in the bylaws of the corporation a procedure for the adoption, amend-
21 ment, or repeal of a rule on an emergency basis. An emergency change
22 may be made only when necessary for the orderly operation of the
23 corporation's facilities or programs. The requirements of AS 42.-
24 40.180 do not apply to actions taken under this section. However,
25 within 10 days after the adoption, amendment, or repeal of a rule on
26 an emergency basis the board shall give notice of its action that
27 substantially complies with the notice requirements of AS 42.40.-
28 180(a).

29 (b) An action taken under this section remains in effect for not

1 more than 120 days. To prevent an emergency change from lapsing the
2 board may make the same change under AS 42.40.180 before the end of
3 the 120-day period.

4 Sec. 42.40.200. VALIDITY OF RULES. (a) Failure to mail notice
5 to a person under AS 42.40.180(a) or 42.40.190(a) does not invalidate
6 an action taken by the board.

7 (b) An interested person may challenge a rule adopted, amended,
8 or repealed by the board by bringing an action in the superior court.
9 In addition to other grounds, a court may declare a change invalid

10 (1) for substantial failure by the board to comply with
11 AS 42.40.180 or 42.40.190; or

12 (2) if the rule was adopted under AS 42.40.190, upon the
13 grounds that the emergency change was not necessary for the orderly
14 operation of the corporation's facilities or programs.

15 Sec. 42.40.210. PREVIOUSLY ADOPTED RULES AND ORDERS. The board
16 may provide by resolution that rules and orders in effect on the date
17 of transfer remain in effect until amended or repealed by the board.
18 AS 42.40.180 does not apply to actions taken under this section.

19 Sec. 42.40.220. PUBLIC DISCLOSURE OF INFORMATION. (a) Except
20 as provided under (b) of this section, information in the possession
21 of the corporation is public and is open to public inspection at
22 reasonable times.

23 (b) The corporation may by rule designate and withhold public
24 disclosure of matters of a nonpublic, privileged, or proprietary
25 nature. Those matters include personnel records, communications with
26 and work product of legal counsel, and, consistent with the standards
27 and practices of the United States Interstate Commerce Commission for
28 the protection of these matters, other information including
29 proprietary information associated with specific shippers, divisions

1 and contract rate agreements.

2 ARTICLE 4. POWERS AND DUTIES.

3 Sec. 42.40.250. GENERAL POWERS. In addition to the exercise of
4 other powers authorized by law, the corporation may

5 (1) adopt a seal;

6 (2) adopt bylaws governing the business of the corporation;

7 (3) sue and be sued;

8 (4) appoint trustees and agents of the corporation and
9 prescribe their powers and duties;

10 (5) hire legal counsel to represent the corporation;

11 (6) make contracts and execute instruments necessary or
12 convenient in the exercise of its powers and duties;

13 (7) acquire by purchase, lease, bequest, devise, gift,
14 exchange, the satisfaction of debts, the foreclosure of mortgages, or
15 otherwise, personal property, rights, rights-of-way, franchises,
16 easements, and other interest in land, and acquire by appropriation
17 water rights that are located in the state, taking title to the prop-
18 erty in the name of the corporation;

19 (8) hold, maintain, use, operate, lease, exchange, donate,
20 improve, convey, alienate, dispose of, or transfer land or personal
21 property, subject to other provisions of this chapter;

22 (9) contract with and accept transfers, gifts, grants or
23 loans of funds or property from the United States and the state or its
24 political subdivisions, subject to other provisions of federal or
25 state law or municipal ordinances;

26 (10) undertake and provide for the management, operation,
27 maintenance, use, and control of all of the property of the corpo-
28 ration, including all land and personal property of the Alaska
29 Railroad transferred under 45 U.S.C. 1203(a) and described in the

1 report dated July 14, 1983, as amended, submitted to Congress and the
2 legislature under 45 U.S.C. 1204(a);

3 (11) recommend to the legislature and the governor any tax,
4 financing, or financial arrangement the corporation considers appro-
5 priate for expansion or extension and operation of the Alaska Rail-
6 road;

7 (12) maintain offices and facilities at places it desig-
8 nates;

9 (13) apply to the state, the United States, and foreign
10 countries or other proper agencies for the permits, licenses, or
11 approvals necessary to construct, maintain, and operate railroad
12 transportation services, and obtain, hold, and reuse the licenses and
13 permits in the same manner as other railroad operators;

14 (14) prescribe rates to be charged for services provided by
15 the Alaska Railroad consistent with 45 U.S.C. 1201 - 1214 (Alaska
16 Railroad Transfer Act of 1982);

17 (15) determine the routes, schedules, and types of service
18 to be provided by the Alaska Railroad;

19 (16) enter into contracts, leases, and other agreements
20 with connecting carriers, shippers, and other persons concerning the
21 services, activities, operations, property, and facilities of the
22 railroad, including agreements that contain provisions to preserve and
23 expand the railroad's traffic base;

24 (17) plan for and undertake expansion of the railroad and
25 railroad activities, including extension of the rail system, and
26 contract with other modes of transportation service connecting to the
27 rail system;

28 (18) hire and discharge railroad personnel and determine
29 benefits and other terms of employment, in accordance with 45 U.S.C.

