

SENATE BILL NO. 148

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Introduced: 3/5/93
Referred: TRA, FIN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Alaska Railroad Corporation; and providing for an
2 effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1. PURPOSE.** This Act provides that

5 (1) the Alaska Railroad Corporation is established for the purpose of providing
6 railroad and railroad related transportation services in the state;

7 (2) the Alaska Railroad Corporation shall obtain approval of the legislature
8 before

9 (A) incurring debt, except in certain circumstances, in excess of
10 \$1,000,000; or

11 (B) acquiring certain real or personal property by lease;

12 (3) the real property of the Alaska Railroad Corporation that is leased to an
13 agency or a person for fair value is subject to real property taxes imposed by municipalities;
14 the real property of the corporation that is subject to municipal property taxes is excepted from

1 the exemption from taxation granted to property of the state by art. IX, sec. 4, Constitution
2 of the State of Alaska;

3 (4) members of the board of directors, chief executive officer, and vice-
4 presidents of the Alaska Railroad Corporation are subject to AS 39.50 (Conflict of Interest);

5 (5) certain members of the board of directors may not serve as chair or vice-
6 chair of the board or as chief executive officer of the Alaska Railroad Corporation;

7 (6) certain provisions of the state open meetings statutes apply to the Alaska
8 Railroad Corporation;

9 (7) facilities of the Alaska Railroad Corporation shall be built in accordance
10 with applicable municipal building codes.

11 * Sec. 2. AS 29.45.030(a) is amended to read:

12 (a) The following property is exempt from general taxation:

13 (1) municipal property, including property held by a public corporation
14 of a municipality, or state property, except that

15 (A) a private leasehold, contract, or other interest in the
16 property is taxable to the extent of the interest;

17 (B) notwithstanding any other provision of law, property
18 acquired by an agency, corporation, or other entity of the state through
19 foreclosure or deed in lieu of foreclosure and retained as an investment of a
20 state entity is taxable; this subparagraph does not apply to federal land granted
21 to the University of Alaska under AS 14.40.380 or 14.40.390, or to other land
22 granted to the university by the state to replace land that had been granted
23 under AS 14.40.380 or 14.40.390;

24 (C) an ownership interest of a municipality in real property
25 located outside the municipality acquired after December 31, 1990, is taxable
26 by another municipality; however, a borough may not tax an interest in real
27 property located in the borough and owned by a city in that borough;

28 (D) the real property of the Alaska Railroad Corporation
29 that is leased for fair value to a municipal, state, or federal agency or a
30 person is taxable;

31 (2) household furniture and personal effects of members of a

- 1 household;
- 2 (3) property used exclusively for nonprofit religious, charitable,
3 cemetery, hospital, or educational purposes;
- 4 (4) property of a nonbusiness organization composed entirely of persons
5 with 90 days or more of active service in the armed forces of the United States whose
6 conditions of service and separation were other than dishonorable, or the property of
7 an auxiliary of that organization;
- 8 (5) money on deposit;
- 9 (6) the real property of certain residents of the state to the extent and
10 subject to the conditions provided in (e) of this section;
- 11 (7) real property or an interest in real property that is exempt from
12 taxation under 43 U.S.C. 1620(d), as amended;
- 13 (8) property of a political subdivision, agency, corporation, or other
14 entity of the United States to the extent required by federal law; except that a private
15 leasehold, contract, or other interest in the property is taxable to the extent of that
16 interest;
- 17 (9) natural resources in place including coal, ore bodies, mineral
18 deposits, and other proven and unproven deposits of valuable materials laid down by
19 natural processes, unharvested aquatic plants and animals, and timber.

20 * Sec. 3. AS 29.45.295 is amended to read:

21 Sec. 29.45.295. COLLECTION OF DELINQUENT TAXES ON CERTAIN
22 GOVERNMENTAL PROPERTY. AS 29.45.300 - 29.45.490 do not apply to property
23 taxable under AS 29.45.030(a)(1)(B) - (D) [AS 29.45.030(a)(1)(B) OR (C)] or to
24 federal property not exempted under AS 29.45.030(a)(8). A municipality may bring
25 an action in the superior court to compel payment of property taxes due from the state,
26 municipal, or federal entity if the entity does not pay the amount due within six
27 months after the date that the taxes are due. In this section, "state entity" includes
28 the Alaska Railroad Corporation.

