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COMMITTEE REPORT

HOUSE

4/20
Rule

FURTHER:

(7)

4/1/82

Date: April 20, 1982

Mr. Speaker:

The Committee on Transportation has had CSSB 849 (Trsp)
"An Act relating to minimum crew requirements for the operation of railroad
trains and engines; and providing for an effective date."

under consideration and reports it back as follows:

- do pass w/ individual ^{recommendations} [] do not pass p. 1432
- [] do pass with attached amendments(s)
- [] replace with CS for _____ [] same title
[] new title
- and recommends _____
- [] AND attaches a "Letter of Intent" [] New Fiscal Note
- reports it back without recommendation
- [] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Handwritten signatures]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Handwritten signatures]
No Rec.
No Rec.

Bette Cito
CHAIRMAN

AMENDED TITLE: HCS CS3B 849(RLS)

AN ACT RELATING TO RAILROADS; AND PROVIDING FOR AN EFFECTIVE DATE

PRIME SPONSOR: SENATE TRANSPORTATION COMMITTEE.

CO-SPONSORS:

CURRENT STATUS: 5/03/82 RET (H) RULES

SB 849 SENATE ACTION

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/11/82	01	0540	FIRST READING -- COMMITTEE REPORTS
03/31/82	02	0745	TRAN -- CS03, NR01
04/07/82	03	0823	RLS -- OTHER03 TAKEN UP IMMEDIATELY
04/07/82	04	0826	SECOND READING
04/07/82	05	0826	TRAN CS ADOPTED BY UNAN CONSENT
04/07/82	06	0826	ADVANCED TO 3RD READING BY UNAN CONSENT
04/07/82	07	0826	THIRD READING
04/07/82	08	0827	PASSED BY DIV 17-01-82
04/07/82	09	0827	EFFECTIVE DATE VOTE SAME AS PASSAGE

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SB 849 HOUSE ACTION

DATE	SEQ	PAGE	LEGISLATIVE ACTION
04/07/82	10	1173	FIRST READING -- COMMITTEE REPORTS
04/20/82	11	1432	TRAN -- DF03, NR02
04/22/82	12	1494	RLS -- TRAN CS03, NR02, OTHER03 TAKEN UP IMMEDIATELY
04/22/82	13	1507	RULES
04/22/82	14	1508	RULES
04/22/82	15	1511	SECOND READING
04/22/82	16	1511	AM 01 TO CS FILED BY DIV 16-24-80
04/22/82	17	1512	RLS CS ADOPTED BY DIV 23-14-80
04/24/82	18	1574	AM02 NOT ADOPTED BY DIV 16-24-80
04/24/82	19	1575	FAILED TO ADV 3RD READING BY DIV 25-15-80
04/24/82	20	1576	THIRD READING
04/24/82	21	1577	FAILED TO RETN 2ND READING BY DIV 14-24-80
04/24/82	22	1577	FAILED TO RETN 2ND READING BY DIV 13-23-80
04/24/82	23	1577	FAILED TO RETN 2ND READING BY DIV 11-22-80
04/24/82	24	1577	FAILED TO RETN 2ND READING BY DIV 15-21-80
04/24/82	25	1578	PASSED BY DIV 24-15-80
04/24/82	26	1578	EFFECTIVE DATE PASSED BY DIV 35-02-80
04/28/82	27	1633	NOTICE OF RECONSIDERATION GIVEN
04/28/82	28	1634	POSTPONED UNTIL 05/03/82 BY UNAN CONSENT

SB 849 HOUSE ACTION

DATE	SEQ	PAGE	LEGISLATIVE ACTION
05/03/82	27	1633	RECOMMITTED TO RLS BY UNAN CONSENT

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SB 849 HOUSE ACTION

DATE	SEQ	PAGE	LEGISLATIVE ACTION
05/03/82	27	1633	RECOMMITTED TO RLS BY UNAN CONSENT

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CSSB 849(Trsp) "An Act relating to minimum crew requirements for the operation of railroad trains and engines; and providing for an effective date."