1 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

2 (19) assume and satisfy liabilities of the United States in
3 accordance with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of
4 1982) and the closing report of July 14, 1983, as amended, prepared
5 and submitted to Congress and the Legislature under 45 U.S.C. 1204(a);

6 (20) maintain a security force to enforce state law and the
7 corporation's rules with respect to violations that occur on or to
8 property owned, managed or transported by the corporation;

9 (21) issue its bonds or notes and provide for and secure
10 their payment, provide for the rights of their holders and hold or
11 dispose of them;

12 (22) purchase the corporation's bonds at a price not more
13 than the principal amount of them plus interest;

14 (23) cancel bonds of the corporation purchased by the corpo-
15 ration;

16 (24) secure the payment of its obligations by pledge, mort-
17 gage, or other lien on its contracts, revenues, income, or property;

18 (25) consent to the modification of the rate of interest,
19 time of payment of an installment of principal or interest, or other
20 term of a loan, contract, or agreement to which the corporation is a
21 party;

22 (26) borrow money, including the amounts necessary to estab-
23 lish reasonable reserves, and pay financing charges and interest on
24 the obligations for a reasonable period after which the corporation
25 estimates other money will be available to pay the interest, consul-
26 tant, advisory, and legal fees, and other expenses necessary or inci-
27 dent to borrowing; and

28 (27) do all things necessary or desirable to carry out the
29 powers and duties of the corporation granted or necessarily implied in

1 this chapter or other laws of the state or the laws or regulations of
2 the federal government.

3 Sec. 42.40.260. ANNUAL REPORT. Within 90 days following the end
4 of the fiscal year of the Alaska Railroad the board shall direct
5 preparation of, certify and distribute to the governor and to the
6 legislature a report describing the operations and financial condition
7 of the corporation during the preceding fiscal year. The report shall
8 itemize the cost of providing each category of service offered by the
9 railroad and the income generated by each category.

10 Sec. 42.40.270. AUDITS. (a) The board shall have the financial
11 records of the corporation audited annually by an independent
12 certified public accountant experienced in railroad accounting. The
13 board shall have an annual performance audit conducted by a recognized
14 railroad management expert to assure that the railroad is being
15 managed and operated effectively and efficiently in accordance with
16 the requirements of this chapter.

17 (b) The corporation shall make all of its financial records
18 available to an auditor appointed by the governor and to the
19 legislative audit division for examination. Disclosure to the public
20 by the auditor or legislative audit division of this information is
21 subject to AS 42.40.220 and rules implementing that section.

22 Sec. 42.40.280. LONG RANGE CAPITAL IMPROVEMENT AND PROGRAM PLAN.

23 (a) The corporation shall prepare and the board shall adopt a long
24 range capital improvement and program plan. The plan shall explain
25 the manner in which the corporation intends to accomplish the purposes
26 of this chapter and the corporation's anticipated capital improvements
27 during each of the five years after the plan is adopted.

28 (b) The board shall annually review and approve revisions to the
29 long range capital improvement and program plan. The board shall

1 provide copies of the updated plan to the governor and the legislature
2 by December 1 of each year.

3 Sec. 42.40.290. USE OF CORPORATION ASSETS. The corporation
4 shall apply all money, property, other assets, and credit of the
5 corporation toward activities authorized by this chapter. The corpo-
6 ration may not issue shares of stock, pay dividends, make private
7 distributions of assets, make loans to board members or employees, or
8 engage in business for private benefit. The use of money, property,
9 other assets, or credit of the corporation for a purpose not author-
10 ized by law by a person having the possession or control of it is
11 prohibited.

12 Sec. 42.40.300. INDEMNIFICATION. (a) The corporation may
13 defend and indemnify a current or former member of the board, em-
14 ployee, or agent of the corporation against all costs, expenses, judg-
15 ments, and liabilities, including attorney's fees, incurred by or
16 imposed upon that person in connection with a civil or criminal action
17 in which the person is involved by affiliation with the corporation,
18 if the person acted in good faith on behalf of the corporation and
19 within the scope of official duties or powers.

20 (b) The corporation may purchase insurance to protect and hold
21 personally harmless its employees, agents, and board members from an
22 action, claim, or proceeding arising out of the performance, purported
23 performance, or failure of performance, in good faith, of duties for,
24 or employment with, the corporation and to hold them harmless from
25 expenses connected with the defense, settlement, or monetary judgments
26 from that action, claim, or proceeding. The purchase of insurance is
27 discretionary with the board and insurance is not considered to be
28 compensation to the insured person.

29 ARTICLE 5. CORPORATION PROPERTY.

1 Sec. 42.40.350. LAND. (a) All land transferred under 45 U.S.C.
2 1201 - 1214 (Alaska Railroad Transfer Act of 1982) or otherwise ac-
3 quired by the corporation is under the control of the corporation.
4 All land that is transferred or acquired by the corporation is des-
5 ignated as follows:

6 (1) railroad rights-of-way or easements are railroad
7 utility corridors;

8 (2) land other than railroad rights-of-way or easements is
9 rail land.

10 (b) Railroad utility corridors shall be of a width at least 100
11 feet on both sides of the centerline of the extended main or branch
12 line, or may be of lesser width if the adjoining land is not rail
13 land, and may be surveyed by the metes and bounds method. The
14 corporation may not convey land within a utility corridor. However,
15 the corporation may lease, grant easements or permits, or otherwise
16 authorize use of portions of a utility corridor for transportation,
17 communication, and transmission purposes and support functions
18 associated with those purposes, and for other uses authorized under
19 this chapter if the use does not restrict other parallel uses of the
20 utility corridor.

