

H B

654

The following are general comments on the Transportation Bill Package on issues that were raised during the floor session on Sunday.

★ 1. PROBLEM: There are sections in one bill that is contradictory in sections of other bills.

SOLUTION: In my earlier comments about these bills, I stated that each was drafted to stand alone, but together, make up a package. If you will read each bill closely, you will see that, for example, HB 651 assigns duties to an authority relating to the specific functions of the State Marine Highway system, (See purpose in HB 651). HB 654 assigns "all state modes of transportation and transportation facilities, etc." to the board. In as much as, HB 651 is the more specific language in this instance, it takes priority over the more general language in HB 654.

SOLUTION: Further, as the Minority leader pointed out regarding HB 651 and the "adding a new section to read" language, it is important for us to understand how Legal Services drafts our requests. As I said before, the ground rules for these bills, were that they stand alone, but can be implemented separately. HB 651 and HB 654 make amendments to existing law. In several places, the bills make different amendments to the same statute. They are not contradictory in that they were drafted to perform a specific purpose, as the title indicates.

For example. The question was raised by the representatives from Juneau; a bill (HB 649) was passed that established regions. HB 654 says that the "Board shall establish regions within the state." In the final analysis, assuming both pieces of legislation passed, this statute would combine the two and read as follows.

★ AS 44.42.040 DEPARTMENTAL ORGANIZATION. The board shall establish five regions within the state, in accordance with 'b' of this section. The functions of the department within each region, shall be performed, to the maximum extent possible through a regional office. Each regional office shall be directed by a regional transportation and public facilities director appointed by the commissioner. Each regional transportation and public facilities director shall have at least six years experience in transportation construction or engineering.

Then section "b" will outline the regions with new subsections.

\*\*\*\*\*Therefore, there are not substantive changes that are needed in these bills and they will stand alone, or make up a package, depending on which ever bill passes. There will not be problems or changes needed to clarify the position. Each bill should be considered on the merits of it's own changes in the organization of the Department.

However, If the body does not feel comfortable with this explanation, I have, with the help of the original drafters, prepared amendments that should leave no doubt in any members mind regarding the intent of these bills.

Another question was raised about the river system ferries. These are not currently covered by the marine highway system and would not be covered if this bill passes. The only jurisdiction for the authority, is for the vessels that currently make up the "Alaska State Marine Highway System". This would not change under the bill unless added by law.

Bill Analysis by Rep. Bette Cato's office.

House Bill 654

This is "an act relating to the Department of Transportation and Public Facilities and establishing a board at the Department of Transportation and Public Facilities and providing for an effective date."

This bill establishes a board of transportation made up of 7 members. One member of the Board shall be appointed from each allocation district as in AS.19.30.127, (Local Service Roads and Trails districts.)

- two members with highway construction experience
- two members with aeronautical experience
- one member with a maritime background
- one member with to be an economist
- one member shall be selected from the public at large

Members serve overlapping terms with no member serving more than two terms.

Sec. 44.42.017 The board is entitled to compensation of \$150 per day as well as travel and per diem, and is authorized \$100 for board approved meetings or conferences.

Sec. 44.42.019 The board is authorized to hire staff as necessary. Staff is in the partially exempt category.

Sec. 44.42.021, Powers and Duties

(a) The board shall: "Recommend policy for adoption to the legislature to assure the development and maintenance of a comprehensive and balanced statewide system that will meet the needs of the people of the state for safe and efficient transportation services." The bill outlines considerations for the board in their preparation of these policies. (inasmuch as these are straightforward in the bill, I will not go into detail here, but highlight significant areas)

(c) The board may (1) engage in experimental projects relating to existing or future modes of transportation.. (2) exercise the power of eminent domain, including the declaration of taking as in AS. 09.55.

(d), .." the board shall supervise the execution (of the plan) by the commissioner of other statutory powers and responsibilities granted to the commissioner by law.", which gives added accountability from the commissioner to the board.

Sec. 44.42.040 The board may adopt regulations.

Sec. 44.42.040 The board shall adopt regions in the state. The functions of the department.. shall be performed, to the maximum extent possible through the regional office. Region directors are appointed by the commissioner. (Recall that the board has supervisory powers here)

This section also elaborates on the "plan" for transportation.  
Sec. 4, AS.44.42.050(a) provides for an annual comprehensive intermodal, long range plan.

Sec. 5 AS 44.42.050(b) provides for amendments to the plan.

Sec. 6 speaks to "two year" plan but does not address two phase funding.  
See HB 650.

Sec. 7 through Sec. 10 speaks to Public Facilities and outlines procedures for the public facilities and other plans.

Sec. 12 through Sec. 16 inserts the word board in place of the word commissioner

ARIZONA

A transportation board composed of seven members (two must have experience in aviation) exists within the Arizona department of transportation. The governor appoints members for six year terms, and compensation is determined by law. The chairman is the member with the shortest period of time remaining in his/her term, and is selected at the only regularly scheduled meeting of the board which occurs annually in January.

The board has specified powers and duties which include: 1) Distribution of monies for state aviation, 2) Establishment of a complete system of state highway routes, 3) Determination of routes to be accepted into the state highway system, 4) Awarding of construction contracts for transportation facilities, and 5) Determination of priority program planning for transportation facilities.

The director of the department is appointed by, and serves at the pleasure of the governor, and is compensated by law. A deputy director, who is responsible to the director, is appointed by the director with the governor's approval. The director supervises and administers the department, its divisions and employees; appoints assistant division directors; prescribes rules and regulations; receives, allocates, controls and disperses all funds, etc. In essence he is authorized operational control and jurisdiction over all mass transit programs.

Arizona also has a transportation priority planning committee composed of the assistant directors within the department. This committee allocates priorities between transportation facility construction projects, annually prepares a five-year program, and serves as an advisory committee to the transportation board.

