

Original sponsor(s): Rules/Legislative Council

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 411 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making corrective amendments to the Alaska  
7 Statutes as recommended by the revisor of statutes;  
8 and providing for an effective date."

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

10 \* Section 1. AS 01.05.011 is amended to read:

11 Sec. 01.05.011. DESIGNATION AND CITATION. The bulk formal  
12 revision of Alaska law adopted and enacted into law by AS 01.05.006  
13 and as amended and supplemented is known as the "Alaska Statutes" and  
14 may be cited "AS" followed by the number of the title, chapter, and  
15 section, separated by periods. For example, [EXAMPLE:] this title may  
16 be cited "AS 01 [AS 1]"; this chapter may be cited "AS 01.05"; this  
17 section may be cited "AS 01.05.011." Except as otherwise indicated by  
18 the context, citations in accordance with this section include amend-  
19 ments and reenactments of the provision cited.

20 \* Sec. 2. AS 12.55.165 is amended to read:

21 Sec. 12.55.165. EXTRAORDINARY CIRCUMSTANCES. If the defendant  
22 is subject to sentencing under AS 12.55.125(c), (d), (e), or (i)  
23 [AS 12.55.125(c), (d)(1), (d)(2), (e)(1), (e)(2), OR (i)] and the  
24 court finds by clear and convincing evidence that manifest injustice  
25 would result from failure to consider relevant aggravating or mitigat-  
26 ing factors not specifically included in AS 12.55.155 or from imposi-  
27 tion of the presumptive term, whether or not adjusted for aggravating  
28 or mitigating factors, the court shall enter findings and conclusions  
29 and cause a record of the proceedings to be transmitted to a three-

1 judge panel for sentencing under AS 12.55.175.

2 \* Sec. 3. AS 14.43.300(d) is amended to read:

3 (d) The recipient must at all times continue to be enrolled as a  
4 full-time student in good standing at an accredited postsecondary  
5 institution that is appropriate to the memorial scholarship received  
6 [COLLEGE OR UNIVERSITY].

7 \* Sec. 4. AS 16.05.400(b) is amended to read:

8 (b) A sport fishing, hunting, or trapping license is not re-  
9 quired of a resident who is 60 years of age or more [AND HAS BEEN A  
10 RESIDENT FOR ONE YEAR OR MORE]. The commissioner shall issue a perma-  
11 nent identification card without charge to persons who qualify by age  
12 and residence and who complete the forms required by the commissioner  
13 for implementation of this subsection. A person who is issued a perma-  
14 nent identification card under this subsection shall have it in pos-  
15 session while sport fishing, hunting, or trapping.

16 \* Sec. 5. AS 23.15.230 is amended to read:

17 Sec. 23.15.230. APPOINTMENT OF COMMITTEE. The governor's com-  
18 mittee consists of not more than 12 members appointed by the governor  
19 for staggered terms [A TERM] not exceeding three years. The committee  
20 shall be composed of state leaders of industry, business, agriculture,  
21 labor, veterans, women, religious, educational, civic, fraternal,  
22 welfare, scientific, military, medical, and other professions, or as  
23 many of these and like categories as may be feasibly represented.  
24 [THE INITIAL MEMBERS SHALL BE APPOINTED FOR TERMS OF ONE, TWO, AND  
25 THREE YEARS AS DESIGNATED BY THE GOVERNOR.] A member may be reap-  
26 pointed and a vacancy shall be filled by the governor.

27 \* Sec. 6. AS 28.05.095(a) is amended to read:

28 (a) Except as provided in (b) of this section, a driver may not  
29 transport a child under the age of seven in a motor vehicle unless the

1 driver has provided and properly secured each child as described in  
2 this subsection. If the child is less than four years of age, the  
3 child shall be properly secured in a child safety device meeting the  
4 standards of the United States Department of Transportation for a  
5 child safety device for infants. If the child is [BETWEEN] four  
6 through [AND] six years of age, the child shall be properly secured in  
7 a child safety device approved for a child of that age and size by the  
8 United States Department of Transportation or in a seatbelt, whichever  
9 is appropriate for the particular child.

10 \* Sec. 7. AS 28.33.010(d) is amended to read:

11 (d) A policy of insurance, surety bond, or other form of se-  
12 curity may not be cancelled on less than 30 days' written notice to  
13 the department. This requirement must be clearly stated in the policy  
14 or endorsement for an insurance policy submitted as proof of financial  
15 responsibility under (b)(1) of this section [AS 42.30.225(a)(1)]. The  
16 30-day notice period is measured from the date on which the department  
17 receives notice.