29 * Sec. 4. AS 39.50.200(b) is amended by adding a new paragraph to read:

30 (55) the board of directors, the chief executive officer, and vice-
31 presidents of the Alaska Railroad Corporation (AS 42.40.010).

1 * Sec. 5. AS 42.40.010 is amended to read:

2 Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is
3 established the Alaska Railroad Corporation for the purpose of providing railroad
4 and railroad related transportation services in the state. The corporation is a
5 public corporation and is an instrumentality of the state within the Department of
6 Commerce and Economic Development. The corporation has a legal existence
7 independent of and separate from the state. The continued operation of the Alaska
8 Railroad by the corporation as provided in this chapter is considered an essential
9 government function of the state.

10 * Sec. 6. AS 42.40.020 is amended by adding a new subsection to read:

11 (c) Members of the board are subject to AS 39.50.

12 * Sec. 7. AS 42.40.060(a) is amended to read:

13 (a) The board shall elect from its membership a chair [CHAIRMAN] and
14 vice-chair [VICE-CHAIRMAN] and prescribe their duties by rule. A person
15 appointed to the board under AS 42.40.020(a)(1) or (2) may not serve as chair or
16 vice-chair of the board.

17 * Sec. 8. AS 42.40.110(a) is amended to read:

18 (a) The board shall appoint the chief executive officer of the corporation who
19 serves at the pleasure of the board. The board shall fix compensation for the chief
20 executive officer. A person appointed to the board under AS 42.40.020(a)(1) or
21 (2) may not be appointed chief executive officer of the corporation. The chief
22 executive officer of the corporation is subject to AS 39.50.

23 * Sec. 9. AS 42.40.110 is amended by adding a new subsection to read:

24 (c) Persons appointed as vice-presidents of the corporation are subject to
25 AS 39.50.

26 * Sec. 10. AS 42.40.250 is amended to read:

27 Sec. 42.40.250. GENERAL POWERS. In addition to the exercise of other
28 powers authorized by law, the corporation may exercise the following powers for the
29 purpose of providing railroad and railroad related transportation services in the
30 state:

31 (1) adopt a seal;

- 1 (2) adopt bylaws governing the business of the corporation;
- 2 (3) sue and be sued;
- 3 (4) appoint trustees and agents of the corporation and prescribe their
- 4 powers and duties;
- 5 (5) hire legal counsel to represent the corporation;
- 6 (6) make contracts and execute instruments necessary or convenient in
- 7 the exercise of its powers and duties;
- 8 (7) acquire by purchase, lease, bequest, devise, gift, exchange, the
- 9 satisfaction of debts, the foreclosure of mortgages, or otherwise, personal property,
- 10 rights, rights-of-way, franchises, easements, and other interests in land, and acquire by
- 11 appropriation water rights that are located in the state, taking title to the property in
- 12 the name of the corporation, subject to other provisions of this chapter;
- 13 (8) hold, maintain, use, operate, improve, lease, exchange, donate,
- 14 convey, alienate, encumber, or otherwise grant a security interest in, or authorize use
- 15 or dispose of, land or personal property, subject to other provisions of this chapter;
- 16 (9) contract with and accept transfers, gifts, grants, or loans of funds
- 17 or property from the United States and the state or its political subdivisions, subject
- 18 to other provisions of federal or state law or municipal ordinances;
- 19 (10) undertake and provide for the management, operation,
- 20 maintenance, use, and control of all of the property of the corporation, including all
- 21 land and personal property of the Alaska Railroad transferred under 45 U.S.C. 1203(a)
- 22 and described in the report dated July 14, 1983, as amended, submitted to Congress
- 23 and the legislature under 45 U.S.C. 1204(a);
- 24 (11) recommend to the legislature and the governor any tax, financing,
- 25 or financial arrangement the corporation considers appropriate for expansion or
- 26 extension and operation of the Alaska Railroad;
- 27 (12) maintain offices and facilities at places it designates;
- 28 (13) apply to the state, the United States, and foreign countries or other
- 29 proper agencies for the permits, licenses, rights-of-way, or approvals necessary to
- 30 construct, maintain, and operate transportation and related services, and obtain, hold,
- 31 and reuse the licenses and permits in the same manner as other railroad operators;