California

CALIFORNIA

1977 statutory changes provided that the California Highway Commission be redesignated the California Transportation Commission. The CTC inherited the duties, powers, purposes, responsibilities and jurisdiction of the former CHC.

Members represent the state at large. The legislature provides for planning and fiscal policy in construction and improvement of the highway system, and administration of expenditures from the State Highway Fund.

NOTE: The balance of the material in this Article 2 of the statute material--all the material available for this summary--does not address the composition of the highway commission nor of the department of highways. It simply adds to or amends existing statute re petitions for hearing, location of highways, authorization of preliminary surveys, etc.

## COLORADO

The State Highway Commission of Colorado is composed of nine members appointed by the governor, with the consent of the senate, for four year terms. The commission meets regularly at least four times a year, serves without compensation, but is reimbursed for travel expenses. Certain powers and duties are imposed upon the commission by law, and, in addition it concerns itself with general policy, studies, administrative practices, advice and recommendations to the governor, consulting, and advising the chief engineer, etc. A long list of specifics is enumerated within the statute.

The chief engineer must be a registered, professional engineer with ten years prior experience. He is "employed by the executive director of the state department of highways." However, the statute material offers no information on who appoints the chief engineer, nor does it make any further reference to the executive director.

The division of highways is identified as being within the state department of highways. The chief engineer is the chief administrative officer of the division, with direct control and management of its functions. His duties and powers are stipulated by law and include "the awarding, under the supervision of the commission, of all contracts for the construction or maintenance of state highways." The division is subdivided into divisions for administration, planning and research, personnel, and such others as the commission approves.

## HAWAII

In 1975 Hawaii established a statewide transportation council of 12 members who are designated directors of the departments of transportation, planning and economic development, and health; offices of environmental quality control; and are planning and transportation directors of each of the four counties. The director of the state department of transportation furnishes staff support to the council and is chairman of the same. 1979 amendments changed the membership of the council to 13 and added the chairman of the board of agriculture to the list of council director designations.

The transportation council is responsible for the preparation of a budget, formulation of and then enactment of a detailed work program and annual progress reports to the legislature. The council is the coordinator of the development of a statewide transportation plan. In addition, the council is responsible for transportation planning and approval of projects for submission to the legislature of those entities which are "solely and exclusively" state and/or which include state funds and state lands. All other transportation planning and approval of projects is the responsibility of the counties.

Regarding the counties, the council must review and comment to the legislature on stipulated county responsibilities, and provide stipulated technical assistance to those counties which do not have metropolitan planning organizations.

NOTE: The above summary is from Chapter 279A, Statewide Transportation Planning. Chapter 279E, which follows, is entitled Metropolitan Planning Organization and addresses Hawaii's solution to federal requirements regarding urban mass transportation.

## MONTANA

In comparison with the accompanying summaries of statutes describing and defining various state transportation commissions and departments the material from which to summarize Montana is distinctly vague and brief.

The Montana highway commission shall meet at least once each month for the purpose of transacting business. Each member of the commission shall "give bond" . . . in the sum of \$ 10,000. The commission may adopt rules necessary for its government. The following seven sections of this--Part 1--define highway designations, prescribe the letting of contracts, and speak to competitive bidding, bidder's security, and contractor's bond.

In Part 2 the general powers and duties of the Department of Highways are described, again generally. It is in Part 25 that a few specifics are elucidated. "There is a department of highways. . . . The department head is a director of highways appointed by the governor in accordance with. . . ."

As regards the highway commission, it "shall consist of five members." Thence follows the selection formula for members from districts which are comprised of named counties, and selection restrictions.

NOTE: The above information completes what is possible from the available statutory material.

## OREGON

The Oregon Transportation Commission consists of five members appointed by the governor for four year terms, and whose appointments are subject to legislative confirmation. The governor appoints the chairman and vice chairman from among commission members; terms, duties and powers are determined by the commission. Compensation and expenses accord with statute. Meetings are scheduled once a month; other meetings may be called by the chairman or a majority of the commission. Under certain conditions the governor is a voting commission member.

The Department of Transportation is made up of the commission, a commission appointed director (subject to legislative confirmation), an optional deputy director, and staff. Salaries and other compensation are fixed by law or by the commission.

The four divisions of DOT include aeronautics, highway, motor vehicles, and public transit. Each has a chief administrative officer appointed by the director with commission approval; each is allowed broad organizational power with the director's approval.

The functions of the commission, department, and divisions--consistent with statute--are commission establishment of department policy, commission record keeping, and coordination and administration of related programs. The department is the recipient of federal funding. Division level duties include development and maintenance of state transportation policy, and include long range planning, and information compilation. As the commission plan develops the director is responsible for preparation and submission of implementation programs to the commission. Actual implementation is assigned to appropriate divisions.

The commission has rulemaking authority with related public hearing responsibilities. Departmental assistance to divisions includes an in-house research program.

Specifically the director is administrator of the department, with budgetary limitations and statute as well as merit system prescribed powers. He administers state transportation law, authorizes needed intervention, prescribes regulations, delegates department authority, and directs necessary bonding. The department has a fiscal officer.

The commission has broad powers re reports to the governor on legislative, budgetary, and administrative programs to accomplish state transportation. A transportation administration account is in the general fund.

The balance of the Oregon statute is devoted to explanation of the Public Transit Division, its responsibilities, powers, and duties. Additionally the operating agreements of the department are specified.

## WYOMING

The Wyoming state highway department consists of a state highway commission and a state highway superintendent. Seven commissioners, who elect their chairman, are appointed by the governor with the advice and consent of the senate, for six year terms. Political guidelines are established for selection of the commissioners.

Each commissioner receives a salary of \$600 annually (1979), and receives travel expenses paid from the state highway fund. The state highway superintendent is in charge of the commission offices at the state capitol. The commission is empowered to sue in its own name. The attorney general is legal advisor, and is empowered to prosecute and defend all actions, and to appear in all the commission's federal proceedings.