18 \* Sec. 8. AS 28.35.130 is amended to read:

19 Sec. 28.35.130. FALSE REPORT OR DESTRUCTION OF EVIDENCE. An  
20 officer or person who knowingly makes or subscribes a false report  
21 concerning an investigation of a vehicle or damage or injury caused by  
22 a vehicle, as provided in this chapter, is guilty of unsworn falsi-  
23 fication [PERJURY]. A person who destroys, obliterates, conceals or  
24 removes, or who aids, abets, or assists in the destruction, oblit-  
25 eration, concealment, or removal from a vehicle, of evidence showing  
26 or tending to show that the vehicle collided with a person or prop-  
27 erty, is punishable by a fine of not more than \$500, or by imprison-  
28 ment for not more than six months, or by both.

29 \* Sec. 9. AS 28.40.100(a)(1) is amended to read:

1 (1) "cancel" means to annul or terminate, [THE ANNULMENT OR  
2 TERMINATION] by formal action of the department, [OF] a certification,  
3 registration, license, permit or privilege issued or allowed under  
4 this title or regulations adopted under this title, because of an  
5 error or defect in the document issued or the application for issuance  
6 or because the person holding the document is no longer entitled to  
7 it;

8 \* Sec. 10. AS 31.05.007(a) is amended to read:

9 (a) The term of office of each member is six years. [THE GOVER-  
10 NOR SHALL DESIGNATE WHO AMONG THE INITIAL APPOINTEES SHALL SERVE  
11 RESPECTIVELY FOR TERMS OF TWO YEARS, FOUR YEARS AND SIX YEARS.] A  
12 commissioner, upon the expiration of a term, shall continue to hold  
13 office until a successor is appointed and qualified.

14 \* Sec. 11. AS 36.30.015(e) is amended to read:

15 (e) The boards of directors of the Alaska Railroad Corporation  
16 and the Alaska State Housing Authority shall adopt procedures to  
17 govern the procurement of supplies, services, professional services,  
18 and construction [BY THE CORPORATION]. The procedures must be sub-  
19 stantially equivalent to the procedures prescribed in this chapter and  
20 in regulations adopted under this chapter.

21 \* Sec. 12. AS 39.20.190 is amended to read:

22 Sec. 39.20.190. DEFINITIONS. In AS 39.20.110 - 39.20.190  
23 [AS 39.20.110 - 39.20.170]

24 (1) "employee" or "state employee" means a person employed  
25 by a state agency;

26 (2) "official" or "state official" means the appointive  
27 head of a state agency;

28 (3) "official travel" means travel inside or outside the  
29 state on official business of the state, for which payment or

1 reimbursement is expected or authorized;

2 (4) "per diem allowance" means a daily flat rate of payment  
3 instead of actual expenses;

4 (5) "state agency," "agency," or "department" means depart-  
5 ment, office, institution, board, commission, bureau, division, or  
6 other administrative unit forming the state government;

7 (6) "subsistence" means lodging, meals, and other necessary  
8 expenses incidental to the personal sustenance or comfort of the  
9 traveler;

10 (7) "traveler" means the official or employee engaged in  
11 official travel for the state.

12 \* Sec. 13. AS 42.05.030(a) is amended to read:

13 (a) The term of office of each member is six years. [THE GOVER-  
14 NOR SHALL DESIGNATE WHO AMONG THE INITIAL APPOINTEES SHALL SERVE,  
15 RESPECTIVELY, FOR TERMS OF TWO YEARS, FOUR YEARS AND SIX YEARS.] A  
16 commissioner, upon the expiration of a term, shall continue to hold  
17 office until a successor is appointed and qualified.

18 \* Sec. 14. AS 42.05.221(a) is amended to read:

19 (a) A public utility may not operate and receive compensation  
20 for providing a commodity or service [AFTER JANUARY 1, 1971] without  
21 first having obtained from the commission under this chapter a certif-  
22 icate declaring that public convenience and necessity require or will  
23 require the service. Where a public utility provides more than one  
24 type of utility service, a separate certificate of convenience and  
25 necessity is required for each type. A certificate must describe the  
26 nature and extent of the authority granted in it, including, as appro-  
27 priate for the services involved, a description of the authorized area  
28 and scope of operations of the public utility.