HCS CSSB 849(Rls) "An Act relating to railroads; and providing for an effective date."

HCS CSSB 849(Rls) passed the House on April 24 and notice of reconsideration was given. The Rules CS included the Alaska Railroad transfer language, which we no longer need as we have SB 212 in Rules. After the House did not adjourn sine die, the bill was returned to Rules on May 3. Therefore, when it comes back on the calendar it will be in third reading. At that point, someone can move and ask unanimous consent that the bill be returned to second reading for purpose of a specific amendment, the amendment being that the house rescind its action in adopting the Rules committee substitute. Once that is done, the bill is automatically in third reading, and final passage can be voted on (this would be the senate-passed version of the bill).

COMMITTEE REPORT

4/22

HOUSE

for Today's

FURTHER:

Calendar

Spd
Rules

To

Date: April 21, 1982

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Rules

_____ has had CSSB 849 (Trsp)

_____ requirements for the operation
_____ engines, and providing for an effective

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for CSSB 849 (~~Trsp~~) (Rules) same title
 new title
- and recommen it do pass
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Jack Fuller
Joe L. Hays
Patrick W. Marshall

MEMBERS HAVING
OTHER RECOMMENDATIONS:

J. Smith - No Rec
ROBERT BELL - No Rec

Jack Fuller
 CHAIRMAN



JUNEAU, ALASKA

Alaska State Legislature
House

Ret Rls

MESSAGE TO THE SENATE

April 26, 1982

MR. PRESIDENT:

The House has passed CSSB 849(Trsp) ("An Act relating to minimum crew requirements for the operation of railroad trains and engines; eff date.) with the following amendment:

HCS CSSB 849(Rls) ("An Act relating to railroads; eff date.)

and it is transmitted herewith for consideration.

*4/28 Return from Senate
4/28 Held for reasons to 4/29*

Emylee Lloyd

Chief Clerk of the House

SECTION-by-SECTION ANALYSIS of RAILROAD BILL.

By BETTSWORTH

SECTION 1

FINDINGS: The individual findings are self-explanatory. Findings are necessary to establish the legislature's expectations with respect to the authority.

SECTION 2

ARTICLE I. CREATION & ORGANIZATION

Section 42.40.010

Establishment of the Authority -- The Alaska Railroad Authority is established in this section. Its existence begins after the appointment of the Board which will take place after the legislature approve the closing report (or its equivalent) presumably next session.

Section 42.40.020

LIMITATION OF LIABILITY--The authority's liabilities are exclusively its own and not the state's.

Section 42.40.030

BOARD OF COMMISSIONERS--The powers of the Authority are in the Board.

APPOINTMENT AND COMPOSITION OF THE BOARD--This section provided that the board consists of the Commissioner of Transportation and Public Facilities and six "public" members, who may not be state officers or employees. Additionally, the authority's chief executive officer and a union representative are non-voting members. All public members must be confirmed by the legislature.

Section 42.40.040

TERMS OF OFFICE-- Board members serve 5 year staggered terms.

Section 42.40.050

COMPENSATION AND EXPENSES--Compensation in the amount of \$300/day for public board members plus per diem and travel expenses.

Section 42.40.060

QUORUM AND NOTICE OF MEETINGS--A quorum of four voting members is established in this section. Public notice of meetings is required.

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Section 42.40.070

VOTING--This section provides that the board rules will prescribe the manner of voting and any representation of absent members.

Section 42.40.080 .

MANAGEMENT OF THE AUTHORITY--This section provided for appointment of authority officials and personnel. The board appoints a chief executive officer and legal counsel. Appointment of legal counsel is subject to approval of the Governor for competence. No executive official may receive more compensation than the state departmental commissioners. This section also allows the board to provide management by a 3rd party contractor.