The commission appoints a full-time state highway superintendent and sets his annual salary. He must meet particular qualifications; He is entitled to travel expenses. "Under the supervision of the commission he shall have complete charge of laying out and establishing highways upon which any portion of the state highway fund is to be expended. . . shall purchase all materials, supplies and equipment . . . shall employ such engineers, superintendents and employees with salaries to be approved by the commission, as may be necessary. . . ."

The superintendent's responsibilities include compilation of information, and preparation of plans and specifications for roads, culverts and bridges. Interestingly, he is entitled to utilize the civil and irrigation engineering department of the state university, without charge, for materials testing. He makes an annual report to the commission which in turn makes an annual report to the governor.

The remaining sections of the statute address such specifics as road and bridge construction, designation of state highways, condemnation proceedings, etc.

Washington  
Page Two

Additionally, the commission has toll bridge and state ferries powers, and must coordinate long range needs studies. The commission is to consult and coordinate with related state officials, i.e., Washington state patrol, traffic safety commission, etc., on transportation related agency functions and duties regarding comprehensive transportation plan program or policy. Likewise these state officials and agencies must consult with the secretary on priority matters as pertain to transportation activities. The secretary is responsible for providing written comments to the governor and legislature on the compatibility of related agencies' final plans, program and budgets with priorities established in the DOT final plans.

NOTE: State funding and dispersal of federal monies are not specifically addressed in the statute material.

## WASHINGTON

The Washington Transportation Commission replaces the Washington Highway Commission (1977). The following information is generally consistent with dictates of present statutes, and excludes transfer specifics.

The Commission is composed of seven members, appointed by the governor with the consent of the senate, for six year terms, and meeting at least once a month. Conditionally, it may adopt its own rules and regulations, and establish its own procedures. A member chairman is elected for a one year term. Monetary compensation is specific. A two-consecutive terms rule applies.

The transportation commission's function, powers, and duties include: 1) policy proposals to the legislature, 2) establishment of department policy, 3) directing the department secretary re a transportation plan, 4) presentation of department budget to the governor and legislature, 5) review and authorization of departmental legislative requests, 6) bond responsibilities, 7) adoption of rules, regulations, and policy directives, 8) delegation of additional powers to the secretary, and 9) exercise of specific powers and duties vested by law. Definitions of the above and other duties and powers are enumerated within the statute material.

The DOT is administered by a governor appointed secretary of transportation who is also the chief executive officer of the commission, responsible to the latter only, and whose removal can be effected only by the commission. DOT's organization is accomplished via the divisions of highways, public transportation, aeronautics, marine transportation, and transportation planning and budget.

The secretary is to: Serve as chief executive officer of the department; organize the department; utilize transportation district or branch offices; appoint assistants; delegate powers, duties, and functions; direct and coordinate division programs; adopt departmental rules re administrative procedures; keep records; provide staff support and to exercise all other duties as provided by law.

All employees and personnel of the previous departments and divisions (i.e., before reorganization) have been transferred to DOT with similar or related duties, and no loss of rights, with the exception of the executive secretary of the urban arterial board. Formerly exempt and classified position employees have retained their status. A continuity is established as regards rules and regulations of former related commissions and agencies, state services to the department, the annual report to the legislature and governor, and study reports available to legislators upon request. The commission exercises a right of entry on certain lands, maintains the responsibility for construction and maintenance of roads, highways, and bridges within state parks, retains responsibility re state aid programs for county roads and city streets, may contract without bid or bond with public utilities and municipal corporations, and must report to the legislature on highway needs through legislative transportation committees.



# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

*Steve also*  
JAY S. HAMMOND, GOVERNOR

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3000

3603

April 2, 1982

Honorable Bette Cato  
Representative  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Representative Cato:

In our review of CSHB 651 we have identified certain flaws in the legislation as it is currently presented. We are passing our ideas along to you in the hopes that our review may be useful in marshalling your arguments pertinent to the legislation.

1. Section 19.70.020 contains a few practical problems as well as a constitutional difficulty.

A directorship of six individuals seems guaranteed to lead to tie votes potentially deadlocking the policy making activities of the board. This could be eliminated by making the commissioner of transportation a voting member or by adding language similar to AS 44.88.050 which provides a tie breaking mechanism for the board of the Alaska Industrial Development Authority. The mechanism calls for the submission of tie vote matters to the governor. His decision breaks the tie.

The non-voting membership of the commissioner of transportation is tokenism. Our review of other independent entities within state government indicates that commissioners of departments connected with the independent entity are voting members of the body of directors. We have discovered no logical reason to deviate from that precedent.

The confirmation of directors by the legislature is directly contrary to Bradner v. Hammond, 553 P.2d 1 (Alaska 1976), which defined the parameters of Article III, Sections 25 and 26 of the Alaska Constitution pertinent to the confirmation powers of the legislature. Legislative confirmation is appropriate only for heads of principal departments and boards or commissions of principal departments and regulatory or quasi-judicial agencies. The proposed ferry authority is clearly outside the class intended to be subject to confirmation.

2. Section 19.70.040 excludes legal counsel from classified service under AS 39.25. This language should be clarified so that no authority to hire independent counsel can be inferred. Use of the attorney general as counsel will maintain the chain of supervision within the executive branch. Alternatively, a section specifically stating that the attorney general is counsel would be appropriate.
3. Section 19.70.140 seems to imply that the authority is outside the operations of the Administrative Procedure Act (APA) but that access to public records and open meetings are guaranteed nevertheless. This language is superfluous in that all organizational units of the executive branch are bound to adhere to all of the provisions of the APA unless expressly excluded by law. Alaska State Housing Authority v. Dixon, 496 P.2d 649 (Alaska 1972).
4. As a general position, the Department of Law, does not favor the creation of independent authorities. This policy is especially applicable to the proposed ferry authority in that the functions of the marine highway system are uniquely governmental in nature and not akin to the class of entities typically associated with independent proprietary authorities. We feel this point could be developed into a strong policy argument against the creation of this specific authority.

