

HB

851

"An Act relating to the quasi-judicial regulatory agencies in state government; and providing for an effective date."

COMMITTEE REPORT

HOUSE

3/13/76

Mr. Speaker:

Date

April 8, 1976

The Committee on JUDICIARY has had HB 851

under consideration. A Majority of the members of the Committee

() recommends it DO PASS

() recommends it DO NOT PASS

() recommends it DO PASS WITH ATTACHED AMENDMENT(S)

() recommends it BE REPLACED WITH CS FOR _____ AND THAT

CS FOR _____ DO PASS

() "and" recommends it BE REFERRED TO THE _____

COMMITTEE

() reports it back WITHOUT RECOMMENDATION

() "other"

Members signing the Majority report:

<u>[Signature]</u>	<u>DO PASS</u>	_____	_____
<u>[Signature]</u>	<u>DO PASS</u>	_____	_____
<u>[Signature]</u>	<u>DO PASS</u>	_____	_____
_____	_____	_____	_____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

[Signature] Chairman

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 A M E N D M E N T NO. 2

3 TO: HB 851 (permits commissioners rather than governor to select
4 commission chairman; reduces APUC chairman's term from
5 four to two years; limits chairman to one two-year term)

6 On page 1, between lines 20 and 21, insert a new section,
7 and renumber the sections of the bill accordingly:

8 "* Sec. 2. AS 42.05.020(b) is amended to read:

9 (b) The commission members [GOVERNOR] shall elect [DESIGNATE]
10 one member of the commission as chairman of the commission. This member
11 shall serve as chairman for a term of two [FOUR] years, and [BUT] may not be
12 re-elected [APPOINTED] for a successive term [TERMS]."

13
14 On page 4, between lines 1 and 2, insert a new section and renumber the
15 sections of the bill accordingly:

16 "* Sec. 8. AS 42.06.030(b) is amended to read:

17 (b) The commission members [GOVERNOR] shall elect [DESIGNATE]
18 one member of the commission as chairman of the commission. This member
19 shall serve as chairman for a term of two years, and may not be re-elected
20 [APPOINTED] for a successive term [TERMS]."

21 On page 5, between lines 28 and 29, insert a new section and renumber the
22 sections of the bill accordingly:

23 "* Sec. 14. AS 42.07.011(b) is amended to read:

24 (b) The commission members [GOVERNOR] shall elect [DESIGNATE]
25 one member of the commission as chairman of the commission. This member
26 shall serve as chairman for a term of two years, and [BUT] may not be
27 re-elected [APPOINTED for a successive term [TERMS]."

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 A M E N D M E N T NO. 3

3 TO: HB 851 (shifts commission employees from classified service to
4 exempt service)

5 On page 2, strike out lines 28 and 29, and on page 3, strike out lines
6 1 - 12, inclusive, and insert:

7 "(a) The commission may employ an executive director who shall
8 have had at least five years of experience in an administrative capacity and
9 who is experienced in public utility management or regulation. [THE EXECU-
10 TIVE DIRECTOR MAY BE ONE OF THE COMMISSION MEMBERS.] The commission may
11 employ engineers, hearing officers, experts, clerks, accountants, and
12 other agents, [AND] assistants and employees it considers necessary. The
13 executive director[, IF NOT A MEMBER OF THE COMMISSION,] and all other
14 employees and agents of the commission[, OTHER THAN LEGAL COUNSEL,] are
15 in the exempt [CLASSIFIED] service under AS 39.25.110. [THE COMBINED
16 SALARY OF AN EXECUTIVE DIRECTOR WHO IS A MEMBER OF THE COMMISSION MAY NOT
17 EXCEED THAT OF A SUPERIOR COURT JUDGE.]

18
19 On page 5, strike out lines 9 - 13, inclusive, and insert:

20 "(c) The executive director, his deputy and all [HIS SECRETARY, ARE
21 IN THE PARTIALLY EXEMPT SERVICE DESCRIBED IN AS 39.25. ALL.] other employees
22 of the commission[, OTHER THAN LEGAL COUNSEL,] are in the exempt service
23 under AS 39.25.110.