21 (c) The corporation may convey, lease, grant easements or per-
22 mits, or otherwise authorize use of portions of rail land.

23 Sec. 42.40.360. REQUEST FOR LAND. (a) The board may nominate
24 federal land necessary or useful for present, future or intended
25 railroad purposes and request the commissioner of natural resources to
26 select the land for the state through the federal land selection
27 process.

28 (b) The board by rule may identify and request the commissioner
29 of natural resources to convey land necessary or useful for present,

1 future, or intended railroad purposes owned by or tentatively approved
2 for transfer to the state, including land not adjacent to a railroad
3 utility corridor. The request must include a statement of and
4 justification for the present, future or intended railroad use. Upon
5 receipt of a request, the commissioner shall temporarily reserve the
6 land identified in the request for railroad purposes and delay dis-
7 posal or lease of that land under other laws to a party other than the
8 corporation. The temporary reservation of land is subject to valid
9 existing rights and remains in effect for 180 days.

10 Sec. 42.40.370. CONVEYANCE OF LAND. (a) Within 90 days after
11 receiving a request under AS 42.40.360(b) the commissioner of natural
12 resources shall by written decision

13 (1) designate the identified land for railroad purposes
14 and, subject to valid existing rights, convey the state's interests in
15 the land to the corporation;

16 (2) notify the corporation of reasons for refusal to desig-
17 nate the identified land for railroad purposes; or

18 (3) approve in part and deny in part the request.

19 (b) A conveyance of land under this section may be for less than
20 its appraised value as determined by the commissioner of natural
21 resources.

22 (c) In the absence of a reservation to the contrary, a convey-
23 ance of land under this section vests in the corporation ownership,
24 control of the surface and subsurface, and the exclusive right to
25 extract or use timber and other construction materials, sand, gravel,
26 rock, and the right to tunnel, ditch, recontour, excavate, or other-
27 wise use the land for railroad, transportation, transmission, and
28 related purposes without regard to the classification of the resources
29 as part of the surface or subsurface estate.

1 (d) The corporation may reconvey to the state land received
2 under this section that the corporation and the commissioner of natu-
3 ral resources jointly identify as unnecessary or unsuitable for the
4 corporation's purposes.

5 Sec. 42.40.380. USE OF STATE LAND. When emergency conditions
6 require that track or other right-of-way fixtures of the corporation
7 be moved from the existing location and relocated on state land adja-
8 cent to or in the vicinity of the existing right-of-way and the chief
9 executive officer determines that relocation is necessary to maintain
10 safe and adequate rail operations, the corporation may effect the
11 relocation and notify the the Department of Natural Resources. The
12 relocation must affect only the amount of state land necessary to
13 adequately restore or continue safe rail operations at a normal level.

14 Sec. 42.40.390. LAND USE RULES. The board may adopt exclusive
15 rules governing land use by parties having interests in or permits for
16 land owned or managed by the corporation. The power conferred by this
17 section is exercised for the common health, safety, and welfare of the
18 public and to the extent constitutionally permissible, may not be
19 limited by the terms and conditions of leases, contracts, or other
20 transactions.

21 Sec. 42.40.400. EMINENT DOMAIN. (a) The corporation may exer-
22 cise the power of eminent domain under AS 09.55.240 - 09.55.460 to
23 acquire land for lawful purposes consistent with this chapter. The
24 corporation may acquire a fee simple title whenever, in the judgment
25 of the board, ownership of a fee simple title is necessary to carry
26 out the lawful purposes in condemning the land.

27 (b) The corporation may file a declaration of taking in the
28 manner provided for the state under AS 09.55.420.

29 (c) The power of eminent domain conferred under this section

1 includes the power to obtain clay, gravel, sand, timber, rock, or
2 other material for railroad use, the land necessary to obtain the
3 material, and access to the land and material.

4 Sec. 42.40.410. VACATION OF LAND. The corporation may vacate
5 land acquired for railroad purposes by executing and filing a deed in
6 the appropriate recording district. Upon filing the deed the state
7 shall acquire title to the land.

8 Sec. 42.40.420. FEDERAL LAND. The corporation may submit appli-
9 cations on its own behalf as an instrumentality of the state for
10 acquisition of federal land available under federal law that will
11 enhance the operations of the corporation. The corporation may re-
12 ceive in its own name conveyances of all interests in federal land.

13 Sec. 42.40.430. MUNICIPAL USE OF RAILROAD LAND. Upon request
14 the corporation may authorize use of railroad land for municipal
15 purposes. Subject to AS 42.40.350(b), the corporation may authorize a
16 municipality to establish a walkway or trail over a utility corridor.
17 Before authorizing a use under this section the board shall require
18 the municipality to execute an agreement in a form approved by the
19 board to

20 (1) hold the corporation harmless and indemnify the corpo-
21 ration for any use made of the railroad land including

22 (A) defending the corporation in a cause of action
23 brought against the corporation as a result of the use; and

24 (B) indemnifying the corporation for the amount of a
25 judgment rendered against the corporation including prejudgment
26 interest, costs, and attorney's fees; and

27 (2) stop the use of railroad land upon request of the
28 corporation if, as determined by the corporation, the use interferes
29 with expansion or replacement of railroad facilities.