29 \* Sec. 15. AS 42.05.221(e) is amended to read:

1 (e) If the [THE] commission employs [MAY EMPLOY] professional  
2 consultants to assist it in administering [THE PROVISIONS OF] this  
3 section, it [AND] may apportion the expenses relating to their employ-  
4 ment [THIS ADMINISTRATION] among the competing utilities [INVOLVED].

5 \* Sec. 16. AS 42.05.351 is amended to read:

6 Sec. 42.05.351. TESTING OF APPLIANCES. The commission shall  
7 provide for the examination and testing of appliances used for the  
8 measuring of a service of a public utility and may purchase equipment,  
9 apparatus, and standards required for this purpose. The commissioner  
10 of commerce and economic development may assign the examination and  
11 testing function to the section of weights and measures. Upon the  
12 payment of a reasonable fee established by the commission, a consumer  
13 may have an [THE] appliance that [, WHICH] is used by the consumer [,]  
14 tested. The commission shall establish by regulation allowable toler-  
15 ances with respect to the functioning or operation of the appliance.  
16 If the measuring appliance does not perform within these tolerances,  
17 the utility concerned shall pay the costs of the test by reimbursing  
18 the person requesting the test for the fee paid by that person. This  
19 reimbursement shall be made no later than at the time of the next  
20 regular billing following the test.

21 \* Sec. 17. AS 42.05.641 is amended to read:

22 Sec. 42.05.641. REGULATION BY MUNICIPALITY. The commission's  
23 jurisdiction and authority extend to public utilities operating within  
24 a municipality [CITY OR BOROUGH], whether home rule or otherwise. In  
25 the event of a conflict between a certificate, order, decision, or  
26 regulation of the commission and a charter, permit, franchise, ordi-  
27 nance, rule, or regulation of such a local governmental entity, the  
28 certificate, order, decision, or regulation of the commission shall  
29 prevail.

1 \* Sec. 18. AS 42.05.720(4) is amended to read:

2 (4) "public utility" or "utility" includes every corpora-  
3 tion whether public, cooperative, or otherwise, company, individual,  
4 or association of individuals, their lessees, trustees, or receivers  
5 appointed by a court, that owns, operates, manages, or controls any  
6 plant, pipeline, or system for

7 (A) furnishing, by generation, transmission, or dis-  
8 tribution, electrical service to the public for compensation;

9 (B) furnishing telecommunications service to the  
10 public for compensation;

11 (C) furnishing water, steam, or sewer service to the  
12 public for compensation;

13 (D) furnishing by transmission or distribution of  
14 natural or manufactured gas to the [ALASKA] public for compensa-  
15 tion;

16 (E) furnishing for distribution or by distribution  
17 petroleum or petroleum products to the [ALASKA] public for com-  
18 pensation when the consumer has no alternative in the choice of  
19 supplier of a comparable product and service at an equal or  
20 lesser price;

21 (F) furnishing collection and disposal service of  
22 garbage, refuse, trash, or other waste material to the public for  
23 compensation;

24 \* Sec. 19. AS 42.06.230(b) is amended to read:

25 (b) The commission's jurisdiction and authority extend to an oil  
26 or gas pipeline facility operating in a municipality [CITY OR BOR-  
27 OUGH], whether home rule or otherwise. If a conflict between a cer-  
28 tificate, order, decision, or regulation of the commission and a char-  
29 ter, permit, franchise, ordinance, rule, or regulation of such a local

1 governmental entity occurs, the certificate, order, decision, or regu-  
2 lation of the commission prevails.

3 \* Sec. 20. AS 43.05 is amended by adding a new section to read:

4 Sec. 43.05.075. CONCEALING OR FALSIFYING EVIDENCE. A person may  
5 not wilfully, in connection with a compromise or offer of a compromise  
6 under AS 43.05.070 or in connection with a closing agreement or offer  
7 to enter a closing agreement under AS 43.05.060,

8 (1) conceal from an officer or employee of the state prop-  
9 erty belonging to the estate of the taxpayer or other person liable  
10 for the tax; or

11 (2) receive, destroy, mutilate, or falsify a book, docu-  
12 ment, or record or make a false statement under oath relating to the  
13 estate or the financial condition of the taxpayer or other person  
14 liable for the tax.

15 \* Sec. 21. AS 43.05.110 is amended to read:

16 Sec. 43.05.110. PROPERTY IN POSSESSION OF DECEASED EMPLOYEE.  
17 The personal representative of a deceased employee of the department  
18 who has possession or control of a tax list, record, return, paper,  
19 document, or book or money collected shall deliver it to the depart-  
20 ment. [A PERSONAL REPRESENTATIVE WHO REFUSES OR WILFULLY FAILS TO DO  
21 SO IS GUILTY OF A MISDEMEANOR.]