24
25 On page 7, strike out lines 15 - 20, inclusive, and insert:

26 "(a) The commission may employ an executive director, engineers,
27 hearing officers, experts, clerks, accountants, and other agents, [AND]
28 assistants and employees it considers necessary. Employees and agents of
29 the commission[, OTHER THAN LEGAL COUNSEL,] are in the exempt [CLASSIFIED]

1 service under AS 39.25.110.

2
3 On page 7, strike out lines 26 and 27, and insert:

4 "(13) commissioners and employees of the Alaska Public Utilities
5 Commission, Alaska Pipeline Commission, and Alaska Transportation Commission

6
7 On page 7, strike out lines 28 and 29, and on page 8, strike out lines 1
8 and 2.

4/16
Milton

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 A M E N D M E N T NO. 1

3 TO: HB 851 (Re Removal Power)

4 On page 1, between lines 25 and 26, insert:

5 Alternatively, the legislature, by a concurrent resolution adopted by a
6 roll call vote of (~~two thirds~~/a majority) of the members in each house
7 entered in the journal, may remove a commissioner from office for cause
8 as prescribed in this section.

*Gov. must concur.
No override.*

9 On page 4, between lines 6 and 7, insert:

10 (The same language as above.)

11 On page 6, line 4, after "session.", insert:

12 (The same language as above.)

Original Sponsor: Judiciary Committee

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 851

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the quasi-judicial regulatory
7 agencies in state government; and providing for an
8 effective date."

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

10 * Section 1. AS 42.05.010 is amended to read:

11 Sec. 42.05.010. ALASKA PUBLIC UTILITIES COMMISSION CREATED. There
12 is created [WITHIN THE DEPARTMENT OF COMMERCE] the Alaska Public Utili-
13 ties Commission. The commission is a quasi-judicial regulatory agency
14 within the meaning of art. III, secs. 22 and 26, of the Constitution of
15 the State of Alaska. The commission may request, and the Departments of
16 Administration and Commerce and Economic Development shall provide,
17 administrative support services. However, the commission is not a divi-
18 sion in either department, and its members, executive director and
19 employees are not subject to the direction of the commissioner of either
20 department.

21 * Sec. 2. AS 42.05.020(b) is amended to read:

22 (b) The commission members [GOVERNOR] shall elect [DESIGNATE] one
23 member of the commission as chairman of the commission. This member
24 shall serve as chairman for a term of two [FOUR] years, and [BUT] may
25 not be reelected [APPOINTED] for a successive term [TERMS].

26 * Sec. 3. AS 42.05.035 is amended to read:

27 Sec. 42.05.035. REMOVAL OF COMMISSIONERS. The governor may remove
28 a commissioner from office for cause, including but not limited to
29 incompetence, neglect of duty or misconduct in office, by and with the

1 consent of a majority of the members of the legislature in joint session.
2 Alternatively, the legislature, by a concurrent resolution adopted by a
3 roll call vote of a majority of the members in each house, may remove a
4 commissioner from office for cause as prescribed in this section, sub-
5 ject to the approval of the governor. However, if the governor disap-
6 proves the resolution, that veto is not subject to a vote by the
7 legislature to override it.

8 * Sec. 4. AS 42.05.111 is amended to read:

9 Sec. 42.05.111. LEGAL COUNSEL. (a) The attorney general is legal
10 counsel for the commission. He shall assign an assistant attorney
11 general to the commission on a full-time basis. He shall advise and
12 assist the commission in legal matters arising in the discharge of its
13 duties and represent the commission in actions to which it is a party
14 whether in state or federal courts. He shall also represent the commis-
15 sion in proceedings before federal regulatory agencies if so requested
16 by the commission. If, in the opinion of the commission, the public
17 interest is not adequately represented by counsel in a proceeding, the
18 attorney general or his designated assistant attorney general, upon
19 request of the commission, shall represent the public interest.