1 Sec. 42.40.440. ACQUISITION OF GOVERNMENT PROPERTY. The corpor-
2 ation, as an instrumentality of the state, may acquire in its own name
3 from the United States under 50 App U.S.C. 1622 et seq. (Surplus
4 Property Act of 1944), 40 U.S.C. 471 et seq. (Federal Property and
5 Administrative Services Act of 1949), or other law, property under the
6 control of a federal department or agency that is useful for the
7 corporation's purposes. The corporation may acquire from the Depart-
8 ment of Administration property of the state made available under
9 AS 44.71.010 - 44.71.040.

10 ARTICLE 6. FINANCIAL PROVISIONS.

11 Sec. 42.40.500. LIMITATION OF LIABILITY. A liability incurred
12 by the corporation shall be satisfied exclusively from the assets or
13 revenue of the corporation and no creditor or other person has a right
14 of action against the state because of a debt, obligation, or liabil-
15 ity of the corporation.

16 Sec. 42.40.510. FIDELITY BOND. The corporation shall obtain a
17 fidelity bond in an amount determined by the board for board members
18 and each executive officer responsible for accounts and finances. A
19 bond must be in effect during the entire tenure in office of the
20 bonded person.

21 Sec. 42.40.520. INSURANCE. Except as provided in AS 42.40.300-
22 (b), the corporation shall protect its assets, services, and employees
23 by purchasing insurance or providing for certain self-insurance re-
24 tentions. The corporation shall also maintain casualty, property,
25 business interruption, marine, boiler and machinery, pollution liabil-
26 ity, and other insurance in amounts reasonably calculated to cover
27 potential claims against the corporation or state for bodily injury,
28 death or disability and property damage that may arise from or be
29 related to corporation operations and activities.

1 Sec. 42.40.530. REVENUE. Revenue generated by or appropriated
2 to the corporation shall be retained and managed by the corporation
3 for railroad and related purposes in accordance with 45 U.S.C. 1207-
4 (a)(5) (Alaska Railroad Transfer Act of 1982).

5 Sec. 42.40.540. APPROPRIATIONS. The corporation may request,
6 with the concurrence of the governor, a direct appropriation or grant
7 from the legislature to assist in carrying out the provisions of this
8 chapter.

9 ARTICLE 7. BONDS AND NOTES.

10 Sec. 42.40.600. GENERAL PROVISIONS. (a) The corporation by
11 resolution may issue bonds and bond anticipation notes to provide
12 money to carry out its purposes. However, the proceeds may not be
13 used for activities other than those specifically related to the
14 purposes for which the instruments are originally issued.

15 (b) Bonds or bond anticipation notes may be issued in one or
16 more series and shall, as provided by the resolution of the board,

17 (1) be dated;

18 (2) bear interest at a required rate or rates per year or
19 within a maximum rate;

20 (3) be in a required denomination;

21 (4) be in a coupon or registered form;

22 (5) carry conversion or registration provisions;

23 (6) have a required rank or priority;

24 (7) be executed in the required manner and form;

25 (8) be payable as required from the sources, in the medium
26 of payment, and place or places inside or outside the state;

27 (9) be subject to authentication by a trustee or fiscal
28 agent; and

29 (10) be subject to terms of redemption with or without

1 premium.

2 (c) Bonds or bond anticipation notes may be sold in the manner,
3 on the terms, and at the price the board determines. Bond anticipa-
4 tion notes shall mature at the time or times determined by the board.
5 Bonds shall mature at the time, not exceeding 50 years from their
6 date, determined by the board.

7 Sec. 42.40.610. NEGOTIABLE INSTRUMENTS. Bonds and notes issued
8 under this chapter and interest coupons attached to them are nego-
9 tiable instruments under the laws of this state, subject only to
10 applicable provisions for registration.

11 Sec. 42.40.620. BONDS AND NOTES ELIGIBLE FOR INVESTMENT. Bonds
12 and notes issued under this chapter are securities in which all public
13 officers and public bodies of the state and its political subdivi-
14 sions, all insurance companies, trust companies, banking associations,
15 investment companies, executors, administrators, trustees and other
16 fiduciaries may properly and legally invest funds, including capital
17 in their control or belonging to them. These bonds and notes may be
18 deposited with a state or municipal officer of an agency or political
19 subdivision of the state for any purpose for which the deposit of
20 bonds or notes of the state is authorized by law.

21 Sec. 42.40.630. PAYMENT OF BONDS AND NOTES. (a) The principal
22 and interest on bonds or notes of the corporation is payable from
23 corporation money or assets. Bonds or notes may be additionally
24 secured by a pledge of a grant or contribution from the federal gov-
25 ernment or a corporation, association, institution or person, or a
26 pledge of money, income, or revenue of the corporation from any
27 source.

28 (b) Bond anticipation notes may be payable from the proceeds of
29 the sale of bonds or other bond anticipation notes, or, if bond or

1 bond anticipation note proceeds are not available, from other money or
2 assets of the corporation.