Finally, even assuming that the creation of a marine highway authority would be desirable, this legislation lacks certain key elements:

- 1. Neither the "purpose clause" in Section 1 nor the language of Section 19.70.010 are sufficient to demonstrate qualification for federal tax exemption. Certain buzz words are necessary to fulfill federal tax exemption requirements. Phrases such as "necessary for an essential government purpose" or "necessary public purpose" must be specifically stated in the purpose clause.

We further suggest a detailed statement of findings and policy in addition to a purpose clause. Examples of adequate phrasings may be found in AS 44.83.010--44.83.070, the Alaska Power Authority or AS 44.85.005--44.85.020, the Alaska Bond Bank Authority.

*Check*

- 2. Typically, the real and personal property, assets, income and receipts of authorities are specifically exempted from state taxation. Examples of language may be found in AS 44.82.150, the Alaska Gas Pipeline Authority or AS 18.55.70, the Alaska Housing Authority.

The above represents the Department of Law's objection to this bill. Please call us if you have any questions about our analysis.

Very truly yours,

WILSON L. CONDON  
ATTORNEY GENERAL

BY: *Mary Margaret O'Connell*  
Mary-Margaret O'Connell  
Assistant Attorney General

*115649 Bradley  
651 Lear  
654 Bradley  
P5 44.42.010 Proton  
P3 ln. 17 no up duping Q  
P4 Margaret with ln 5 (7)*

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

December 9, 1981

SUBJECT: Establishing the Board of Transportation  
and Public Facilities (Work Order No. 12-1989)

TO: Representative Bette M. Cato

FROM: Richard A. Bradley  
Legislative Counsel 

The bill described has been sent to you.

One additional point may be made about the bill. The draft establishes a new board of transportation and public facilities at the head of the department. Numerous sections of existing law grant responsibilities to the "department". See, for example, numerous sections in AS 19 (AS 19.05.030, 19.05.-040, etc.) and in AS 35 (AS 35.05.010, 35.05.020, etc.).

While the bill establishes the board at the head of the department, a question may arise as to the proper allocation of responsibility for decisions given to the "department" as between the board and the commissioner. Since the board is at the head of the department and it appoints the commissioner (with the approval of the governor), there should be no problem.

But if you wish, decisions can be made as to the proper allocation of the various statutory responsibilities presently assigned to the "department" as between the commissioner and the board.

If I may assist further, please advise.

RAB:ljb

HB 654 (1)

# Alaska State Legislature



## House of Representatives

Rep. Bette Cato, Chairman

Committee on Transportation  
M E M O R A N D U M

Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4858

TO : Rep. Bette Cato

FROM : Steven Soenksen A.A. *SS*  
House Transportation Committee

RE : Analysis of Legislation to be Prefiled

DATE : December 17, 1981

I have spoken with Joyce Munson this afternoon and we discussed the legislation for consideration and prefiling. There are some changes that will be needed in each of the legislation drafts. This analysis will not go into the detail that specifically suggests changes. We felt that as written, these bills are sufficient to raise the issues and that specific changes should be made in committee. This will encourage discussion and allow the committee to tailor the bills.

The analysis that follows gives general content and highlights in the bills for your information.

Probably the most important piece of legislation is the number 12-1981. This number is located under the words "WORK DRAFT PAPER" at the top of the first page. This is "an act relating to the Department of Transportation and Public Facilities and establishing a board at the Department of Transportation and Public Facilities and providing for an effective date."

This bill establishes a board of transportation mad up of 7 members.

- two members with highway construction experience
- two members with aeronautical experience
- one member with a maritime background
- one member with to be an economist
- one member as graduate of an accredited law school

Members serve overlapping terms with no member serving more than two terms.

The board shall: "Recommend policy for adoption to the legislature to assure the development and maintenance of a comprehensive and balanced statewide system that will meet the needs of the people of the state for safe and efficient transportation services." The bill outlines considerations for the board in their preparation of these policies from page 2, line 17 through page 5 line 4. It cannot be said that there is

Page two  
Bill Analysis

no clear legislative intent at this section spells out the exact things that we have spent the interim working on as identified needs. Also on page 5, line 11 (d), ..." the board shall supervise the execution by the commissioner of other statutory powers and responsibilities granted to the commissioner by law.", which gives added accountability from the commissioner to the board.

The board may adopt regulations. The board shall adopt regions in the state. The functions of the department.. shall be performed, to the maximum extent possible through the regional office. Region directors are appointed by the commissioner. (Recall that the board has supervisory powers here too, see paragraph above)

This bill also elaborates on the "plan" for transportation from Sec. 4, page 5, line 26 through Sec. 6. This Sec. 6 speaks to "two year" funding and funding related to the plan but does not address two phase funding. Perhaps there should be another bill drafted to address this. (Joyce concurs)

Sec. 7 through Sec. 10 speaks to Public Facilities and outlines procedures for the public facilities and other plans.

Sec. 12 through Sec. 16 allows the board to enter into agreements with municipalities for "local assumption of responsibilities in planning, design and construction of public works" and outlines procedures for this.

This bill is silent on compensation for the board. We may want to include something on this.

This concludes the analysis for this legislation. You should read sections that have been referenced in this report. There are as I've said before, several changes that we may wish to make but it may be more appropriate to do this in committee. A copy of this bill is attached.