20 (b) If the attorney general is unable to assign an assistant
21 attorney general to the commission on a full-time basis, the [THE] com-
22 mission may employ [TEMPORARY] legal counsel to advise and assist the
23 commission in legal matters arising in the discharge of its duties and
24 to represent the commission in actions or proceedings to which it is a
25 party, in which the state has an interest, or in which there is a public
26 interest [FROM TIME TO TIME IN PROCEEDINGS BEFORE THE COMMISSION IN
27 WHICH THE ATTORNEY GENERAL IS REPRESENTING THE PUBLIC INTEREST OR A
28 PARTY BEFORE THE COMMISSION].

29 * Sec. 5. AS 42.05.111 is amended by adding new subsections to read:

1 (c) Legal counsel employed by the commission under (b) of this
2 section shall be selected by the commission from a list of at least
3 three but not more than five candidates submitted by the attorney
4 general. The commission may request additional candidates for considera-
5 tion. After appointment, legal counsel is subject to removal by the
6 commission only for cause.

7 (d) With the approval of the commission, the legal counsel may
8 employ additional attorneys or other persons needed to carry out his
9 duties.

10 * Sec. 6. AS 42.05.121(a) is amended to read:

11 (a) The commission may employ an executive director who shall have
12 had at least five years of experience in an administrative capacity and
13 who is experienced in public utility management or regulation. The
14 executive director may not be one of the commission members. The com-
15 mission may employ engineers, hearing officers, experts, clerks, account-
16 ants, [AND OTHER] agents, [AND] assistants and other employees it con-
17 siders necessary. The executive director [, IF NOT A MEMBER OF THE
18 COMMISSION,] and all other employees and agents of the commission [,
19 OTHER THAN LEGAL COUNSEL,] are in the exempt [CLASSIFIED] service under
20 AS 39.25. The [COMBINED] salary of an executive director [WHO IS A
21 MEMBER OF THE COMMISSION] may not exceed that of a member of the com-
22 mission [SUPERIOR COURT JUDGE].

23 * Sec. 7. AS 42.05.121 is amended by adding a new subsection to read:

24 (c) The commission shall, by regulation, establish a personnel
25 management system for its employees.

26 * Sec. 8. AS 42.05 is amended by adding a new section to read:

27 Sec. 42.05.133. BUDGETS. The commission shall submit a budget of
28 its anticipated needs for each fiscal year to the governor and to the
29 legislature under the Executive Budget Act (AS 37.07).

1 * Sec. 9. AS 42.06.020 is amended to read:

2 Sec. 42.06.020. ALASKA PIPELINE COMMISSION CREATED. There is
3 created [WITHIN THE DEPARTMENT OF COMMERCE] the Alaska Pipeline Commis-
4 sion, to regulate pipeline facilities and pipeline carriers, to regulate
5 the access of information concerning pipeline facilities and carriers
6 to this state, and to represent the interests of the state in any pro-
7 ceedings relating to them as provided for in this chapter. The commis-
8 sion is a quasi-judicial regulatory agency within the meaning of art.
9 III, secs. 22 and 26, of the Constitution of the State of Alaska. The
10 commission may request, and the Departments of Administration and Com-
11 merce and Economic Development shall provide, administrative support
12 services. However, the commission is not a division in either depart-
13 ment, and its members, executive director and employees are not subject
14 to the direction of the commissioner of either department.

15 * Sec. 10. AS 42.06.030(b) is amended to read:

16 (b) The commission members [GOVERNOR] shall elect [DESIGNATE]
17 one member of the commission as chairman of the commission. This member
18 shall serve as chairman for a term of two years, and may not be re-
19 elected [APPOINTED] for a successive term [TERMS].

20 * Sec. 11. AS 42.06.050 is amended to read:

21 Sec. 42.06.050. REMOVAL OF COMMISSIONERS. The governor may remove
22 a commissioner from office for cause, including but not limited to
23 incompetence, neglect of duty or misconduct in office, by and with the
24 consent of a majority of the members of the legislature in joint session.
25 Alternatively, the legislature, by a concurrent resolution adopted by a
26 roll call vote of a majority of the members in each house, may remove a
27 commissioner from office for cause as prescribed in this section, sub-
28 ject to the approval of the governor. However, if the governor disap-
29 proves the resolution, that veto is not subject to a vote by the

legislature to override it.