3 Sec. 42.40.640. AGREEMENTS WITH HOLDERS. The corporation may by
4 provisions in a resolution authorizing or relating to the issuance of
5 bonds or bond anticipation notes enter into the following agreements
6 with the holders of the instruments:

7 (1) pledge all or part of its revenue to which its right
8 then exists or may thereafter exist, the money derived from the reve-
9 nue, and the proceeds of its bonds or notes;

10 (2) covenant against pledging all or part of its revenue,
11 or against permitting or suffering a lien on its revenue or property;

12 (3) covenant as to establishment of reserves or sinking
13 funds and provide for, regulate, and dispose of the reserves or sink-
14 ing funds;

15 (4) covenant regarding limitations on a right to sell or
16 otherwise dispose of property of any kind;

17 (5) covenant as to bonds and notes to be issued, their
18 limitations, terms and conditions, the custody, application and dispo-
19 sition of the proceeds of the bonds and notes;

20 (6) covenant as to the issuance of additional bonds or
21 notes, or limitations on the issuance of additional bonds or notes,
22 and the incurring of other debts;

23 (7) covenant as to the payment of the principal of or
24 interest on the bonds or notes, the sources and methods of payment,
25 the rank or priority of the bonds or notes with respect to a lien or
26 security, or the acceleration of the maturity of the bonds or notes;

27 (8) provide for the replacement of lost, stolen, destroyed
28 or mutilated bonds or notes;

29 (9) covenant against extending the time for the payment of

1 bonds or notes, or interest on the bonds or notes;
2 (10) covenant as to the redemption of bonds or notes and
3 privileges of their exchange for other bonds or notes of the corpo-
4 ration;
5 (11) covenant to create or authorize the creation of special
6 funds of money to be held in pledge or otherwise for operating ex-
7 penses, payment or redemption of bonds or notes, reserves or other
8 purposes, and as to the use and disposition of the money held in the
9 funds;
10 (12) establish the procedure by which the terms of a con-
11 tract or covenant with or for the benefit of the holders of bonds or
12 notes may be amended or abrogated, the amount of bonds or notes the
13 holders of which must consent to amendment or abrogation, and the
14 manner in which the consent may be given;
15 (13) covenant as to the custody of any of its properties or
16 investments, their safekeeping and insurance, and the use and dispo-
17 sition of insurance money;
18 (14) to vest in a trustee or trustees inside or outside the
19 state property, rights, powers and duties in trust as the corporation
20 may determine that may include any or all of the rights, powers and
21 duties of a trustee appointed by the holders of bonds or notes of the
22 corporation, and to limit or abrogate the rights of the holders of the
23 bonds or notes of the corporation to appoint a trustee under this
24 chapter or limit the rights, powers and duties of the trustee;
25 (15) to pay the costs or expenses incident to the enforce-
26 ment of the bonds or notes, of the provisions of the resolution, or of
27 a covenant or agreement of the corporation with the holders of its
28 bonds or notes;
29 (16) agree with a corporation trustee, that may be a trust

1 company or bank having the powers of a trust company inside or outside
2 the state, as to the pledging or assigning of revenue or funds that or
3 in which the corporation has a right or interest; the agreement may
4 provide for other rights and remedies exercisable by the trustee for
5 the protection of the holders of bonds or notes of the corporation and
6 not otherwise in violation of law, and may provide for the restriction
7 of the rights of an individual holder of bonds or notes of the corpo-
8 ration;

9 (17) to appoint and provide for the duties and obligations
10 of a paying agent or other fiduciary inside or outside the state;

11 (18) to limit the rights of the holders of bonds or notes of
12 the corporation to enforce a pledge or covenant securing the bonds or
13 notes; and

14 (19) covenants other than and in addition to the covenants
15 expressly authorized in this section, of like or different character,
16 and make covenants to do or refrain from doing acts in order to better
17 secure bonds or notes or that, in the absolute discretion of the
18 board, will tend to make bonds or notes more marketable.

19 Sec. 42.40.650. INTERIM RECEIPTS, TEMPORARY BONDS, AND TEMPORARY
20 BOND ANTICIPATION NOTES. Before the preparation of definitive bonds
21 or bond anticipation notes, the corporation may issue interim receipts
22 or temporary bonds or bond anticipation notes, with or without cou-
23 pons, exchangeable for bonds or bond anticipation notes when those
24 definitive bonds or bond anticipation notes have been executed and are
25 available for delivery.

26 Sec. 42.40.660. REFUNDING BONDS. (a) The corporation may
27 provide for the issuance of refunding bonds for the purpose of refund-
28 ing bonds then outstanding that have been issued under this chapter,
29 including the payment of a redemption premium on them and interest

1 that accrues to the date of redemption of the bonds. Refunding bonds
2 shall be issued in accordance with provisions of this chapter that
3 relate to the issuance of bonds to the extent those provisions are
4 appropriate.

5 (b) Refunding bonds may be sold or exchanged for outstanding
6 bonds issued under this chapter and the proceeds may be applied to the
7 purchase, redemption or payment of the outstanding bonds in addition
8 to other authorized purposes. Pending the application of the proceeds
9 of refunding bonds to the payment of the principal, accrued interest
10 and redemption premium on the bonds being refunded, and, if permitted
11 in the resolution authorizing the issuance of the refunding bonds or
12 in the trust agreement securing them, to the payment of interest on
13 the refunding bonds and expenses in connection with the refunding, the
14 proceeds may be invested in direct obligations of the United States or
15 obligations the principal of and the interest on which are uncondi-
16 tionally guaranteed by the United States that mature or may be re-
17 deemed not later than the date the proceeds of the refunding bonds,
18 together with the interest accruing on them, will be required for the
19 purposes intended.

20 Sec. 42.40.670. INDEPENDENT FINANCIAL ADVISOR. In negotiating
21 the private or public sale of bonds or bond anticipation notes to an
22 underwriter, the board shall retain a financial advisor who is
23 independent from the underwriter.