Section 42.40.090

DELEGATION-- This section provides that the daily affairs and operations of the railroad are the responsibility of the chief executive officer.

ARTICLE II, ADMINISTRATIVE PROVISIONS:

Section 42.40.200

CONFLICTS OF INTEREST--This section prohibits a board member or employee from participating in a decision in which he, or a member of his immediate family, has a direct or indirect financial interest. The board may authorize a member or employee to participate when the financial interest is only a remote one. This section also allows the board to provide management by a third party contractor. Board members and executive employees are required to submit a financial disclosure statement and to comply with existing conflict of interest laws.

Section 42.40.210

PUBLIC BOARD MEETINGS--This section requires that the board meetings be public and that the executive sessions be used only when permitted by the state open meetings statute or when discussing proprietary information.

Section 42.40.230

ADMINISTRATIVE PROCEDURE-- This section provides that the state's Administrative Procedures Act does not apply to the Authority. The legislature may annul or temporarily suspend an authority regulation.

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This section also requires the authority to provide advance notice and opportunity for the public to comment on regulations that are likely to have a substantial impact on the public.

Section 42.40.240

PUBLIC DISCLOSURE OF INFORMATION-- This section requires that information in the possession of the authority is public unless the authority, by rule or regulation, withholds such information by designating it to be of a non-public or privileged nature.

ARTICLE III, POWERS & DUTIES:

Section 42.40.300

GENERAL POWERS-- This section delineates the numerous powers the authority needs in order to effectively manage and operate the Alaska Railroad. The list is intended to be non exclusive.

Section 42.40.310

ANNUAL REPORT-- A report generally describing the operation and financial condition of the authority is required to be submitted to the Governor and each member of the legislature.

Section 42.40.320

ANNUAL AUDIT-- The authorities financial records will be audited annually by an independent certified public accountant. The records will be available for audit by the legislature or the Administration.

Section 42.40.325

LONG RANGE PROGRAM AND CAPITAL PLANNING--This section obligates the authority to prepare long-range program and capital plans.

Section 42.40.330

USE OF AUTHORITY ASSETS--This section requires use of authority assets for activities authorized by this chapter. It also precludes the issuance of stock and loans to board members or employees.

ARTICLE IV, RAIL PROPERTIES:

Section 42.40.400

RAIL PROPERTIES-- This section provides that the authority will own the properties of the Alaska Railroad. The subsurface rights will be conveyed to the State and managed by DNR. The authority may reserve the right to use sand, gravel and other construction materials.

Section 42.40.410

CLASSIFICATION, ACQUISITION AND USE OF STATE LANDS FOR RAILROAD PURPOSES--This section provides a mechanism allowing the authority to acquire state lands for railroad purposes with the concurrence of the Commissioner of Natural Resources. The procedure is initiated by a resolution of the authority identifying specific lands. Within 180 days the Commissioner is required to either convey the surface estate of the requested lands for railroad purposes or to deny the classification as not in the best interest of the state. Subsection (c) also allows the authority and the Commissioner to engage in joint management of railroad lands, and periodically review both state and railroad lands to determine their suitability for railroad purposes. This section also allows the railroad to use coal from railroad lands for non-income producing purposes.

Section 42.40.415

DEVELOPMENT OF OIL, GAS, MINERALS AND GEOTHERMAL RESOURCES ON AUTHORITY LANDS-- The Department of Natural Resources may develop resources on authority lands only after a review procedure involving both the Department and the Authority has been completed. The review procedure requires an agreement approved by the authority as to suitable reimbursement for any costs incurred by the authority. Subsection (c) requires DNR to maintain records and annually report to the legislature concerning the income received from the subsurface of railroad lands. Subsection (d) establishes the Alaska Railroad Income Fund in the State Treasury for income received by the state from lands in which the authority has an interest. The fund is subject to appropriation by the legislature.

