

HB

313

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A PERFORMANCE REVIEW OF THE
DEPARTMENT OF COMMERCE
AND ECONOMIC DEVELOPMENT
ALASKA TRANSPORTATION COMMISSION

April 1, 1982

Audit Control Number

08-092-0069-R

Commissioner, Department of Commerce
and Economic Development

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Members of the Alaska Transportation Commission

Chairman
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Rep Cato
Room 108

Rec'd Act. 3/26
pm.

STATEMENT OF POSITION

offered by

ALASKA TRUCKING ASSOCIATION, INC.

SUPPORTING THE CONTINUATION OF THE
ALASKA TRANSPORTATION COMMISSION

STATEMENT OF POSITION

The Alaska Trucking Association, Inc. (Association) is a non-profit trade organization representing 325 trucking firms and allied industry firms throughout the State of Alaska. Our membership consists generally of two major groups, the For-Hire Carrier and the Private Carrier. The for-hire carrier group includes common carriers, contract carriers and exempt carriers as well as the water carriers. Our membership stretches from the northernmost tip of Alaska (Barrow) to the extreme south and west (Dutch Harbor and Ketchikan), to the Nome/Kotzebue area and to the Canadian border on the west. The largest concentration of membership is in the Southcentral, Southeast and Interior regions.

The Association's purpose is to foster and promote an economically sound transportation system in Alaska.

The regulated motor carrier industry is composed overwhelmingly of small firms with the vast majority grossing less than \$500,000 a year. At the other end of the spectrum are the large well-established carriers and included in the group are some of the industry's publicly held firms.

The importance of a regulated motor carriage system, and the trucking industry as a whole to our State's vital transportation system cannot be overstated. Our motto, "If you got it, it came by truck," is not an attempt to overrate our industry. It is simply a fact that goods, supplies and materials are shipped to Alaska by outside manufacturing markets and that shipment always begins and ends with truck movement.

There are approximately 13,281 commercial trucks registered with the State of Alaska and approximately 9,178 commercial trailers. Most of these trucks and trailers are involved with freight movement and these numbers give some indication of the number of jobs offered to Alaskans within the trucking industry. The trucking industry is one of the largest private industry employers in the state.

Recently, Senate Bill 35 was introduced. Senate Bill 35 is an act "relating to transportation merging the Alaska Transportation Commission with the Alaska Public Utilities Commission; and providing for an effective date." Inherent in this bill are some changes in the manner in which motor transportation is regulated in the State of Alaska.

Senate Bill 35 contains a number of items. First, it increases certain weight and application fees for aircraft and motor vehicles. While the state trucking association is cognizant of the need to keep fees in line with inflation, the Association is partially opposing a fee increase at this time because of the recent federal increase in taxes which, in part, are directed exclusively against the motor transportation industry. The association will provide a separate statement dealing with the increased fees portion of the bill.

I. Merger of the Alaska Transportation Commission (ATC) with the Alaska Public Utilities Commission. The Alaska Trucking Association has considered the findings and recommendations of the Division of Legislative Audit in this regard but believes that the merger of the two commissions is not warranted at this time. The Association's reasons for opposing the merger are as follows:

1. The Public Utilities Commission, at the present time, is still assimilating the Alaska Pipeline Commission. It already has an overcrowded docket and the assimilation of another 500 to 600 cases annually would, of necessity, dilute the time spent on transportation matters by the state regulatory commission. The Association believes that the Commission should be directed to refocus its attention on the proper administration of the state Transportation Act. The Association believes that this will best serve the public interest.

2. The saving in space and personnel would, at best, be illusory. Commissioner Miller, in his testimony before this committee, indicated that the Commission was underfunded by over \$100,000 in its last budget. The legislative audit report suggests that the change be a reorganization of policies, procedures and staffing. However, based on a review of the recommendations put forth by the report, it would appear that more staff and commission work is needed rather than less; hence, the Association does not believe any real cost savings will result from a merger.

