

HB

12



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February 24, 1981

Representative Bette M. Cato  
House of Representatives -  
Transportation Committee  
Pouch V  
Juneau, Alaska 99811

Dear Ms. Cato:

House Bill Number 12 appears to represent an initial attempt to address the issue of changing the status of the Alaska Railroad from that of a federal agency to a state controlled entity. As such, it is an applaudable effort to recognize the need for change and to take some type of action prior to having that change imposed from outside. However, in its present form the bill does not directly address the issue that is before the state. In particular, the following defects appear to be present:

- It tries to do too much in a single piece of legislation. It establishes a body which has the authority to acquire, operate, and expand the Alaska Railroad and, through its rate setting power, becomes an economic regulation body;
- It is premature in that it forecloses on a number of options for dealing with the railroad which may be more attractive for the state in terms of long-term operational considerations;
- It does not address many of the problems of the railroad transfer which can be dealt with only on a legislative basis.

Each of these points deserves a bit more detailed comment.

In establishing an authority with the rather broad power to acquire, operate, expand, and regulate railroad operations in the state the bill combines within a single entity responsibilities which will probably be in conflict. Acquisition of the present railroad is a function which requires both a good deal of planning and a sensitivity to the long-term economic and political goals which may be held for the railroad. The body which plans and negotiates this transfer should at the same time be designing the organization which will operate the railroad to the best advantage of the state. It cannot do this if its form is already set by legislative mandate. Likewise, an organization which is required to operate the railroad in the manner of a private business (as is implied by the bonding provisions of the bill) will inevitably find itself in conflict with the political policy aspects of both its own operational and regulatory mandates and with the political control implied by the board membership. All of these areas offer serious opportunity for potential conflict both within the rail authority and with external organizations.

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In an earlier review of this issue I identified at least fifteen major policy considerations which must be addressed in any change in rail status within the state. These are as follows:

- The status of rail-related lands both in relationship to ANCSA conveyances and to the railroad's operational and industrial development requirements;
- The status of public employee unions, existing labor agreements, employee benefits and retirement programs, and employee protection conditions;
- Design of an ownership/operational structure which permits the railroad to seek investment capital;
- Design of an ownership/operational structure which avoids the public/private conflicts now inherent in the marketing of the railroad's services;
- Design of an ownership/operational structure which gives management the flexibility to make entrepreneurial decisions and to be accountable for the outcomes of these decisions;
- A determination of whether passenger service is necessary and, if so, whether it is required to continue its operation;
- A determination of whether the railroad represents an appropriate mechanism for implementing state development policy and, if so, under what types of financial, operational, political, and economic conditions;
- A determination of the present and historic financial status of the railroad particularly as this information relates to the prospect of attracting private capital, both equity and debt;
- The desirability or usefulness of establishing a state rail regulatory capability;
- The determination of tax status (federal, state, local) of revenues and for real and operating property after conveyance;
- An assessment of traffic potential for the railroad and how an institutional realignment might affect various traffic possibilities;
- A determination of responsibility and operational mechanisms for subsidies should operating revenues not be sufficient to cover operation costs and capital renewal;

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- An analysis of the different possible impacts of various institutional arrangements on potential rail extensions;
- An analysis of the impact on rail competitors of various insitutional arrangements for the railroad; and
- Determination of which federal funding programs would or would not be available under different ownership/operational structures.

Many of these are not addressed in the present bill and given the lack of information on most of the areas, it would be impossible to do so at this time.

In addition to the areas mentioned above it is important to remember that any future rail activity in the state will be largely shaped by the federal legislation which transfers control of the Alaska Railroad to the state. Given this reality, I would suggest that the most important direction that could be taken at this point in time would be to establish an organization which can negotiate transference of the railroad, can participate in the shaping of the federal legislation, can investigate the state's options in this matter, and can assist the legislature in preparing suitable legislation to address the organizational form of future state participation as well as other institutional and policy matters. I would suggest that this organization be set apart from present state agencies due to the fact that its concerns would necessarily span many of their individual interests. For example: the Departments of Transportation, Commerce and Economic Development, Natural Resources, Community and Regional Affairs, Attorney General and Labor all have concerns within their jurisdictions which would also be involved in rail transfer questions. An independent group would be better able to coordinate these concerns while still utilizing existing programs. The most important of these existing programs is the rail planning work presently being done within the Department of Transportation.

Most importantly, by taking this approach, the state would preserve all of its options. While it is clearly time to take action on this matter, it is not yet appropriate to commit the state to a particular and final course of action. House Bill 12 makes this commitment at a time when there is insufficient information to determine whether it is in the correct direction and at a time when the federal consideration is unclear. In view of this I would urge the members of the legislature to adopt a course of action which permits the state to play a major role in shaping future rail matters while postponing the details of rail operation, expansion, and regulation until an appropriate time and until the necessary information has been assembled.

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The bill in its present form has selected a means for organizing any future rail activity in the state without investigating alternative operational forms which may be much more attractive options. There are at least six major alternative ways in which the Alaska Railroad (and any extensions or other acquisitions) may be organized in the future. None of these is clearly superior to any of the others at this time. They are as follows:

- Maintain the status quo. That is, continue to function as a federal agency.
- Reorganize as a federal corporation. In form this might be somewhat similar to Canadian National Railway.
- Reorganize as a state agency. This would give the railroad somewhat the same status as the Marine Highway System.
- Reorganize as a state corporation. Such an operation might be similar to either the British Columbia Railway, the Ontario Northland Railway, or to any number of small operations developed in the eastern and mid-western U.S. during the past five years.
- Reorganize with a combination of state ownership and private operation. This would give the state ownership of some combination of the railroad's real and operating assets while a private entrepreneur would either enter into a long-term lease agreement or contract to operate the property in a manner similar to the arrangement between the Southern Railway and the city of Cincinnati for operation of several hundred miles of line owned by that city.
- Sell the railroad to a private firm who would then function in a manner similar to comparable operations elsewhere in the country.

Clearly, these options can differ substantially in the range and size of their impacts upon the state. They also would provide considerable variation in the amount of state investment required although none of them would entirely eliminate state involvement. Finally, the organizational form which evolves will determine almost entirely the degree to which rail decision making in the state will be political rather than commercial. The important point is that it is not yet necessary or in the state's best interest to foreclose on any of these options.

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The transfer of the Alaska Railroad to state control represents a major change in the transport system and its institutions. Undoubtedly the most important change since statehood placed the highway and airport system within state jurisdiction. It is important that this change proceed in an orderly manner with clear understanding of the opportunities and liabilities of various courses of action. I hope these comments have helped to further this understanding.

Sincerely,



John T. Gray  
Assistant Professor of  
Transportation

cc: Representative Brian D. Rogers - Transportation  
Representative Oral E. Freeman - Transportation  
Representative Fred F. Zharoff - Transportation  
Representative Joe L. Hayes - Transportation  
Representative Ray H. Metcalfe - Transportation  
Representative Kenneth J. Fanning - Transportation  
Representative Mike Miller - State Affairs ✓