24 Sec. 42.40.680. VALIDITY OF SIGNATURES. If an officer of the
25 corporation whose signature or a facsimile of whose signature appears
26 on bonds, notes, or coupons attached to them ceases to be an officer
27 before the delivery of the bond, note, or coupon, the signature or
28 facsimile is valid the same as if the person had remained in office
29 until delivery.

1 Sec. 42.40.690. VALIDITY OF PLEDGE. (a) The pledge of assets
2 or revenue of the corporation to the payment of the principal or
3 interest on bonds or notes of the corporation is valid and binding
4 from the time the pledge is made and the assets or revenue are immedi-
5 ately subject to the lien of the pledge without physical delivery or
6 further act. The lien of a pledge is valid and binding against all
7 parties having claims of any kind against the corporation, irrespec-
8 tive of whether those parties have notice of the lien of the pledge.

9 (b) Nothing in this section prohibits the corporation from
10 selling assets subject to a pledge, except that a sale may be re-
11 stricted by the trust agreement or resolution providing for the issu-
12 ance of the bonds or notes.

13 Sec. 42.40.700. REMEDIES. A holder of bonds or notes issued
14 under this chapter or of coupons attached to them, and a trustee under
15 a trust agreement or resolution authorizing the issuance of the bonds
16 or notes, except as restricted by a trust agreement or resolution,
17 either at law or in equity, may

18 (1) enforce all rights granted under this chapter, the
19 trust agreement or resolution, or any other contract executed by the
20 corporation under this chapter; and

21 (2) compel the performance of all duties of the corporation
22 required by this chapter or by the trust agreement or resolution.

23 Sec. 42.40.710. CREDIT OF STATE NOT PLEDGED. (a) The state and
24 its political subdivisions are not liable for the debts of the corpo-
25 ration. Bonds and notes issued under this chapter are payable solely
26 from the revenue or assets of the corporation and do not constitute a

27 (1) debt, liability, or obligation of the state or of a
28 political subdivision of the state; or

29 (2) pledge of the faith and credit of the state or of a

1 political subdivision of the state.

2 (b) The corporation may not pledge the credit or the taxing
3 power of the state or its political subdivisions. Each bond and note
4 issued under this chapter shall contain on its face a statement that

5 (1) the corporation is not obligated to pay it or the
6 interest on it except from the revenue or assets pledged for it; and

7 (2) neither the faith and credit nor the taxing power of
8 the state or of a political subdivision of the state is pledged to the
9 payment of it.

10 Sec. 42.40.720. LIMITATION ON PERSONAL LIABILITY. A board
11 member or employee of the corporation is not subject to personal
12 liability or accountability because of the execution or issuance of
13 bonds or notes.

14 ARTICLE 8. PERSONNEL AND LABOR RELATIONS.

15 Sec. 42.40.750 CORPORATION EMPLOYEES. (a) Employees of the
16 Alaska Railroad are employees of the corporation and not of the state.
17 The provisions of AS 39 do not apply to employees of the corporation.

18 Sec. 42.40.760. COLLECTIVE BARGAINING RIGHTS. The provisions of
19 AS 23.40 (Public Employee Relations Act) do not apply to the corpo-
20 ration or to its employees. However, employees that are not executive
21 officers may organize and form, join, or assist an organization to
22 engage in collective bargaining with respect to wages, hours and other
23 terms and conditions of employment.

24 Sec. 42.40.770. AGREEMENT. (a) At the request of the board or
25 corporation employee organization, the Department of Administration
26 shall participate in negotiations between the corporation and the
27 employee organization.

28 (b) An agreement executed between the corporation and an em-
29 ployee organization shall provide for a grievance procedure in which

1 the final step in the procedure is binding arbitration. The agreement
2 shall define "grievance" for purposes of this section.

3 Sec. 42.40.780. RAILROAD EMPLOYEES LABOR RELATIONS AGENCY. (a)
4 There is established a railroad employees labor relations agency that
5 consists of three members appointed by the governor. One member shall
6 be a member of the state personnel board. Members serve at the plea-
7 sure of the governor.

8 (b) The railroad labor relations agency shall perform the func-
9 tions described in AS 23.40.090 - 23.40.190 and carry out the provi-
10 sions of AS 42.40.750 - 42.40.810.

11 (c) Members of the railroad employees labor relations agency
12 receive no compensation for their services, but are entitled to per
13 diem and travel expenses authorized for boards and commissions.

14 Sec. 42.40.790. STRIKES. (a) Employees may engage in a strike
15 if a majority of the employees in a collective bargaining unit vote by
16 secret ballot to do so.

17 (b) Notwithstanding the provisions of (a) of this section, the
18 employees and the corporation may agree in writing to submit a dispute
19 arising from interpretation or application of a collective bargaining
20 agreement to arbitration.

21 Sec. 42.40.800. POLITICAL ACTIVITIES. (a) Money, assets, or
22 property of the corporation may not be used for political activity.
23 However, board members and employees may communicate with and appear
24 before committees of Congress, the state legislature, and municipal
25 governing bodies in connection with matters directly affecting the
26 corporation.

27 (b) A board member or employee who violates the provisions of
28 this section is personally subject to a civil penalty assessed by a
29 judge of the superior court in an amount not to exceed \$5,000. An

1 action to enforce this section may be brought by any person.