3. Alaska's unique needs and isolation from the contiguous 48 states makes it totally dependent upon motor and air transportation. The previous Governor and the Legislature have already recognized the importance of transportation to the state in forming the Department of Transportation. The same recognition should be given to the regulatory phases of transportation. In fact, it might be noted that the federal government has two agencies dealing with motor and air transportation, to wit, the Interstate Commerce Commission and the Civil Aeronautics Board.

4. Regulatory policies that are necessary in dealing with transportation, i.e., a greater degree of competition in the marketplace, a greater number of carriers, a greater number of diverse needs to be met, are not consistent with the regulatory policies that might be applied for public utility regulation which deal with companies with high fixed assets and, generally, a monopoly or quasi-monopoly service area. This difference was one of the original justifications for splitting the Alaska Transportation Commission from the original Public Services Commission. This difference was true in 1967 when the split occurred and is even more true today in light of Alaska's diverse transportation needs.

II. The Legislature Should Direct the Commission to Undertake Regulatory Initiatives in Three Major Areas, (1) Certificates of Authority, (2) Tariffs, and (3) Safety Inspections.

1. Certificates of Authority. The Association recommends two initiatives in this area.

(A) The legislative audit report, in its Recommendation No. 2, advised the Legislature that temporary authority to motor and air carriers should be granted in accordance with statutes. Discussion of the Commission practices in this regard is already contained in the legislative audit report and will not be further discussed herein. The audit report also directed the Commission to strengthen its review of a carrier's financial fitness. Financial fitness is critical in determining the suitability of a given carrier to provide transportation. If a carrier is in financial trouble, often the first items to go are maintenance and safety procedures. If a carrier's financial capability is more closely examined to begin with, there will be greater assurance that the carrier will have sufficient assets to pay its expenses as they become due. While there is no guarantee in the transportation business that a company will make money, at least a closer financial analysis will insure a greater probability of a financially solvent carrier and will thus enable the carrier to operate properly and safely.

(B) The second aspect of authority certification that is of great concern to the association is dealing with carriers who operate either beyond their authority or who have no authority at all. The legislative audit committee, in its Recommendation No. 4, recommended that the Commission Staff take a stronger position and a stronger enforcement posture. Alaska Transportation Commission Chairman Miller, in testifying before the committee last week, noted that the Commission was aware of 50 unauthorized operations. The committee should realize that the failure to take an efficient enforcement posture ultimately costs every consumer who deals with an authorized carrier more in shipping charges. A carrier's revenue must come through its tariff charges. If the total pool of common carrier traffic is being diverted to non-authorized operations, the authorized carrier, in order to cover its costs, must, of necessity, raise rates. A strong enforcement posture will reduce this illegal siphoning off of carrier traffic revenue and will reduce the pressure to increase transportation charges.

2. Tariffs. Again, the Association recommends two initiatives in this area.

(A) First, the Commission must perform field surveys of regulated motor carriers. The legislative audit report noted that of 630 regulated carriers in 1981, 38 field surveys were performed, all on air carriers. None were performed on any motor carriers. Illegal operations can also include illegal applications of tariffs. Carriers provide services usually below their tariffs, again illegally siphoning off traffic and having the same financial effect on authorized carriers as illegal operations.

The Association would note that some of the smaller carriers may not have experienced tariff personnel. The ATC, in performing its field surveys, can assist the carriers' personnel in the proper application of the carriers' tariffs. The Association is not recommending that a Commission enforcement agent be placed in every trucking concern's office, but rather that the Commission use its best judgment in insuring tariff compliance. Obviously, if a carrier repeatedly violates its tariff or misuses its authority, it should be prosecuted to the full extent of the law.

(B) The second area in tariff regulation is the need by the Commission to propose appropriate cost and accounting regulations in order that it will be able to properly review tariff filings by carriers. Again, the legislative audit report, in its Recommendation 3(B) recommended that the Commission require the carriers to submit appropriate financial data for rate changes. To this, the Association has no objection, per se; however, the Commission must adopt suitable accounting and rate regulations and perform proper cost studies since the filing of raw financial data alone is not enough to review the appropriateness of tariff filings in motor transportation. The Association supports the need for such accounting and cost justification regulations, but the initiative must come from the Commission. Obviously, with 630 motor and air carriers and the recognition that not all of these companies are large companies, the type of information that the Commission will need must be tailored to the competitive needs of the industry and the geographical location. However, something must be done because already there is evidence of predatory pricing which will only further exacerbate the weak financial condition of the motor transportation industry in Alaska. Also, it might be noted that such regulations would give shippers and other members of the public a opportunity to have their input in the regulatory process. The Commission already has powers to prevent predatory pricing by using its minimum rate order powers.