22 \* Sec. 22. AS 43.05.130 is amended to read:

23 Sec. 43.05.130. PENALTY [MISDEMEANOR]. A person who, by conduct  
24 not described in AS 43.05.290, violates a provision of AS 43.05.010 -  
25 43.05.130 or a regulation adopted under those provisions [IT] is  
26 guilty of a misdemeanor, and upon conviction is punishable by a fine  
27 of not more than \$1,000 for each offense.

28 \* Sec. 23. AS 43.55.016(c) is amended to read:

29 (c) The cents-per-Mcf amount equals \$.064 per 1,000 [THOUSAND]

1 cubic feet of taxable gas produced from the lease or property [AS  
2 ADJUSTED BY AS 43.55.012].

3 \* Sec. 24. AS 43.55.020(e) is amended to read:

4 (e) Gas produced in excess of that needed for safety purposes,  
5 except gas used in the operation of a lease or property in drilling  
6 for or producing oil or gas, or for repressuring, is considered, for  
7 the purpose of AS 43.55.011 - 43.55.150 and in the amount used, as gas  
8 produced from a lease or property. Gas flared beyond the amount  
9 authorized for safety by the Alaska Oil and Gas Conservation Commis-  
10 sion under AS 31.05 is considered as gas produced, except that it is  
11 subject to a penalty equal to the tax computed under AS 43.55.016 [AS  
12 ADJUSTED BY AS 43.55.012] per 1,000 [THOUSAND] cubic feet of gas for  
13 the month in which the gas was flared.

14 \* Sec. 25. AS 43.55.090 is amended to read:

15 Sec. 43.55.090. REFUNDS. In case of overpayment, duplicate  
16 payment or payment made in error, the department may refund the amount  
17 of the overpayment under AS 43.15.010 [ISSUE A CERTIFICATE STATING THE  
18 FACTS AND THE AMOUNT OF THE REFUND TO WHICH THE TAXPAYER IS ENTITLED.  
19 UPON PRESENTATION OF THE CERTIFICATE TO THE DEPARTMENT OF ADMINISTRA-  
20 TION, THE DEPARTMENT OF ADMINISTRATION SHALL ISSUE A WARRANT FOR THE  
21 REFUND. THE REFUND SHALL BE PAID OUT OF THE UNAPPROPRIATED GROSS  
22 PRODUCTION TAX IN THE TREASURY].

23 \* Sec. 26. AS 44.19.104(a) is amended to read:

24 (a) Members serve for overlapping four-year terms. [THE FIRST  
25 MEMBERS APPOINTED SERVE FOR ONE, TWO, THREE AND FOUR-YEAR TERMS AS  
26 DETERMINED BY THE GOVERNOR.] The chairman serves for a term set by  
27 the commission, not to exceed four years.

28 \* Sec. 27. AS 44.19.155(b) is amended to read:

29 (b) Each public member appointed by the governor under (a)(1) of

1 this section serves a term of two years and until a successor is  
2 appointed and qualified [, EXCEPT THAT THE TERM OF OFFICE OF A PUBLIC  
3 MEMBER FIRST APPOINTED UNDER (a)(1)(A), (a)(1)(C), (a)(1)(E) AND  
4 (a)(1)(G) OF THIS SECTION SHALL BE ONE YEAR]. A public member may be  
5 reappointed.

6 \* Sec. 28. AS 44.21.258(b) is amended to read:

7 (b) The members of the commission shall serve staggered terms of  
8 five years [, WITH THE INITIAL TERMS DETERMINED BY LOT].

9 \* Sec. 29. AS 44.27.043 is amended to read:

10 Sec. 44.27.043. TERMS OF OFFICE. The term of office of each  
11 member is three years [; HOWEVER, OF THE MEMBERS FIRST APPOINTED,  
12 THREE ARE TO BE APPOINTED FOR TERMS OF ONE YEAR, FOUR FOR TERMS OF TWO  
13 YEARS, AND FOUR FOR TERMS OF THREE YEARS]. All vacancies are to be  
14 filled for the balance of the unexpired term in the same manner as  
15 original appointments.