- 1 (14) prescribe rates to be charged for services provided by the Alaska
2 Railroad consistent with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of
3 1982);
- 4 (15) determine the routes, schedules, and types of service to be
5 provided by the Alaska Railroad;
- 6 (16) enter into contracts, leases, and other agreements with connecting
7 carriers, shippers, and other persons concerning the services, activities, operations,
8 property, and facilities of the corporation, including agreements that contain provisions
9 to preserve and expand the railroad's traffic base;
- 10 (17) plan for and undertake expansion of the railroad and railroad
11 activities, including extension of the rail system, and contract with other modes of
12 transportation service connecting to the rail system;
- 13 (18) hire and discharge railroad personnel and determine benefits and
14 other terms and conditions of employment;
- 15 (19) assume all rights, liabilities, and obligations of the Alaska Railroad
16 in accordance with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);
- 17 (20) maintain a security force to enforce municipal ordinances, state
18 laws, and the corporation's rules with respect to violations that occur on or to property
19 owned, managed, or transported by the corporation;
- 20 (21) issue its bonds upon approval of the legislature and provide for
21 and secure their payment, provide for the rights of their holders and hold or dispose
22 of them;
- 23 (22) purchase the corporation's bonds at a price not more than the
24 principal amount of them plus interest;
- 25 (23) cancel bonds of the corporation purchased by the corporation;
- 26 (24) secure the payment of its bonds by pledge, mortgage, or other lien
27 on its contracts, revenues, income, or property;
- 28 (25) consent to the modification of the rate of interest, time of payment
29 of an installment of principal or interest, or other term of a loan, contract, or
30 agreement to which the corporation is a party;
- 31 (26) borrow money, including the amounts necessary to establish

1 reasonable reserves, and pay financing charges and interest on bonds for a reasonable
2 period after which the corporation estimates other money will be available to pay the
3 interest, consultant, advisory, and legal fees, and other expenses necessary or incident
4 to borrowing;

5 (27) acquire, hold, and dispose of stocks, memberships, contracts,
6 bonds, general or limited partnership interests or other interests in another corporation,
7 association, partnership, joint venture, or other legal entity, and exercise the powers
8 or rights in connection with these interests that are provided in contracts or agreements
9 and that are allowed by law concerning the satisfaction of debts;

10 (28) undertake and provide for the acquisition, construction,
11 maintenance, equipping, and operation of connecting, switching, terminal, or other
12 railroads and railroad facilities;

13 (29) enter into agreements with a state agency or other instrumentality
14 of the state; and

15 (30) do all things necessary or desirable to carry out the powers and
16 duties of the corporation granted or necessarily implied in this chapter or other laws
17 of the state or the laws or regulations of the federal government.

18 * Sec. 11. AS 42.40.285 is amended to read:

19 Sec. 42.40.285. LEGISLATIVE APPROVAL REQUIRED. Unless the
20 legislature approves the action by law, the corporation may not

21 (1) exchange, donate, sell, or otherwise convey its entire interest in
22 land;

23 (2) issue bonds;

24 (3) incur debt in an amount exceeding a total of \$1,000,000; this
25 paragraph does not apply to

26 (A) bonds approved by the legislature;

27 (B) debt incurred for the acquisition and maintenance of
28 railroad rolling stock; and

29 (C) debt incurred through a short-term, less than one year,
30 line of credit;

31 (4) extend railroad lines; this paragraph does not apply to a spur,

1 industrial, team, switching, or side track;

2 (5) [(4)] lease land for a period in excess of 35 years unless the
3 corporation reserves the right to terminate the lease if the land is needed for railroad
4 purposes;

5 (6) acquire by lease real or personal property

6 (A) valued at more than \$1,000,000; or

7 (B) for a period exceeding 10 years.