3. Safety Inspections. The Association understands that as of March 11, 1983, money for the safety inspection function of the Commission has run out. It is unthinkable to the Association that Alaskans can think of multi-million dollar capital projects being funded while this important element of public safety is neglected. The Commission is urged to institute and the Legislature is urged to appropriate sufficient funds for safety inspections. Under Recommendation No. 5 of the legislative audit report, it was noted that field surveys should include safety inspections. The Association concurs with inspections because of the obvious benefit of inspections and surveys to both the public and to the motor carrier, i.e., less probability of accidents occurring. Also, such inspections have a more positive effect in that if the number of accidents occurring are reduced, presumably insurance rates would go down and the pressure to raise transportation rates would decrease. Again, the initiative must come from the Commission along with the assistance of both the Legislature and the Alaska transportation industry.

4. Other Matters. In regard to the de-regulation of dump truck operators, the Association believes that this should be a separate subject matter in separate legislation and not in the bill. The Dump Truck Industry has its own association. This Association does perform some services for them such as providing the casualty insurance trust; however, it is believed that the best interests of the public are served by severing this provision from the bill and dealing with it separately and allowing the affected industry to speak for itself.

III. CONCLUSION

THE LEGISLATURE SHOULD EXTEND THE ALASKA TRANSPORTATION COMMISSION FOR FOUR (4) YEARS AND SUPPORT THE COMMISSION WITH ADEQUATE FUNDING.

The Alaska Trucking Association generally endorses the results of the legislative audit. However, it believes that a merger of the Alaska Transportation Commission with the Alaska Public Utilities Commission will only exacerbate the problems set forth in the legislative audit report rather than solve them. For example, the legislative audit Recommendation No. 6 suggests that commissioners and hearing examiners write all of the formal orders of the Commission. Obviously, the suggestion of transferring only one commissioner who has a background in transportation to the Public Utilities Commission if merger is approved and attempting to comply with this recommendation is inconsistent. What the Alaska Transportation Commission needs is more help and not less.

Generally, the suggestions made by the legislative audit and endorsed by the Alaska Trucking Association all require time to implement. Tariff regulations are needed on costs and accounting. The legislative auditors noted several areas in which the Commission must improve its internal procedures. The Association believes that what is needed is suitable financial support for the Commission and not merger of the Commission with the Public Utilities Commission.

It is, therefore, the recommendation of the Alaska Trucking Association that the Alaska Transportation Commission's term be extended under the Sunset Law for four (4) years. Coupled with that should be a legislative committee report urging the Commission to comply with the recommendations of the legislative audit. Legislative direction should be given with adequate and sufficient financial support, both from manpower and budgetary standpoints, to enable the Commission to effectively do its job. The Association does not think it is necessary to have a Commission enforcement agent threatening civil penalties to insure compliance with the Commission's regulations. For the most part, most air and motor operators try diligently to comply with the law. However, because transportation regulations, as in any other regulated field, are often complicated, Commission guidance is needed to assure that operators comply with the law. However, where appropriate, the full enforcement capability of the Commission should be brought to bear on those operators who refuse to comply with the law.

Good regulation should be continued in the public interest. It assists the public, which, after all, involves each of us as consumers; it assists shippers; and it assists those connected with the motor carrier industry.

Thank you for the opportunity to provide this statement of position.

ALASKA TRUCKING ASSOCIATION, INC.