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 654 Relating to DOTPF and establishing the  
Title Board of Transportation & Public Facilities at the head of the Dept.  
Requested by House Transportation Date 1/21

II. FISCAL DETAIL

Agency Affected Department of Transportation and Public Facilities  
Program Category Affected Administration and Support  
SRU, Program, Or Subprogram(s) Affected Board of Transportation and Facilities  
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	-0-	89.8	98.8	108.6	119.4	131.3
200 TRAVEL	-0-	41.9	46.1	50.7	55.8	61.3
300 CONTRACTUAL	-0-	55.0	60.5	66.5	73.1	80.4
400 COMMODITIES	-0-	5.0	5.5	6.0	6.6	7.2
500 EQUIPMENT	-0-	10.0	1.0	1.0	1.0	1.0
600 LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS, ETC.	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	201.7	211.9	232.8	255.9	281.2

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	-0-	201.7	211.9	232.8	255.9	281.2
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	-0-	2	2	2	2	2
PART TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

See attached notes and HB 654 1982.

IV. DATE 2/4/82

PREPARED BY D. H. Worn Don Lind

AGENCY Department of Transportation & Public Facilities

Original: Legislative Finance  
cc: Budget and Management

PHONE 465-3100

Prime Sponsor (First Legislator Named)

ESTIMATED COST ON HB654  
For Board of Transportation & Facilities

100	Personal Services 2 Full time Staff Executive Director 24A 4320/mo	\$51,840		
	Secretary I 10B 1726/mo	<u>20,712</u>	\$72,552	
	Benefits at 23.8%		<u>17,267</u>	\$89,819
200	Travel			
	Per Diem-Members \$80/day (per as 39.20.180)			
	Meetings			
	5 days - Initial set up x 7 members (35)			
	3 days - 6 Regular x 7 members (126)			
	5 days - Special x 7 members (35)			
	3 days x 3 Inspection x 7 members (63)	<u>259</u>		
			x \$80/day \$20,720	
	Per Diem-Staff			
	5 days (5)			
	3 days 6 times (18)			
	5 days 1 time (5)	<u>28</u>		
			x \$80/day	\$ 2,240
200	Air Fare - Members & Staff			
	\$1,566 per meeting x 8 meetings	12,528		
	Avg/trip = \$261			
	\$261 x 7 members x 3 inspection trips	5,481		
	Total air fare	<u>\$18,009</u>		
	Inflation/Rate increase 5%	<u>900</u>	<u>\$18,909</u>	
	Total Travel			\$41,869
300	Contractual			
	310 Communication		\$ 6,000	
	320 Printing & Advert.		9,000	
	330 Space rental		9,300	
	364 Equipment Rental		6,000	
	380 Professional Services		20,000	
	390 Other Contractual Services		<u>4,700</u>	
	Total Contractual			\$55,000

400	Commodities		
450	Office Supplies	\$ 5,000	
	Total Commodities		\$ 5,000
500	Equipment		
	Furniture & Office		
	Equipment including	<u>10,000</u>	
	2 desks, 2 chairs		10,000
	3 file cabinets, 1 book shelve		
	1 typewriter, 1 calculator		
	3 guest chairs, 1 table		
	Total cost Estimated		<u>\$201,688</u>
	Total Estimated Cost FY 83		\$201,700

er as affected by use of bus  
transportation, 112 ALR  
cessive mileage allowance  
134 ALR 1258.

side the state. (a) The  
official or employee for  
el is clearly necessary

at reimburse an official  
urist class fare for the  
accommodation is not  
ation would occasion  
ent of Administration  
ion is not in the best  
ommodation.

tion authorizes more  
shall file a justification  
When fares other than  
action, the Department  
:ior employee or pay for

to travel only the least  
ness involved, to secure

otherwise authorized by  
approval for travel outside  
or from his immediate  
nistration if he is not  
supervision of an official  
erially from the travel  
tain approval for the  
the travel before the  
him for his travel. (§ 7

v. (a) An agency may  
a person entitled to per  
0 — 39.20.170 the sums  
r and probable duration

able travel expense are  
erwise, from the person  
n from any amount due  
recovery which may be

**Sec. 39.20.160. Regulations.** The fixing and payment under AS 39.20.110 — 39.20.170 of travel and per diem allowances and of advances and recovery and reimbursement of travel expenses shall be in accordance with regulations adopted by the commissioner of administration. The regulations shall be uniform for all officials and employees, and all agencies and departments. The regulations shall also govern the use of public transportation facilities by officials and employees. The regulations relate to the internal management of state agencies and their adoption is not subject to the Administrative Procedure Act (AS 44.62). (§ 9 ch 60 SLA 1957; am § 2 ch 13 SLA 1963)

**Sec. 39.20.170. Construction of AS 39.20.110 — 39.20.170.** AS 39.20.110 — 39.20.170 may not be construed to modify or repeal a law providing for the travel expenses of the governor, or members of the legislature, or members of boards or commissions of the state government. (§ 10 ch 60 SLA 1957)

**Sec. 39.20.180. Transportation and per diem expenses for members of boards, commissions, etc.** Except as otherwise provided by law, from and after March 27, 1962, the provisions in this section relating to per diem and transportation govern exclusively and supersede all other provisions of law with respect to a member of a state board, commission, committee, judicial council, or other similar body of persons of the state organized or established under the authority of law, but excluding any other state employee other than a legislator, who is otherwise entitled by law to receive from the state payments for expenses of transportation, and for reimbursement or for per diem in lieu of reimbursement for other expenses incident to his duties as such member:

(1) For transportation, the member is entitled either to the use of state transportation requests, or to be reimbursed for expenses of transportation to the same extent, in the same manner, and under the same conditions as provided for state officials and employees by the provisions of AS 39.20.110 — 39.20.170.

(2) For reimbursement for other expenses, the member is entitled to a per diem allowance prescribed by the commissioner of administration under the regulatory authority set out in AS 39.20.160 for each day or portion of a day spent in actual meeting or on authorized official business incident to his duties as a member. (§ 1 ch 130 SLA 1953; am § 1 ch 34 SLA 1960; am § 1 ch 37 SLA 1962; am § 5 ch 136 SLA 1967; am § 12 ch 47 SLA 1974)

**Cross reference.** — As to coverage of state board and commission members under the Worker's Compensation Act, see AS 23.30.242.