8 * Sec. 12. AS 42.40.910(a) is amended to read:

9 (a) The exercise of the powers granted by this chapter shall be in all respects
10 for the benefit of the people of the state, for their well-being and prosperity, and for
11 the improvement of their social and economic conditions. Except as provided in
12 AS 29.45.030(a)(1) and in [SUBJECT TO] (b) of this section, the real and personal
13 property of the corporation and its assets, income, and receipts are exempt from all
14 taxes and special assessments of the state or a political subdivision of the state.

15 * Sec. 13. AS 42.40.920(b) is amended to read:

16 (b) Unless specifically provided otherwise in this chapter, the following laws
17 do not apply to the operations of the corporation:

18 (1) AS 19;

19 (2) AS 30.15;

20 (3) AS 35;

21 (4) AS 36.30, except as specifically provided in that chapter;

22 (5) AS 37.05;

23 (6) AS 37.07;

24 (7) AS 37.10.010 - 37.10.060;

25 (8) AS 37.10.085;

26 (9) AS 37.20;

27 (10) AS 37.25;

28 (11) AS 38;

29 (12) AS 44.62.010 - 44.62.300, 44.62.310(b), (c), (d), and (f), and
30 44.62.320 [AS 44.62.010 - 44.62.320].

31 * Sec. 14. AS 42.40.935 is amended by adding a new subsection to read:

1 (c) Except as provided in (b) of this section, facilities of the corporation shall
2 be built in accordance with applicable local building codes including the obtaining of
3 required permits.

4 * Sec. 15. AS 44.62.310(a) is amended to read:

5 (a) All meetings of a legislative body, of a board of regents, or of an
6 administrative body, board, commission, committee, subcommittee, authority, council,
7 agency, or other organization, including the Alaska Railroad Corporation and
8 subordinate units of the above groups, of the state or any of its political subdivisions,
9 including [BUT NOT LIMITED TO] municipalities, boroughs, school boards, and all
10 other boards, agencies, assemblies, councils, departments, divisions, bureaus,
11 commissions, or organizations, advisory or otherwise, of the state or local government
12 supported in whole or in part by public money or authorized to spend public money,
13 are open to the public except as otherwise provided by this section. Except for
14 meetings of a house of the legislature, attendance and participation at meetings by
15 members of the public or by members of a body may be by teleconferencing. Agency
16 materials that are to be considered at the meeting shall be made available at
17 teleconference locations. Except when voice votes are authorized, the vote shall be
18 conducted in such a manner that the public may know the vote of each person entitled
19 to vote. The vote at a meeting held by teleconference shall be taken by roll call. This
20 section does not apply to any votes required to be taken to organize a public body
21 described in this subsection.

22 * Sec. 16. Section 1(b), ch. 153, SLA 1984, is amended to read:

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

24 (1) create a viable economic entity with the powers and duties
25 necessary to provide railroad and railroad related transportation services in the
26 state and to operate and manage the Alaska Railroad pending eventual transfer of the
27 railroad to the private sector for its ownership or operation or both consistent with 45
28 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

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

1 (3) create a public corporation with the powers, duties, and functions
2 needed to provide railroad and railroad related transportation services in the state
3 and to operate the Alaska Railroad and manage its rail, industrial, port, and other
4 properties in the best interest of the people of the state by ensuring that the corporation
5 will

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

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

11 (C) have the ability to raise capital by issuing bonds, upon
12 approval of the legislature, exempt from federal and state taxation and applying
13 for federal money to which the state may be entitled or that may be available;

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

15 (E) provide the best possible combination of types and levels
16 of safe, efficient, and economical transportation to meet the overall needs of
17 the state, supported when necessary by state investment;

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

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

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

24 * Sec. 17. Sections 2, 3, and 12 of this Act take effect January 1, 1994.