Section 42.40.420

LAND USE REGULATIONS-- This section authorized the authority to adopt regulations governing land use by private parties having interests, such as leases in land owned or managed by the authority.

Section 42.40.430

EMINENT DOMAIN AND ACQUISITION OF PROPERTY AND MATERIALS-- This section confers eminent domain power on the authority. When the authority acquires a fee simple interest the authority must reconvey

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the subsurface to the state. Subsection (e) clarifies that the authority may exercise eminent domain to obtain materials as well as land and access necessary to develop them.

ARTICLE V, FINANCIAL PROVISIONS:

Section 42.40.500

BONDS AND NOTES--This section authorizes the authority to issue bonds and bond anticipation notes. It is intended that the board have the maximum flexibility in financing its activities.

Section 42.40.510

INDEPENDENT FINANCIAL ADVISOR-- The board is required by this section to retain a financial advisor independent of the underwriter in negotiating the private sale of bonds and notes.

Section 42.40.515

VALIDITY OF PLEDGE-- This procedural section facilitates the pledge of assets or revenues to the payment of the authority debt.

Section 42.40.520

REMEDIES-- For the benefit of holders of authority securities, this section provides that remedies and rights available under the terms of such instruments are to be broadly enforceable.

Section 42.40.525

NEGOTIABLE INSTRUMENTS-- Bonds and notes issued are negotiable instruments.

Section 42.40.530

BONDS AND NOTES ELIGIBLE FOR INVESTMENT-- This section authorizes public and private entities and individuals, including the state, and its other political subdivisions, to invest in authority securities.

Section 42.40.535

REFUNDING BONDS-- The issuance of refunding bonds to refund outstanding bonds is authorized by this section.

Section 42.40.540

CREDIT OF STATE NOT PLEDGED-- This section states that the authority's securities are not obligations of the state and are payable exclusively from revenues or assets of the authority.

Section 42.40.545

NO PERSONAL LIABILITY-- No board member or employee is personally liable for bonds.

Section 42.40.550

REVENUES-- This section provides for authority retention and management of its own revenues, which do not become part of the state's general fund.

Section 42.40.555

INSURANCE-- In addition to requiring the authority to maintain adequate insurance, this section requires that the state be named as an additional insured.

Section 42.40.560

SAFEGUARDING OF FUNDS--The authority will deposit all funds in acceptable depository and maximize revenue from the funds.

Section 42.40.565

FIDELITY BONDS-- The authority will obtain fidelity bonds for board members and officials.

Section 42.40.570

REVERSION OF ASSETS-- If the authority ceases to exist its assets revert to the state.

ARTICLE VI, STATE OVERSIGHT:

Section 42.40.600

STATE REVIEW-- Prior to undertaking a significant and permanent change in services or borrowing in excess of \$5 million the Board must notify the Governor and legislature and give public notice. The governor may either disapprove the proposal, suspend it or approve it. Approval or disapproval are final. If the Governor suspends the proposal, he transmits his decision to the legislature. The legislature may then reject it. If either the Governor or the legislature fail to act within the time provided, the proposal is deemed approved and the authority may proceed. Extensions representing more than 50 percent of the railroad's total track mileage and requiring the issuance of securities in an amount greater than \$50 million require specific authorization by the legislature. This section also requires state review of any proposal to contract management of the railroad to a third party.

Section 42.40.610

ACTION-FORCING MECHANISM-- This section requires the authority to respond formally to a request for consideration of a proposal by either the Governor or legislature within 30 days. The legislature may then direct the authority to proceed, if the legislature also provide funds to plan and implement the proposal.

Section 42.40.615

INTERVENTION-- This section provides that the Governor, when so authorized by the legislature, may intervene in and exercise control of the authority under certain delineated circumstances. For example by request of the board or illegal activities of the authority. The intervention mechanism permits the Governor to correct the deficiency and is to cease as soon as the necessary corrections have been made.