**Quoted in Employers Liab. Assurance Corp. v. Groothuis, 8 Alas. L.J. No. 12, p. 134 (Nov., 1970).**

**Cited in Laborers & Hod Carriers Local 341 v. Groothuis, Sup. Ct. Op. No. 773 (File Nos. 1435, 1459), 494 P.2d 808 (1972).**

Title 40  
Public Records  
and Records

Title 41  
Public Resources

Public Utilities  
and Carriers

Introduced: 1/11/82  
Referred: Transportation and  
Finance

1 IN THE HOUSE

BY THE TRANSPORTATION COMMITTEE

2 HOUSE BILL NO. 654

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Department of Transportation  
7 and Public Facilities and establishing the Board of  
8 Transportation and Public Facilities at the head of the  
9 department; and providing for an effective date."

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

11 \* Section 1. AS 44.42 is amended by adding new sections to read:

12 Sec. 44.42.011. BOARD OF TRANSPORTATION AND PUBLIC FACILITIES.

13 There is at the head of the Department of Transportation and Public  
14 Facilities the Board of Transportation and Public Facilities.

15 Sec. 44.42.013. COMMISSIONER OF TRANSPORTATION AND PUBLIC FACIL-  
16 ITIES. The commissioner of transportation and public facilities is the  
17 principal executive officer of the department. The board shall appoint  
18 the commissioner of transportation and public facilities subject to the  
19 approval of the governor.

20 Sec. 44.42.015. COMPOSITION OF BOARD AND TERMS OF MEMBERS. (a)  
21 The board consists of seven members. ~~The~~ members of the board shall be  
22 appointed by the governor and are subject to confirmation by a majority  
23 of the members of the legislature in joint session.

24 (b) One member of the board shall be appointed from each allocation  
25 district described in AS 19.30.127. Two members of the board shall be  
26 appointed from the state at large.

27 (c) Members appointed shall have the following qualifications:

28 (1) two members shall be experienced in highway construction;

29 (2) two members shall have an aeronautical background;

1           (3) one member shall have a maritime background;

2           (4) one member shall be an economist; and

3           (5) one member shall be a graduate of an accredited law  
4 school.

5           (d) Members serve overlapping four-year terms. A member may not  
6 serve more than two full terms on the board.

7           Sec. 44.42.021. POWERS AND DUTIES OF BOARD. (a) The board shall  
8 recommend policies for adoption by the legislature that are designed to  
9 assure the development and maintenance of a comprehensive and balanced  
10 statewide transportation system that will meet the needs of the people  
11 of the state for safe and efficient transportation services. The poli-  
12 cies shall provide, when appropriate, for the use of integrated inter-  
13 modal transportation systems to implement the social, economic, and  
14 environmental policies, goals, and objectives of the people of the  
15 state, and especially to conserve nonrenewable natural resources includ-  
16 ing land and energy. In preparing these policies the board shall

17           (1) consider the transportation policies that are stated in  
18 existing state laws and recommend changes in these laws that the board  
19 considers desirable;

20           (2) inventory the policies, goals, and objectives of municipi-  
21 pal governments of the state and define the role of the state and municipi-  
22 pal governments in determining transportation policies, in transportation  
23 planning, and in implementing the state transportation plan;

24           (3) propose a six-year transportation plan for the state and,  
25 after notice and public hearings, submit the transportation plan and  
26 estimates of the appropriation necessary to implement the plan as well  
27 as annual revisions of the plan to the legislature by the 10th day of  
28 each regular legislative session;

29           (4) integrate the state transportation plan with the needs of

1 the elderly and the handicapped and coordinate federal and state programs  
2 directed at assisting municipalities to answer the needs of the elderly  
3 and the handicapped.

4 (b) In conformity with the policies, goals, and objectives stated  
5 in (a) of this section and the state transportation plan adopted by the  
6 legislature, the board shall

7 (1) plan, design, construct, and maintain all state modes of  
8 transportation and transportation facilities, communication facilities,  
9 and all docks, floats, breakwaters, buildings, and similar facilities;

10 (2) study existing transportation modes and facilities and  
11 communication facilities in the state to determine how they might be  
12 improved or whether they should continue to be maintained;

13 (3) study alternative means of improving transportation and  
14 communication in the state with regard to the economic costs of each  
15 alternative and its environmental and social effects;

16 (4) develop a comprehensive, long-range intermodal transpor-  
17 tation plan for the state;

18 (5) study alternatives to existing modes of transportation in  
19 urban areas and develop plans to improve urban transportation;

20 (6) cooperate and coordinate with and enter into agreements  
21 with federal, state, and local government agencies and private organiza-  
22 tions and persons in exercising its powers and duties;

23 (7) manage, operate, and maintain state transportation facili-  
24 ties, communication facilities, and all docks, floats, breakwaters, and  
25 buildings, including state highways, vessels, railroads, pipelines, air-  
26 ports, and aviation facilities;

27 (8) study alternative means of transportation in the state,  
28 considering the economic, social, and environmental impacts of each  
29 alternative;

1 (9) coordinate and develop state and regional transportation  
2 systems, considering deletions, additions, and the absence of altera-  
3 tions;

4 (10) develop facility program plans for transportation and  
5 communication facilities and state buildings, docks, and breakwaters  
6 required to implement the duties set out in this section, including but  
7 not limited to

8 (A) functional performance criteria; and

9 (B) schedules for completion;

10 (11) supervise and maintain all state automotive and mechani-  
11 cal equipment, aircraft, and vessels, except aircraft and vessels used  
12 by the Department of Fish and Game or the Department of Public Safety;

13 (12) supervise aeronautics and communications inside the  
14 state, under AS 02.10;

15 (13) complete and maintain a current inventory of public  
16 facilities, including a projection of the serviceability of the facili-  
17 ties and projections of replacements and additions to facilities needed  
18 to provide the level of services programmed by the various user agencies,  
19 for municipalities with populations of less than 12,000, and for unincor-  
20 porated communities, and perform those duties on a cooperative basis  
21 with larger municipalities;

22 (14) adopt energy performance standards for public facilities  
23 of the state that are constructed after July 1, 1980; the standards  
24 shall be based on thermal and lighting energy standards established by  
25 the American Society of Heating, Refrigeration and Air Conditioning  
26 Engineers as adapted for application in high latitude, cold climate  
27 env'rons;

28 (15) provide planning assistance, including but not limited to  
29 energy audits and related technical services, to school districts and

1 regional educational attendance areas to develop and implement

2 (A) standards for the design, construction, and operation  
3 of rural educational facilities; and

4 (B) energy conservation measures for rural educational  
5 facilities.