2 Sec. 42.40.810. PROHIBITED ACTS. (a) The corporation or an
3 employee may not directly or indirectly:

4 (1) require or coerce an employee to participate in any way
5 in any activity or undertaking unless the activity or undertaking is
6 related to the performance of official duties;

7 (2) require or coerce an employee to make any report con-
8 cerning an activity or undertaking of the employee's activities or
9 undertakings unless the activity or undertaking is related to the
10 performance of official duties;

11 (3) except as directly related to the performance of offi-
12 cial duties, require or coerce an employee to submit to an interro-
13 gation, examination or psychological test that is designed to elicit
14 information concerning

15 (A) a personal relationship with a person connected
16 with the employee by blood or marriage,

17 (B) the employee's religious beliefs or practices,

18 (C) sexual matters,

19 (D) the employee's political affiliation or philoso-
20 phy;

21 (4) coerce an employee to invest or contribute earnings in
22 any manner or for any purpose;

23 (5) restrict or attempt to restrict after-working-hour
24 statements, pronouncements or other activities, not otherwise prohib-
25 ited by law or personnel rule, of an employee, if the employee does
26 not purport to speak or act in an official capacity.

27 (b) The provisions of (a) of this section do not diminish the
28 authority of an authorized law enforcement agency to conduct criminal
29 investigations of employees suspected of being involved in criminal

1 activity.

2 ARTICLE 9. GENERAL PROVISIONS.

3 Sec. 42.40.900. CLAIMS. (a) All claims and lawsuits involving
4 activities of the railroad, including suits in contract, quasi-con-
5 tract, or tort, shall be brought against the corporation and not
6 against the state.

7 (b) For the purposes of actionable claims, undertakings, pay-
8 ments of judgments, execution, interest, punitive damages, statutes of
9 limitations, bonds, costs, and similar matters related to the pres-
10 entation and prosecution of claims by and against the corporation, the
11 corporation and its board members and employees enjoy the same rights,
12 privileges, and immunities as the state and state officers.

13 (c) Claims against the corporation are not subject to the pro-
14 visions of AS 44.77 regarding claims against the state.

15 (d) The corporation is not subject to the provisions of AS 44.-
16 80.010, regarding the state as a party to an action.

17 Sec. 42.40.910. EXEMPTION FROM TAXATION. (a) The exercise of
18 the powers granted by this chapter shall be in all respects for the
19 benefit of the people of the state, for their well-being and prosper-
20 ity, and for the improvement of their social and economic conditions.
21 Subject to (b) of this section, the real and personal property of the
22 corporation and its assets, income, and receipts are exempt from all
23 taxes and special assessments of the state or a political subdivision
24 of the state.

25 (b) Bonds and notes issued under this chapter are issued by a
26 body corporate and public of the state and for an essential public and
27 governmental purpose. Therefore, the bonds and notes, the interest
28 and income from them, and all fees, charges, funds, revenue, income
29 and other money pledged or available to pay or secure the payment of

1 the bonds and notes or interest on them, are exempt from taxation
2 except for inheritance, transfer, and estate taxes.

3 (c) This section does not affect or limit an exemption from
4 license fees, property taxes, or excise, income or other taxes, pro-
5 vided under any other law, nor does it create a tax exemption with
6 respect to the interest of any business enterprise or other person,
7 other than the corporation.

8 Sec. 42.40.920. APPLICATION OF EXISTING LAWS. (a) The corpo-
9 ration is not subject to the jurisdiction of the Alaska Transportation
10 Commission.

11 (b) The following laws do not apply to the operations of the
12 corporation:

- 13 (1) AS 19;
- 14 (2) AS 30.15;
- 15 (3) AS 35;
- 16 (4) AS 37.05;
- 17 (5) AS 37.07;
- 18 (6) AS 37.10.010 - 37.10.060;
- 19 (7) AS 37.10.085;
- 20 (8) AS 37.20;
- 21 (9) AS 37.25;
- 22 (10) AS 38;
- 23 (11) AS 44.62.040 - 44.62.320.

24 Sec. 42.40.930. CONFLICTING LAWS INAPPLICABLE. If provisions of
25 AS 42.40 conflict with the provisions of other state law, the
26 provisions of AS 42.40 prevail. Provisions of AS 42.40 shall be
27 construed so that they do not conflict with 45 U.S.C. 1201 - 1214
28 (Alaska Railroad Transfer Act of 1982).

29 Sec. 42.40.940. REVERSION OF ASSETS. If the corporation ceases

1 to exist, for whatever reason, its assets revert to the state.

2 Sec. 42.40.980. DEFINITIONS. In this chapter unless the context
3 otherwise requires,

4 (1) "board" means the board of directors of the Alaska
5 Railroad Corporation;

6 (2) "collective bargaining" means negotiating with an
7 employees organization and representing employees on matters pertain-
8 ing to conditions of employment;

9 (3) "corporation" means the Alaska Railroad Corporation;

10 (4) "date of transfer" means the date on which the United
11 States Secretary of Transportation delivers the transfer documents
12 under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

13 (5) "employees" means all persons employed by the corpo-
14 ration including executive officers;

15 (6) "executive officer" means the corporation's chief
16 executive officer, assistant chief executive officer, assistant to the
17 chief executive officer, chief of administration, superintendent of
18 transportation, manager of marketing and sales, chief engineer, chief
19 mechanical officer, manager of industrial development and real estate,
20 manager of budget and accounting, manager of planning, manager of
21 personnel, manager of supply and procurement, chief of security,
22 manager of operating rules, manager of data processing, manager of
23 strategy, manager of operations planning, manager of supply, manager
24 of procurement, manager of safety, manager of administrative proce-
25 dure, chief counsel, or, if so designated by the board, any employee
26 who fulfills these management functions under a different title or who
27 exercises a similar or comparable level of responsibility;

28 (7) "land" means any interest in real property, including
29 tide and submerged land.