By *H. H. Prasher*
Its *Managing Director*



OFFICIAL BUSINESS

ALASKA STATE LEGISLATURE - SENATE

COMMITTEE ON LABOR AND COMMERCE

SENATOR RICHARD I. ELIASON
CHAIRMAN

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4/12/83

LETTER OF INTENT FOR CSSB 184

During the scheduled hearings in which the Alaska Transportation Commission (A.T.C.) was discussed and reviewed, many problem areas were identified. The Performance Review of the Alaska Transportation Commission conducted by the Division of Legislative Audit, April 1, 1982, concluded that the functions of A.T.C. could be better performed if A.T.C. were to merge with the Alaska Public Utilities Commission.

However, several questions were raised which remain unanswered:

- 1) Is State involvement in the Essential Air Service Program required?
- 2) Does the State want to deregulate surface and air transportation within Alaska?
- 3) What method does the State wish to employ to assure the public that air and motor carriers have sufficient insurance coverage to protect the public's interest?
- 4) What is the role of the Alaska Transportation Commission in regard to a commercial vehicle safety program?
- 5) Would a citizen's board be an appropriate mechanism to perform the oversight functions which are currently the responsibility of the Commissioners of the Alaska Transportation Commission.

With the passage of this legislation, it is the intent of the Senate Labor and Commerce Committee that the Office of Management and Budget conduct a thorough performance review of the functions of A.T.C. The review will include, but will not be limited to, the scope of areas previously outlined.

The Office of Management and Budget will report back to the Thirteenth Legislature within ten days after the second session convenes in 1984. The report shall outline the findings of the audit as well as specific actions to implement any changes recommended.

Respectfully submitted,

Sen. Dick Eliason, Chair

MAR 2 1983

ATC

NOTICE OF PROPOSED CHANGES IN THE REGULATIONS
OF THE ALASKA TRANSPORTATION COMMISSION

Notice is hereby given that the Alaska Transportation Commission, under authority vested by AS 42.10, proposes to repeal regulations in Title 3, Part 6 of the Alaska Administrative Code, dealing with forwarders, to implement AS 42.10.070, .080 as follows:

3 AAC 64.340 is repealed. This section is replaced by 3 AAC 69.020(c) and is therefore no longer necessary.

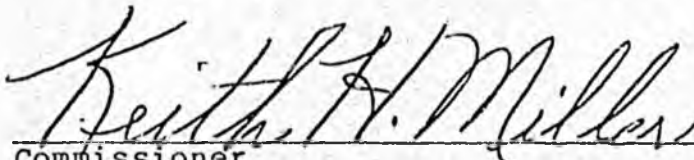
Notice is also given that any person interested may present written statements or arguments relevant to the action proposed by delivering a copy of his comments to the Alaska Transportation Commission, Frontier Building, 3601 C Street, Suite 778, Anchorage, AK 99503, before April 1, 1983.

Any person who believes that oral hearing is necessary to resolve this matter shall in writing set out the reasons why they believe oral hearing is necessary and submit them to this Commission on or before March 20, 1983. If no requests for oral hearing are received, the Commission shall proceed on written submission.

This action is not expected to require an increased appropriation.

The Alaska Transportation Commission upon its own motion or at the instance of any interested person, may after April 6, 1983 adopt the proposals substantially as described above without further notice or may decide to take no action on them.

DATED at ANCHORAGE, ALASKA, this 24th day of February 1983.



Commissioner

All correspondence refer to Docket 82-630-RR/O

3 AAC 64.340 SECURITIES OR SURETY BONDS REQUIRED FOR
BROKERS AND FORWARDERS. Repealed.

Authority: 42.07.121
42.07.141
42.10.050
42.10.070
42.10.100
42.10.110
42.10.420

C E R T I F I C A T I O N

I HEREBY CERTIFY that I have this date mailed a true and correct copy of the NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE ALASKA TRANSPORTATION COMMISSION in Docket 82-630-RR/O, postage prepaid to the following parties of record:

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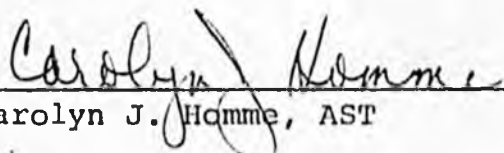
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DATED at ANCHORAGE, ALASKA, this 25th day of February 1983.