6 (c) The board may

7 (1) engage in experimental projects relating to available or  
8 future modes of transportation and any means of improving existing  
9 transportation facilities and service and communication;

10 (2) exercise the power of eminent domain, including the  
11 declaration of taking as provided in AS 09.55.

12 (d) Under procedures adopted by it the board shall supervise the  
13 execution by the commissioner of other statutory powers and responsi-  
14 bilities granted to the commissioner by law.

15 \* Sec. 2. AS 44.42.030 is amended to read:

16 Sec. 44.42.030. REGULATIONS. The board [DEPARTMENT] may adopt  
17 regulations under the Administrative Procedure Act (AS 44.62) to imple-  
18 ment, interpret, or make more specific its powers and duties.

19 \* Sec. 3. AS 44.42.040 is amended to read:

20 Sec. 44.42.040. DEPARTMENTAL ORGANIZATION. The board [COMMIS-  
21 SIONER] shall establish regions within the state. The functions of the  
22 department within each region shall be performed, to the maximum extent  
23 feasible, through a regional office. Each regional office shall be  
24 directed by a regional transportation and public facilities director  
25 appointed by the commissioner.

26 \* Sec. 4. AS 44.42.050(a) is amended to read:

27 (a) The board [COMMISSIONER] shall develop annually a comprehen-  
28 sive, intermodal, long-range transportation plan for the state. In  
29 developing and revising the state plan, the board [COMMISSIONER] shall

1 consider means and costs of improving existing modes and facilities,  
2 state and federal subsidies, and the costs and benefits of new transpor-  
3 tation modes and facilities. The board [COMMISSIONER] shall also con-  
4 sider the recommendation of the Alaska Transportation Planning Council.  
5 The plan shall be submitted to the governor for his review and approval  
6 and submitted by the governor to the legislature.

7 \* Sec. 5. AS 44.42.050(b) is amended to read:

8 (b) In developing and revising the plan, the board [COMMISSIONER]  
9 shall seek public review and evaluation by any reasonable means and way

10 (1) consult and cooperate with officials and representatives  
11 of the federal government, other governments, interstate commissions and  
12 authorities, local agencies and authorities, interested corporations and  
13 other organizations concerning problems affecting transportation in the  
14 state; and

15 (2) request from an agency or other unit of the state govern-  
16 ment or of a political subdivision of it, or from a public authority,  
17 the assistance and data that may be necessary to enable the board [COM-  
18 MISSIONER] to carry out its [HIS] responsibilities under this section;  
19 every such entity shall provide the assistance and data requested.

20 \* Sec. 6. AS 44.42.050(d) is amended to read:

21 (d) The plan shall include a description of projects planned for  
22 design and construction for the following two years. The description is  
23 in addition to the long-range plan required by (a) of this section and  
24 by AS 19.10.140. The description shall include an itemization of the  
25 estimated cost for each project and the total cost of all projects. The  
26 board [COMMISSIONER] shall propose and forward to the governor for his  
27 review and approval and inclusion, as approved, in the capital budget a  
28 construction program which includes the projects to be undertaken during  
29 the following two years, including recommended project priorities. Funds

1 for transportation construction projects and necessary contingencies  
2 shall be itemized as allocations within the bill for the General Appro-  
3 priations Act.

4 \* Sec. 7. AS 44.42.055(a) is amended to read:

5 (a) The board [COMMISSIONER] shall develop and annually revise a  
6 statewide comprehensive facility procurement plan for public facilities  
7 of the state and its municipalities.

8 \* Sec. 8. AS 44.42.055(b) is amended to read:

9 (b) In developing and annually revising the facility procurement  
10 plan, the board [COMMISSIONER] shall

11 (1) request and receive on an annual basis from all state  
12 agencies a projection of the anticipated facility needs of the agency  
13 for the next annual capital improvement program;

14 (2) consult with officials and representatives of municipali-  
15 ties, the federal government, interested corporations and other organiza-  
16 tions concerning public facility needs in the state;

17 (3) develop specific facility procurement plans for projects  
18 in each of the following categories:

19 (A) sewage transmission and treatment systems;

20 (B) water transmission and treatment systems;

21 (C) electrical generation and distribution systems;

22 (D) health care and social services facilities;

23 (E) educational facilities;

24 (F) transportation facilities;

25 (G) public safety and justice facilities;

26 (H) recreational facilities;

27 (I) sanitation facilities; and

28 (J) cultural facilities;

29 (4) prepare recommendations to accommodate the various levels

1 of service identified by state agencies and other parties with respect  
2 to the services described in (3) of this subsection, to include

3 (A) current and future facility needs;

4 (B) space standards and design guidelines for the appro-  
5 priate facility types;

6 (C) maintenance and operations standards for the appro-  
7 priate facility types;

8 (D) construction techniques and contracting methods;

9 (E) facility project budget requirements; and

10 (F) relative costs of identified alternatives (life  
11 cycle cost analysis) including but not limited to the installation  
12 and operation of energy systems which are not dependent on oil or  
13 gas for water heating, space heating and cooling requirements, and  
14 for the generation of electrical or mechanical power;

15 (5) identify common public facility needs among the various  
16 user agencies; and

17 (6) submit its findings, plans and recommendations to the  
18 governor and to the appropriate state agency to facilitate the develop-  
19 ment of agency capital improvement budget requests.