1 Sec. 42.40.990. SHORT TITLE. This chapter may be referred to as
2 the Alaska Railroad Corporation Act.

3 * Sec. 3. AS 42.40.010 is amended to read:

4 Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is
5 established the Alaska Railroad Corporation. The corporation is a
6 public corporation and is an instrumentality of the state [WITHIN THE
7 DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT]. The corporation has
8 a legal existence independent of and separate from the state. The
9 exercise by the corporation of the powers provided in this chapter is
10 considered an essential government function of the state.

11 * Sec. 4. AS 42.40.020(a) is amended to read:

12 (a) The powers of the corporation are vested in the board of
13 directors. The board consists of [THE COMMISSIONER OF COMMERCE AND
14 ECONOMIC DEVELOPMENT,] the chief executive officer of the corporation,
15 and eight [SEVEN] members appointed by the governor. The eight
16 [SEVEN] appointed members must be registered voters in the state
17 except as provided in (b) and (c) of this section. No more than two
18 appointed members may be from any one of the four judicial districts
19 in the state. Two of the appointed members must have at least five
20 years experience as owners or managers of a business in the state.
21 Except for [THE COMMISSIONER,] the chief executive officer [,] and the
22 member appointed under (d) of this section, a member may not be a
23 state officer or employee.

24 * Sec. 5. AS 42.40.020(e) is amended to read:

25 (e) Except for [THE COMMISSIONER OF COMMERCE AND ECONOMIC DEVEL-
26 OPMENT AND] the chief executive officer of the corporation, the mem-
27 bers of the board shall be confirmed by a majority of the members of
28 each house of the legislature in joint session. A member appointed by
29 the governor has the full powers and responsibilities of a confirmed

1 board member until the member is rejected by the legislature.

2 * Sec. 6. AS 42.40.030 is amended to read:

3 Sec. 42.40.030. TERM OF OFFICE; REMOVAL. (a) Except for [THE
4 COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT AND] the chief
5 executive officer of the corporation, members of the board serve for
6 staggered terms of five years each [AT THE PLEASURE OF THE GOVERNOR].

7 * Sec. 7. AS 42.40.030 is amended by adding a new subsection to read:

8 (b) The governor may, by written notice to the member, remove a
9 member from the board for

10 (1) incapacitation caused by injury or sickness that leaves
11 the member unable to perform duties under this chapter;

12 (2) continued refusal or inability to attend meetings of
13 the board; or

14 (3) conviction of a felony.

15 * Sec. 8. AS 42.40.180 is repealed and reenacted to read:

16 Sec. 42.40.180. RULES. (a) The board shall establish a proce-
17 dure for adopting, amending, and repealing rules to carry out its
18 functions and the purposes of this chapter, including a procedure for
19 the adoption or change of rules on an emergency basis when essential
20 to continue or to reinstate the orderly operation of the corporation's
21 facilities or programs.

22 (b) The board shall adopt rules to safeguard property owned,
23 managed, or transported by the corporation and to protect employees
24 and persons using the corporation's property or services.

25 * Sec. 9. SPECIAL REPORT. The governor shall contract with a private
26 consultant for the preparation of a report on the long-term operations of
27 the Alaska Railroad that are in the best interest of the state. The report
28 shall be submitted to the governor and the legislature by January 1, 1988.
29 It shall contain specific recommendations on operational alternatives and

1 the transfer of all or part of the railroad operation to the private sec-
2 tor.

3 * Sec. 10. APPOINTMENT OF FIRST BOARD OF DIRECTORS OF ALASKA RAILROAD
4 CORPORATION. Notwithstanding AS 42.40.020 enacted in sec. 1 of this Act,
5 the terms of the appointed members of the first board of directors of the
6 Alaska Railroad Corporation are as follows:

- 7 (1) one shall serve a term of two years;
8 (2) two shall serve a term of three years;
9 (3) two shall serve a term of four years; and
10 (4) two shall serve a term of five years.

11 * Sec. 11. COLLECTIVE BARGAINING AGREEMENTS. (a) As soon as
12 practicable before transfer of the Alaska Railroad to the state, the Alaska
13 Railroad Corporation and its employees shall adopt collective bargaining
14 agreements that continue the provisions of the agreements in effect between
15 the Alaska Railroad and its employees on the date of transfer of the
16 railroad. The collective bargaining agreements adopted under this section
17 between the corporation and its employees shall remain in effect to the
18 extent required under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act
19 of 1982).

20 (b) Within 180 days after the first meeting of the board of directors
21 of the Alaska Railroad Corporation, the board and representatives of
22 employee bargaining units shall establish procedures for the renegotiation
23 of bargaining agreements adopted under (a) of this section.

24 * Sec. 12. AS 42.40.190 and 42.40.200 are repealed.

25 * Sec. 13. Sections 3 - 8 and 12 of this Act take effect on the effec-
26 tive date of an amendment to the Constitution of the State of Alaska relat-
27 ing to the Alaska Railroad.

28 * Sec. 14. Sections 1, 2, and 9 - 11 of this Act take effect imme-
29 diately in accordance with AS 01.10.070(c).