

Original sponsor(s): Rules/Legislative Council

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 SENATE CS FOR 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 41.21.302(c), as amended by sec. 1, ch. 14, SLA 1990, is
13 amended to read:

14 (c) The Department of Natural Resources shall develop a manage-
15 ment plan for each marine park unit of the Alaska state park system to
16 determine the specific purposes and uses for the unit [WITHIN FIVE
17 YEARS]. The commissioner shall give written notice and consult with
18 the Department of Fish and Game, proximately located municipalities of
19 the state, proximately located private landowners, the United States
20 Forest Service, organizations concerned with conservation, recreation,
21 and tourism, and other interested parties during the preparation of a
22 management plan for a marine park unit of the Alaska state park sys-
23 tem. A management plan required under this subsection shall be com-
24 pleted by June 14, 1995, for each marine park unit established before
25 June 14, 1990, and within five years of the establishment of the unit
26 for units established after June 13, 1990.

27 * Sec. 14. AS 42.05.030(a) is amended to read:

28 (a) The term of office of each member is six years. [THE GOVER-
29 NOR SHALL DESIGNATE WHO AMONG THE INITIAL APPOINTEES SHALL SERVE,

1 RESPECTIVELY, FOR TERMS OF TWO YEARS, FOUR YEARS AND SIX YEARS.] A
2 commissioner, upon the expiration of a term, shall continue to hold
3 office until a successor is appointed and qualified.

4 * Sec. 15. AS 42.05.221(a) is amended to read:

5 (a) A public utility may not operate and receive compensation
6 for providing a commodity or service [AFTER JANUARY 1, 1971] without
7 first having obtained from the commission under this chapter a certifi-
8 cate declaring that public convenience and necessity require or will
9 require the service. Where a public utility provides more than one
10 type of utility service, a separate certificate of convenience and
11 necessity is required for each type. A certificate must describe the
12 nature and extent of the authority granted in it, including, as appro-
13 priate for the services involved, a description of the authorized area
14 and scope of operations of the public utility.

15 * Sec. 16. AS 42.05.221(e) is amended to read:

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

20 * Sec. 17. AS 42.05.351 is amended to read:

21 Sec. 42.05.351. TESTING OF APPLIANCES. The commission shall
22 provide for the examination and testing of appliances used for the
23 measuring of a service of a public utility and may purchase equipment,
24 apparatus, and standards required for this purpose. The commissioner
25 of commerce and economic development may assign the examination and
26 testing function to the section of weights and measures. Upon the
27 payment of a reasonable fee established by the commission, a consumer
28 may have an [THE] appliance that [, WHICH] is used by the consumer [.,]
29 tested. The commission shall establish by regulation allowable

1 tolerances with respect to the functioning or operation of the appli-
2 ance. If the measuring appliance does not perform within these toler-
3 ances, the utility concerned shall pay the costs of the test by reim-
4 bursing the person requesting the test for the fee paid by that per-
5 son. This reimbursement shall be made no later than at the time of the
6 next regular billing following the test.

7 * Sec. 18. AS 42.05.641 is amended to read:

8 Sec. 42.05.641. REGULATION BY MUNICIPALITY. The commission's
9 jurisdiction and authority extend to public utilities operating within
10 a municipality [CITY OR BOROUGH], whether home rule or otherwise. In
11 the event of a conflict between a certificate, order, decision, or
12 regulation of the commission and a charter, permit, franchise, ordi-
13 nance, rule, or regulation of such a local governmental entity, the
14 certificate, order, decision, or regulation of the commission shall
15 prevail.

16 * Sec. 19. AS 42.05.720(4) is amended to read:

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

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

24 (B) furnishing telecommunications service to the
25 public for compensation;

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

28 (D) furnishing by transmission or distribution of
29 natural or manufactured gas to the [ALASKA] public for

1 compensation;

2 (E) furnishing for distribution or by distribution
3 petroleum or petroleum products to the [ALASKA] public for com-
4 pensation when the consumer has no alternative in the choice of
5 supplier of a comparable product and service at an equal or
6 lesser price;

7 (F) furnishing collection and disposal service of
8 garbage, refuse, trash, or other waste material to the public for
9 compensation;

10 * Sec. 20. AS 42.06.230(b) is amended to read:

11 (b) The commission's jurisdiction and authority extend to an oil
12 or gas pipeline facility operating in a municipality [CITY OR BOR-
13 OUGH], whether home rule or otherwise. If a conflict between a cer-
14 tificate, order, decision, or regulation of the commission and a char-
15 ter, permit, franchise, ordinance, rule, or regulation of such a local
16 governmental entity occurs, the certificate, order, decision, or regu-
17 lation of the commission prevails.