* Sec. 12. AS 42.06.110 is amended to read:

Sec. 42.06.110. LEGAL COUNSEL. (a) The attorney general is legal counsel for the commission. He shall assign an assistant attorney general to the commission on a full-time basis. He shall advise and assist the commission in legal matters arising in the discharge of its duties and represent the commission in actions to which it is a party whether in state or federal courts. He shall also represent the commission in proceedings before federal regulatory agencies if so requested by the commission. If, in the opinion of the commission, the public interest is not adequately represented by counsel in a proceeding, the attorney general or his designated assistant attorney general, upon request of the commission, shall represent the public interest.

(b) If the attorney general is unable to assign an assistant attorney general to the commission on a full-time basis, the [THE] commission may employ [TEMPORARY] legal counsel to advise and assist the commission in legal matters arising in the discharge of its duties and to represent the commission in actions or proceedings to which it is a party, in which the state has an interest, or in which there is a public interest [FROM TIME TO TIME IN MATTERS IN WHICH THE COMMISSION IS INVOLVED].

* Sec. 13. AS 42.06.110 is amended by adding new subsections to read:

(c) Legal counsel employed by the commission under (b) of this section shall be selected by the commission from a list of at least three but not more than five candidates submitted by the attorney general. The commission may request additional candidates for consideration. After appointment, legal counsel is subject to removal by the commission only for cause.

(d) With the approval of the commission, the legal counsel may

1 employ additional attorneys or other persons needed to carry out his
2 duties.

3 * Sec. 14. AS 42.06.120(c) is amended to read:

4 (c) The executive director, his deputy, and all [HIS SECRETARY, ARE
5 IN THE PARTIALLY EXEMPT SERVICE DESCRIBED IN AS 39.25. ALL] other
6 employees of the commission [, OTHER THAN LEGAL COUNSEL,] are in the
7 exempt [CLASSIFIED] service under AS 39.25. The salary of an executive
8 director may not exceed that of a member of the commission.

9 * Sec. 15. AS 42.06.120 is amended by adding a new subsection to read:

10 (d) The commission shall, by regulation, establish a personnel
11 management system for its employees.

12 * Sec. 16. AS 42.06 is amended by adding a new section to read:

13 Sec. 42.06.135. BUDGETS. The commission shall submit a budget of
14 its anticipated needs for each fiscal year to the governor and to the
15 legislature under the Executive Budget Act (AS 37.07).

16 * Sec. 17. AS 42.07.011(a) is amended to read:

17 (a) There is created the Alaska Transportation Commission [WITHIN
18 THE DEPARTMENT OF COMMERCE]. The commission is a quasi-judicial regu-
19 latory agency within the meaning of art. III, secs. 22 and 26, of the
20 Constitution of the State of Alaska. The commission may request, and
21 the Departments of Administration and Commerce and Economic Development
22 shall provide, administrative support services. However, the commission
23 is not a division in either department, and its members, executive direc-
24 tor and employees are not subject to the direction of the commissioner
25 of either department. The commission consists of three members appointed
26 by the governor and confirmed by the legislature in joint session.

27 * Sec. 18. AS 42.07.011(b) is amended to read:

28 (b) The commission members [GOVERNOR] shall elect [DESIGNATE]
29 one member of the commission as chairman of the commission. This member

shall serve as chairman for a term of two years, and [BUT] may not be reelected [APPOINTED] for a successive term [TERMS].