20 \* Sec. 9. AS 44.42.055(c) is amended to read:

21 (c) In the preparation and revision of the facility procurement  
22 plan, the board [COMMISSIONER] may

23 (1) develop and adopt regulations for use in carrying out the  
24 purpose of (b) of this section; regulations may not be adopted under  
25 this section unless approval is received from appropriate program  
26 agencies;

27 (2) make recommendations on the total capital improvement  
28 program to affected state agencies, local governments, and other inter-  
29 ested parties and organizations, and to the divisions of budget and

1 management and policy development and planning.

2 \* Sec. 10. AS 44.42.060 is amended to read:

3 Sec. 44.42.060. GRANTS TO THE DEPARTMENT. The board [COMMIS-  
4 SIONER] may apply for and accept, on behalf of the state, grants from  
5 the federal government or an agency of it, or from another state, a  
6 foundation, or any person, for any of the functions or purposes of the  
7 department.

8 \* Sec. 11. AS 44.42.900 is amended by adding a new paragraph to read:

9 (4) "board" means the Board of Transportation and Public  
10 Facilities.

11 \* Sec. 12. AS 35.15.080(a)(2) is amended to read:

12 (2) may provide by agreement for transfer to and assumption  
13 by the municipality of the department's responsibilities relating to the  
14 planning, design, and construction of a public works project, unless the  
15 board [COMMISSIONER] determines that assumption of responsibilities by  
16 the municipality is not practicable or not in the best interests of the  
17 state.

18 \* Sec. 13. AS 35.15.080(b) is amended to read:

19 (b) If the board [COMMISSIONER OF TRANSPORTATION AND PUBLIC FACILI-  
20 TIES] determines that assumption of responsibilities by a municipality  
21 under (a)(2) of this section is not practicable or not in the best  
22 interests of the state, it [HE] shall notify the governing body of the  
23 municipality of its [HIS] finding and specify reasons for it. If the  
24 governing body requests reconsideration of the decision, the board  
25 shall direct the commissioner to [HE SHALL] hold a hearing in the munici-  
26 pality within 30 days following mailing of the request. Following the  
27 hearing, the board [HE] may affirm, modify or reverse its [HIS] initial  
28 decision and shall specify in writing the reasons.

29 \* Sec. 14. AS 35.15.080(c) is amended to read:

1 (c) A municipality may request joint assumption of responsibilities  
2 with the department relating to the planning, design and construction of  
3 a public works project. A regional educational attendance area may  
4 request joint assumption of responsibilities with the department relating  
5 to the planning, design and construction of an educational facility. Two  
6 or more municipalities or regional educational attendance areas may by  
7 mutual agreement provide for cooperative assumption of responsibilities  
8 relating to the planning and construction of a public works project. If  
9 two or more municipalities or regional educational attendance areas  
10 request assumption of responsibilities for a project and meet the stan-  
11 dard of practicability set out in (a)(2) of this section, the board  
12 [COMMISSIONER] shall determine which municipality or regional educational  
13 attendance area is best able to direct planning, design, and construction  
14 of the project and enter into an agreement with that municipality or  
15 regional educational attendance area, or provide for joint or cooperative  
16 administration, as the parties may agree or the board [COMMISSIONER] may  
17 determine. Decisions of the board [COMMISSIONER] under this subsection  
18 are final.

19 \* Sec. 15. AS 35.15.080(f) is amended to read:

20 (f) To carry out the purpose of this section, the board [COMMIS-  
21 SIONER OF TRANSPORTATION AND PUBLIC FACILITIES] shall adopt regulations  
22 relating to the application for and the making and the conditions of  
23 agreements and the local assumption of responsibilities for the planning,  
24 design and construction of public works under this section. It [HE]  
25 shall include in grant contracts terms and conditions requiring a  
26 regional school board and its contractors to adhere to the provisions of  
27 AS 36.05.010 with respect to the payment of wage rates on construction  
28 projects, and AS 36.10.010 with respect to employment preference, and  
29 may require different terms in agreements for different projects to meet

1 local conditions and unique requirements and to assure compliance with  
2 the public facilities procurement policies developed by the department  
3 under AS 35.10.160 - 35.10.200. If necessary, the board [COMMISSIONER]  
4 may require as a condition of an agreement approval of the agreement by  
5 the federal government. Regulations adopted, amended or repealed by the  
6 department under this section which relate to educational facilities  
7 shall be developed in conjunction with the Alaska Association of School  
8 Boards and the Alaska Association of School Administrators and reviewed  
9 by those associations before final action on the regulations is taken by  
10 the department.

11 \* Sec. 16. AS 35.20.050 is amended to read:

12 Sec. 35.20.050. AUTHORITY TO PURCHASE PROPERTY FOR THE PURPOSE OF  
13 EXCHANGE. When the board [COMMISSIONER] formally declares that it is in  
14 the best public interest of the state to do so, the department may  
15 acquire by purchase or otherwise privately or publicly owned land or an  
16 interest in it for the purpose of exchanging it for privately or publicly  
17 owned land which the department is authorized by law to acquire.

18 \* Sec. 17. AS 35.25.020 is amended by adding a new paragraph to read:

19 (7) "board" means the Board of Transportation and Public  
20 Facilities established in AS 44.42.011.

21 \* Sec. 18. AS 44.42.010 and 44.42.020 are repealed.

22 \* Sec. 19. Members of the Board of Transportation and Public Facilities  
23 shall be appointed for the following initial terms: two for four years, two  
24 for three years, two for two years, and one for one year.

25 \* Sec. 20. This Act takes effect July 1, 1982.  
26  
27  
28  
29