18 * Sec. 21. AS 43.05.040 is amended to read:

19 Sec. 43.05.040. INSPECTION OF RECORDS OR PREMISES AND ISSUANCE
20 OF SUBPOENAS [SUMMONS]. (a) The department may examine the books,
21 papers, records, or memoranda of any person to ascertain the correct-
22 ness of a return filed or to determine whether a tax or a payment for
23 oil or gas royalty or net profits shares under a contract, agreement,
24 or lease under AS 38.05 is due, or in an investigation or inspection
25 in connection with tax matters or matters relating to oil and gas
26 royalty or net profits under contracts, agreements, or leases under
27 AS 38.05. The records and the premises where a business is conducted
28 shall be open at all reasonable times for official inspection, and the
29 department may subpoena [SUMMON] any person to appear and produce

1 books, records, papers, or memoranda bearing upon tax matters or
2 matters relating to oil and gas royalty or net profits under con-
3 tracts, agreements, or leases under AS 38.05, and to give testimony or
4 answer interrogatories under oath respecting tax matters or matters
5 related to oil and gas royalty or net profits under contracts, agree-
6 ments, or leases under AS 38.05, and the department may administer
7 oaths to persons who are so subpoenaed [SUMMONED].

8 (b) A subpoena [SUMMONS] may be served by the commissioner of
9 public safety or a peace officer designated by the commissioner of
10 public safety or by a person designated by the Department of Revenue.
11 If a person who is subpoenaed [SUMMONED] neglects or refuses to obey
12 the subpoena [SUMMONS] issued as provided in this section, the depart-
13 ment may report the fact to the superior court and the court may
14 compel obedience to the subpoena [SUMMONS] to the same extent as
15 witnesses may be compelled to obey the subpoenas of the court.

16 * Sec. 22. AS 43.05 is amended by adding a new section to read:

17 Sec. 43.05.075. CONCEALING OR FALSIFYING EVIDENCE. A person may
18 not knowingly, in connection with a compromise or offer of a compro-
19 mise under AS 43.05.070 or in connection with a closing agreement or
20 offer to enter a closing agreement under AS 43.05.060,

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

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

28 * Sec. 23. AS 43.05.110 is amended to read:

29 Sec. 43.05.110. PROPERTY IN POSSESSION OF DECEASED EMPLOYEE.

1 The personal representative of a deceased employee of the department
2 who has possession or control of a tax list, record, return, paper,
3 document, or book or money collected shall deliver it to the depart-
4 ment. [A PERSONAL REPRESENTATIVE WHO REFUSES OR WILFULLY FAILS TO DO
5 SO IS GUILTY OF A MISDEMEANOR.]

6 * Sec. 24. AS 43.05.130 is amended to read:

7 Sec. 43.05.130. PENALTY [MISDEMEANOR]. A person who, by conduct
8 not described in AS 43.05.290, violates a provision of AS 43.05.010 -
9 43.05.130 or a regulation adopted under those provisions [IT] is
10 subject to a civil penalty of not more than \$1,000 for each violation
11 [GUILTY OF A MISDEMEANOR, AND UPON CONVICTION IS PUNISHABLE BY A FINE
12 OF NOT MORE THAN \$1,000 FOR EACH OFFENSE].

13 * Sec. 25. AS 43.31.051(b) is amended to read:

14 (b) If a person subpoenaed [SUMMONED] to appear under this
15 chapter to testify, or to produce books, papers, or other data, re-
16 fuses to do so, the superior court in the judicial district in which
17 the person resides has jurisdiction by appropriate process to compel
18 the attendance, testimony, or production of books, papers, or other
19 data.

20 * Sec. 26. AS 43.55.016(c) is amended to read:

21 (c) The cents-per-Mcf amount equals \$.064 per 1,000 [THOUSAND]
22 cubic feet of taxable gas produced from the lease or property [AS
23 ADJUSTED BY AS 43.55.012].