* Sec. 19. AS 42.07.021(d) is amended to read:

(d) The governor may remove a commissioner from office for cause, including but not limited to incompetence, neglect of duty or misconduct in office, by and with the consent of a majority of the members of the legislature in joint session. Alternatively, the legislature, by a concurrent resolution adopted by a roll call vote of a majority of the members in each house, may remove a commissioner from office for cause as prescribed in this section, subject to the approval of the governor. However, if the governor disapproves the resolution, that veto is not subject to a vote by the legislature to override it. [A COMMISSIONER, TO BE REMOVED FOR CAUSE, SHALL BE GIVEN A COPY OF THE CHARGES AGAINST HIM AND AFFORDED AN OPPORTUNITY TO BE PUBLICLY HEARD IN PERSON OR BY COUNSEL IN HIS OWN DEFENSE UPON NOT LESS THAN 10 DAYS NOTICE. IF A COMMISSIONER IS REMOVED FOR CAUSE, THE GOVERNOR SHALL FILE WITH THE LIEUTENANT GOVERNOR A COMPLETE STATEMENT OF ALL CHARGES MADE AGAINST THE COMMISSIONER AND HIS FINDING BASED ON THE CHARGES, TOGETHER WITH A COMPLETE RECORD OF THE PROCEEDINGS.]

* Sec. 20. AS 42.07.091 is amended to read:

Sec. 42.07.091. LEGAL COUNSEL. (a) The attorney general is the legal counsel for the commission. He shall assign an assistant attorney general to the commission on a full-time basis. He shall advise and assist the commission in legal matters arising in the discharge of its duties and represent the commission in actions [SUITS] to which it is a party whether in state or federal courts. He shall also represent the commission in proceedings before federal regulatory agencies if so requested by the commission. If, in the opinion of the commission, the public interest is not adequately represented by counsel in a proceeding,

1 the [THE] attorney general or his designated assistant attorney general,
2 upon request of the commission, shall [MAY] represent the public inter-
3 est [IN ANY PROCEEDING BEFORE THE COMMISSION].

4 (b) If the attorney general is unable to assign an assistant
5 attorney general to the commission on a full-time basis, the [THE] com-
6 mission may employ [TEMPORARY] legal counsel to advise and assist the
7 commission in legal matters arising in the discharge of its duties and
8 to represent the commission in actions or proceedings to which it is a
9 party, in which the state has an interest, or in which there is a public
10 interest [IN PROCEEDINGS BEFORE THE COMMISSION IN WHICH THE ATTORNEY
11 GENERAL IS REPRESENTING THE PUBLIC INTEREST OR A PARTY BEFORE THE COM-
12 MISSION].

13 * Sec. 21. AS 42.07.091 is amended by adding new subsections to read:

14 (c) Legal counsel employed by the commission under (b) of this
15 section shall be selected by the commission from a list of at least three
16 but not more than five candidates submitted by the attorney general. The
17 commission may request additional candidates for consideration. After
18 appointment, legal counsel is subject to removal by the commission only
19 for cause.

20 (d) With the approval of the commission, the legal counsel may
21 employ additional attorneys or other persons needed to carry out his
22 duties.

23 * Sec. 22. AS 42.07.101(a) is amended to read:

24 (a) The commission may employ an executive director, engineers,
25 hearing officers, experts, clerks, accountants, [AND OTHER] agents, [AND]
26 assistants and other employees it considers necessary. Employees and
27 agents of the commission [, OTHER THAN LEGAL COUNSEL,] are in the exempt
28 [CLASSIFIED] service under AS 39.25. The executive director may not be
29 one of the commission members. The salary of an executive director may

1 not exceed that of a member of the commission.

2 * Sec. 23. AS 42.07.101 is amended by adding a new subsection to read:

3 (c) The commission shall, by regulation, establish a personnel
4 management system for its employees.

5 * Sec. 24. AS 42.07 is amended by adding a new section to read:

6 Sec. 42.07.106. BUDGETS. The commission shall submit a budget of
7 its anticipated needs for each fiscal year to the governor and to the
8 legislature under the Executive Budget Act (AS 37.07).

9 * Sec. 25. AS 39.25.110(13) is amended to read:

10 (13) commissioners and employees of the Alaska Public Utilities
11 Commission, Alaska Pipeline Commission, and Alaska Transportation Com-
12 mission;

13 * Sec. 26. This Act takes effect immediately in accordance with AS 01.10.
14 070(c).