ALASKA TRANSPORTATION COMMISSION



Carolyn J. Homme, AST

Alaska State Legislature



House of Representatives

Committee on Transportation


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

Rep. Bette Cato, Chairman

DATE: 20 April 1983

TO: REP. WALTER FURNACE, CHAIRMAN
Labor and Commerce Committee

REP. AL ADAMS, CHAIRMAN
Finance Committee

FROM: Rep. M. W. Miller, Acting Chairman
House Transportation Committee 

RE: HB 313

It is the recommendation of the House Transportation Committee that it is in the State's best interest to continue the Alaska Transportation Commission (ATC) because of the importance of the ATC in order to provide for the enforcement of surface and air transportation regulations. Alaska has seen a substantial increase in the surface and air transportation in recent years.

In testimony before the House Transportation Committee, several witnesses said that the reason the Alaska Transportation Commission has not been able to implement recommendations from previous audits, is that they have not received sufficient funding from the legislature to hire personnel necessary to accomplish the recommendations.

In testimony, several witnesses also said that the ATC has been neglectful in following practices to ensure an efficient operation. This was supported by the findings in the legislative audit.

It is further suggested that the qualifications of the Commissioners and the number of Commissioners setting on the ATC should be reviewed to ensure a more efficient operation both for the benefit of the carriers and the public in the area of safety.

The Alaska Transportation Commission is a most important link or buffer between the Federal government, the State and the industries, therefore, the ATC should be continued after having been fully reviewed.

COMMITTEE REPORT

HOUSE

FINANCE

FURTHER:

(9)

4/4/83

Date:

4-18-83

Mr. Speaker:

The Committee on TRANSPORTATION has had HB 313

An Act extending the termination date of the Alaska Transportation Commission; and providing for an effective date.

under consideration and reports it back as follows:

- do pass do not pass
- 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
 Zero Fiscal Note Attached
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

M. W. Miller

John R. ...

M. W. Miller

MEMBERS HAVING
OTHER RECOMMENDATIONS:

M. W. Miller

John R. ...

M. W. Miller

M. W. Miller VICE Chairman
CHAIRMAN

Supplemental

Sec. 42.07.021. Term of office; vacancy. (a) The commissioners first appointed under AS 42.07.011 — 42.07.191 shall continue in office for terms of two, four and six years, respectively, but their successors shall each be appointed for a term of six years unless appointed to fill an unexpired term. A commissioner, upon the expiration of his term, shall continue to hold office until his successor is appointed and qualified. The term of a member begins on February 1.

(b) A vacancy arising in the office of commissioner shall be filled by appointment by the governor and confirmed by the legislature in joint session and an appointee selected to fill a vacancy shall hold office for the balance of the full term for which his predecessor on the commission was appointed.

(c) A vacancy in the commission does not impair the authority of a quorum of commissioners to exercise all the powers and perform all the duties of the commission.

(d) The governor may remove a commissioner from office for cause including but not limited to incompetence, neglect of duty or misconduct in office. 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. (§ 2 ch 104 SLA 1969; am § 1 ch 218 SLA 1970)

Revisor's notes. — In this section the 1970 Alaska constitutional amendment (SJR 2) changing the designation of "secretary of state" has been changed to "lieutenant governor" in conformity with that office.

Sec. 42.07.031. Quorum. Two members of the commission constitute a quorum for the transaction of business, for the performance of a duty, or for the exercise of a power of the commission, except as provided in AS 42.07.181(d). (§ 2 ch 104 SLA 1969; am § 19 ch 115 SLA 1980)

Effect of amendments. — The 1980 AS 42.07.181(d)" to the end of the section. amendment added "except as provided in

Sec. 42.07.041. Qualifications. (a) Each commissioner shall be a citizen of the United States and a resident of the state.

(b) Each commissioner shall be appointed with regard to his fitness and ability to exercise the powers and duties of the commission, based upon his experience and familiarity with the principles of public utility regulation or his educational and experience background in the fields of engineering or transportation or law or business administration, finance and accounting.