Section 42.40.620

TRUSTEESHIP-- This section provides that the legislature may also authorize the Governor to petition the State Superior Court in Anchorage to impose a trusteeship over the authority under specific circumstances, including insolvency, misapplication of resources or impairment of the state's credit worthiness.

ARTICLE VII, MISCELLANEOUS PROVISIONS

Section 42.40.700

PERSONNEL-- This section provides that the employees of the authority are not employees of the state. It also directs the authority to adopt collective bargaining agreements which continue the provisions of the agreements in effect immediately prior to transfer.

Section 42.40.710

POLITICAL ACTIVITIES-- This section precludes use of authority funds in political activities.

Section 42.40.720

LICENSES AND PERMITS-- The authority will comply with local, state and federal licensing and permitting requirements.

Section 42.40.740

CLAIMS AGAINST THE AUTHORITY-- All legal claims involving the authority must be brought against the authority and not against the State of Alaska. The State may not be named in an action against the authority and the Dept. of Law is not required to bring or defend actions

concerning the authority.

Section 42.40.755

EXEMPTION FROM TAXATION-- This section exempts the authority from state and political subdivision taxation. It does provide that authority property is considered taxable for the limited purpose of computing state aid to local school districts.

Section 42.40.770

PAYMENT IN LIEU OF LOCAL REAL PROPERTY TAXATION AND IMPACT AID--

This section authorized the authority to provide partial payments in lieu of property taxes to communities in which the authority has substantial land holdings.

ARTICLE VIII, GENERAL PROVISIONS

Section 42.40.870

ENFORCEMENT OF LAW AND AUTHORITY REGULATIONS BY AUTHORITY SECURITY FORCE-- The authority security force have the same enforcement powers as state law enforcement officers for both state law and regulation on authority property.

Section 42.40.880

PENALTY FOR VIOLATION OF DESIGNATED REGULATION-- This section makes a violation of any of the authority's regulations designated as necessary to protect life, health, or property a misdemeanor..

ARTICLE IX,

Section 42.40.900

DEFINITIONS-- This provided definitions of terms used in the bill.

SECTION 3 and SECTION 4 exempt authority from requirements to pay for or erect fences and cattleguards along right-of-way it condemns.

SECTION 5: amends full crew law with respect to yard crews only, and represents original CS for SB 849 *.

SECTION 6: adds the authority to the list of State boards and commissions for conflict of interest and reporting requirements.

SECTION 7: deals with commencement of the authority's legal existence, which occurs following appointment of all board members.

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SECTION 8: details the length of terms for the first board members.

SECTION 9: addresses the closing report requirements under the federal transfer legislation.

SECTION 10: speaks to the assets and liabilities to be reported during the audits.

SECTION 11: mandates the time requirement of 18 months for the preparation of the first long-range program and capital improvements plan.

SECTION 12: pre-existing rule, regulations and order of the Alaska Railroad-- This section allows the authority board to continue in effect the Alaska Railroad's existing rules, regulations and orders for a period not to exceed two years.

SECTION 13: requires the authority to continue in effect the current collective bargaining agreements for a period of two years.

SECTION 14: declares conflicting laws inapplicable.

SECTION 15: deals with the application of existing statutes: The Authority is considered a "political subdivision" for state wage and hour statute. The full crew does not apply to the authority. Authority activities are not subject to A.S. title 35 which deals generally with public works. The authority is exempt from public bidding requirements. The following provisions of A.S. title 37 do not apply to the authority's operation: The Fiscal Procedures Act, Executive Budget Act. The Authority is not subject to the jurisdiction of the Alaska Transportation Commission.

SECTION 16: provides that the chapter becomes effective upon acceptance by the legislature of operation of the federal Alaska Railroad by the authority.

*This amendment to the full crew law deals with the Yukon-White Pass Railroad as the Alaska Railroad Authority is exempt from the law.