24 * Sec. 27. AS 43.55.020(e) is amended to read:

25 (e) Gas produced in excess of that needed for safety purposes,
26 except gas used in the operation of a lease or property in drilling
27 for or producing oil or gas, or for repressuring, is considered, for
28 the purpose of AS 43.55.011 - 43.55.150 and in the amount used, as gas
29 produced from a lease or property. Gas flared beyond the amount

1 authorized for safety by the Alaska Oil and Gas Conservation Commis-
2 sion under AS 31.05 is considered as gas produced, except that it is
3 subject to a penalty equal to the tax computed under AS 43.55.016 [AS
4 ADJUSTED BY AS 43.55.012] per 1,000 [THOUSAND] cubic feet of gas for
5 the month in which the gas was flared.

6 * Sec. 28. AS 43.55.090 is amended to read:

7 Sec. 43.55.090. REFUNDS. In case of overpayment, duplicate
8 payment or payment made in error, the department may refund the amount
9 of the overpayment under AS 43.15.010 [ISSUE A CERTIFICATE STATING THE
10 FACTS AND THE AMOUNT OF THE REFUND TO WHICH THE TAXPAYER IS ENTITLED.
11 UPON PRESENTATION OF THE CERTIFICATE TO THE DEPARTMENT OF ADMINISTRA-
12 TION, THE DEPARTMENT OF ADMINISTRATION SHALL ISSUE A WARRANT FOR THE
13 REFUND. THE REFUND SHALL BE PAID OUT OF THE UNAPPROPRIATED GROSS
14 PRODUCTION TAX IN THE TREASURY].

15 * Sec. 29. AS 44.19.104(a) is amended to read:

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

20 * Sec. 30. AS 44.19.155(b) is amended to read:

21 (b) Each public member appointed by the governor under (a)(1) of
22 this section serves a term of two years and until a successor is
23 appointed and qualified [, EXCEPT THAT THE TERM OF OFFICE OF A PUBLIC
24 MEMBER FIRST APPOINTED UNDER (a)(1)(A), (a)(1)(C), (a)(1)(E) AND
25 (a)(1)(G) OF THIS SECTION SHALL BE ONE YEAR]. A public member may be
26 reappointed.

27 * Sec. 31. AS 44.21.258(b) is amended to read:

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

1 * Sec. 32. AS 44.27.043 is amended to read:

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

8 * Sec. 33. AS 44.33.310(3) is amended to read:

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

20 * Sec. 34. AS 44.46.030(c) is amended to read:

21 (c) [OF THE MEMBERS OF THE BOARD FIRST APPOINTED BY THE GOVER-
22 NOR, THREE SHALL BE APPOINTED FOR A TERM OF ONE YEAR; THREE FOR A TERM
23 OF TWO YEARS; AND TWO FOR A TERM OF THREE YEARS. THE INITIAL TERMS
24 BEGIN ON JULY 1, 1971. THEREAFTER, ALL APPOINTMENTS SHALL BE MADE FOR
25 TERMS OF THREE YEARS BEGINNING ON JULY 1 OF THE YEAR IN WHICH THE
26 APPOINTMENT IS MADE.] Members of the board serve at the pleasure of
27 the governor for staggered terms of three years. In the case of a
28 vacancy other than one arising by expiration of term, an appointment
29 to fill the vacancy shall be made for the remainder of the unexpired

1 term.

2 * Sec. 35. AS 44.85.030 is amended to read:

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

24 * Sec. 36. AS 44.88.030(c) is amended to read:

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

29 * Sec. 37. AS 47.80.050(a) is amended to read:

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

5 * Sec. 38. AS 23.15.520(3); AS 23.35.150(2), 23.35.150(4); AS 39.50.-
6 200(b)(47); AS 42.40.920(a); AS 43.05.010(17), 43.05.120; AS 43.20.340(3);
7 AS 43.23.095(2), 43.23.095(3); AS 43.31.420(2); AS 43.55.900(5); AS 43.56.-
8 210(3); AS 43.75.140(2); AS 43.80.100(3); AS 44.47.310(5); AS 47.07.-
9 020(b)(10), and 47.07.035(17) are repealed.

10 * Sec. 39. Section 13 of this Act takes effect June 14, 1990.

11 * Sec. 40. Except for sec. 13 of this Act, this Act takes effect imme-
12 diately under AS 01.10.070(c).