(c) Members of the commission shall be qualified as follows:

(1) one member shall be a graduate of an accredited university with a major or degree in economics and have experience in the economics of public transportation;

(2) one member shall have substantial experience in transportation and

(A) be a graduate of an accredited university with a major or a degree in financial management or business administration; or

(B) have six years of experience in business or financial affairs;

(3) one member shall have 10 years management experience in a field of transportation. (§ 2 ch 104 SLA 1969; am § 20 ch 115 SLA 1980)

Effect of amendments. — The 1980 amendment added subsection (c).

Editor's notes. - - Section 30, ch. 115, SLA 1980 provides: "Notwithstanding the provisions of AS 42.07.041(c), enacted in

sec. 20 of this Act, the members of the Alaska Transportation Commission may continue in office for the remainder of their terms."

Sec. 42.07.061. Restrictions. A commissioner, employee or agent of the commission may not have an official or professional relation or connection with, or hold stock or securities or have a pecuniary interest in, any business or agency subject to regulation under AS 42.07.011 — 42.07.191, 02.05.010 — 02.05.260, or 42.10.010 — 42.10.430. Membership in a cooperative association is not a "pecuniary interest" within the meaning of this section. If a commissioner or employee becomes the owner of such stocks or securities or becomes pecuniarily interested in such a business or agency otherwise than voluntarily, his office or employment shall become vacant unless within a reasonable time he divests himself of the ownership or interest. A commissioner may not, for two years after leaving his position as a commissioner, act as a representative of a business or agency in a matter before the commission. (§ 2 ch 104 SLA 1969; am § 21 ch 115 SLA 1980)

Effect of amendments. — The 1980 amendment in the first sentence, substituted "A commissioner" for "No commissioner" at the beginning of the sentence, inserted "not" preceding "have an official"

and added "02.05.010 — 02.05.260, or 42.10.010 — 42.10.430" to the end of the sentence. The amendment also added the last sentence.

Sec. 42.07.071. Compensation. Members of the commission are in the exempt service and are entitled to a monthly salary equal to Step C, Range 26 of the salary schedule in AS 39.27.011(a) for Juneau, Alaska. (§ 2 ch 104 SLA 1969; am § 8 ch 47 SLA 1974; am § 16 ch 148 SLA 1976; am § 16 ch 263 SLA 1976; am § 11 ch 80 SLA 1978; am §§ 12, 27 ch 3 SLA 1980)

Effect of amendments. — The second 1976 amendment substituted "as established under AS 39.23" for "equivalent to that of a district court judge payable in equal monthly installments."

The 1978 amendment substituted "set by AS 39.27.011(a) for Range 27, Step C of the state pay plan" for "as established under AS 39.23."

Section 12, ch. 3, SLA 1980, retroactive to January 1, 1979, and applicable to calendar year 1979, substituted "and are

entitled to an annual salary of \$49,000, payable monthly in 12 equal installments" for "under AS 39.25 and shall receive an annual salary set by AS 39.27.011(a) for Range 27, Step C of the state pay plan." Section 27 of ch. 3, retroactive to January 1, 1980, substituted "and are entitled to a monthly salary equal to Step C, Range 26 of the salary schedule in AS 39.27.011(a) for Juneau, Alaska" for the language substituted by § 12.

Sec. 42.07.101. Employment of commission personnel. (a) The commission may employ an executive director who shall have at least five years of experience in public transportation management or regulation, law, accounting, or an allied field. A member of the commission may act as executive director for no longer than 90 days. The commission may employ engineers, hearing officers, staff legal counsel, experts, clerks, accountants, and other agents and assistants it considers necessary. The executive director, his deputy, and staff legal counsel, and hearing officers to the commission are in the partially exempt service under AS 39.25.120. All other employees and agents of the commission are in the classified service under AS 39.25.100.

(b) In addition to its staff of regular employees, the commission may contract for and engage the services of consultants and experts the commission considers necessary. (§ 2 ch 104 SLA 1969; am § 2 ch 218 SLA 1970; am § 22 ch 115 SLA 1980)

Effect of amendments. — The 1980 amendment rewrote the section.