16 \* Sec. 30. AS 44.33.310(3) is amended to read:

17 (3) "economic disaster" means that the annual income to  
18 workers in the designated area dropped below the average annual income  
19 for the base period for workers in the designated area and the drop in  
20 income is of such magnitude that the average family income of all  
21 residents of the designated area as determined by the department is  
22 below the poverty guidelines issued by the federal Department of  
23 Health and Human Services [FEDERAL SOCIAL SECURITY ADMINISTRATION  
24 POVERTY GUIDELINE], adjusted by the department to reflect subsistence  
25 economic patterns and appropriate cost-of-living differentials; the  
26 availability of alternate employment shall be considered in determin-  
27 ing whether an economic disaster has occurred under this paragraph.

28 \* Sec. 31. AS 44.46.030(c) is amended to read:

29 (c) [OF THE MEMBERS OF THE BOARD FIRST APPOINTED BY THE

1 GOVERNOR, THREE SHALL BE APPOINTED FOR A TERM OF ONE YEAR; THREE FOR A  
2 TERM OF TWO YEARS; AND TWO FOR A TERM OF THREE YEARS. THE INITIAL  
3 TERMS BEGIN ON JULY 1, 1971. THEREAFTER, ALL APPOINTMENTS SHALL BE  
4 MADE FOR TERMS OF THREE YEARS BEGINNING ON JULY 1 OF THE YEAR IN WHICH  
5 THE APPOINTMENT IS MADE.] Members of the board serve at the pleasure  
6 of the governor for staggered terms of three years. In the case of a  
7 vacancy other than one arising by expiration of term, an appointment  
8 to fill the vacancy shall be made for the remainder of the unexpired  
9 term.

10 \* Sec. 32. AS 44.85.030 is amended to read:

11 Sec. 44.85.030. MEMBERSHIP AND VACANCIES. The bond bank author-  
12 ity consists of the following five directors: the commissioner of  
13 revenue, the commissioner of community and regional affairs, who shall  
14 each be a director ex officio with voting privileges, and three direc-  
15 tors appointed by the governor. The appointment of each director other  
16 than the commissioner of revenue and the commissioner of community and  
17 regional affairs is subject to confirmation by the legislature. The  
18 three directors appointed by the governor serve at the governor's  
19 pleasure for four-year terms. They must be residents of the state and  
20 qualified voters at the time of appointment and shall comply with the  
21 requirements of AS 39.50 (conflict of interest). [THE DIRECTORS FIRST  
22 APPOINTED SHALL HAVE TERMS OF TWO, THREE AND FOUR YEARS RESPECTIVELY.]  
23 Each director shall hold office for the term of appointment and until  
24 a successor has been appointed and qualified. A director is eligible  
25 for reappointment. A vacancy in a directorship occurring other than  
26 by expiration of term shall be filled in the same manner as the origi-  
27 nal appointment but for the unexpired term only. Each director before  
28 entering upon the duties of office shall take and subscribe to an oath  
29 to perform the duties faithfully, impartially, and justly to the best

1 of the director's ability. A record of the oath shall be filed in the  
2 office of the governor.

3 \* Sec. 33. AS 44.88.030(c) is amended to read:

4 (c) Members of the authority described in (a)(2) and (a)(3) of  
5 this section serve two-year terms. [HOWEVER, THE INITIAL APPOINTMENT  
6 OF ONE MEMBER DESCRIBED IN (a)(3) OF THIS SECTION SHALL BE FOR A  
7 ONE-YEAR TERM.]

8 \* Sec. 34. AS 47.80.050(a) is amended to read:

9 (a) Council members serve staggered terms of [MEMBERS' TERMS  
10 ARE] three years. [OF THE INITIAL APPOINTEES, ONE-THIRD SHALL BE  
11 APPOINTED FOR ONE-YEAR TERMS, ONE-THIRD FOR TWO-YEAR TERMS, AND ONE-  
12 THIRD FOR THREE-YEAR TERMS.]

13 \* Sec. 35. AS 23.15.520(3); AS 23.35.150(2), 23.35.150(4); AS 39.50.-  
14 200(b)(47); AS 42.40.920(a); AS 43.05.010(17), 43.05.120; AS 43.20.340(3);  
15 AS 43.23.095(2), 43.23.095(3); AS 43.31.420(2); AS 43.55.900(5); AS 43.56.-  
16 210(3); AS 43.75.140(2); AS 43.80.100(3); AS 44.47.310(5); AS 47.07.-  
17 020(b)(10), and 47.07.035(17) are repealed.

18 \* Sec. 36. This Act takes effect immediately under AS 01.10.070(c).