NOTES TO DECISIONS

The legislature intended the use of hearing officers without commissioners. *Alaska Transp. Comm'n v. Gandia*, Sup. Ct. Op. No. 1964 (File No. 3469), 602 P.2d 402 (1979).

Such use held lawful. — The Alaska transportation commission's use of a

hearing officer, without the presence of the individual commissioners, violated neither the applicable state statutes nor constitutional due process. *Alaska Transp. Comm'n v. Gandia*, Sup. Ct. Op. No. 1964 (File No. 3469), 602 P.2d 402 (1979).

Article 2. Powers and Duties of Commission.

Section
121. General powers and duties
126. Exempt transportation carriers
131. Authority limited by federal law
136. Requirements for exempt carriers

Section
171. Enforcement authority
181. Stop orders
191. Definition

Sec. 42.07.121. General powers and duties. The commission shall supervise and regulate transportation in the state as provided in AS 42.07.011 — 42.07.191 and in AS 02.05.010 — 02.05.260 and

42.10.010 — 42.10.430, and may do all things, whether specifically designated in AS 42.07.011 — 42.07.191 or in AS 02.05.010 — 02.05.260 or 42.10.010 — 42.10.430, which are necessary or convenient in the exercise of this power and jurisdiction. (§ 2 ch 104 SLA 1969; am § 1 ch 120 SLA 1972; am § 23 ch 115 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "commission" for "Alaska Transportation Commission" and deleted "AS 42.15 and AS 42.25" following "AS 02.05.010 — 02.05.260 and 42.10.010 — 42.10.430" and "AS 42.15 or AS 42.25, or in addition thereto" following "AS 02.05.010 — 02.05.260 or 42.10.010 — 42.10.430."

Sec. 42.07.126. Exempt transportation carriers. Except as provided in AS 42.07.136, the jurisdiction of the commission does not extend to the regulation of ferry or bus transportation. (§ 24 ch 115 SLA 1980)

Sec. 42.07.131. Authority limited by federal law. The provisions of AS 42.07.011 — 42.07.191 and 02.05.010 — 02.05.260 and 42.10.010 — 42.10.430 apply to transportation carriers engaged in foreign commerce and interstate commerce to the extent permitted by the constitution and laws of the United States. (§ 2 ch 104 SLA 1969; am § 25 ch 115 SLA 1980)

Effect of amendments. — The 1980 amendment deleted "and AS 42.15" following "AS 42.10.010 — 42.10.430."

Sec. 42.07.136. Requirements for exempt carriers. The commission shall require carriers exempted under AS 42.07.126 and AS 42.10.020(5) to file information necessary to carry out AS 42.07.011 — 42.07.191 and to procure and maintain appropriate bodily injury and property damage liability insurance and cargo insurance from a company licensed to write insurance in the state or deposit security for the limits of liability and upon the terms and conditions the commission determines necessary for the reasonable protection of the public against damage and injury for which the carrier may be liable by reason of its operation. Evidence of the required insurance shall be filed with the commission. (§ 26 ch 115 SLA 1980)

Sec. 42.07.141. Administrative authority, regulations and hearing procedures.

NOTES TO DECISIONS

Effect of exemption, etc.
In accord with original. See Alaska Transp. Comm'n v. Gandia, Sup. Ct. Op. No. 1964 (File No. 3469), 602 P.2d 402 (1973).

Use of hearing officer without commissioners. — The Alaska Transportation Commission's use of a hearing officer, without the presence of the individual commissioners, violates neither the

applicable state statutes nor Comm'n v. Gandia, Sup. Ct. Op. No. 1964
 consitutional due process. Alaska Transp. (File No. 3469), 602 P.2d 402 (1979).

Sec. 42.07.151. Application of Administrative Procedure Act.

NOTES TO DECISIONS

Effect of subsection (a), etc.

In accord with original. See Alaska Transp. Comm'n v. Gandia, Sup. Ct. Op. No. 1964 (File No. 3469), 602 P.2d 402 (1979).

Subsection (a) of this section specifically exempts the Alaska transportation commission from the requirements of both AS 44.62.340, forbidding the delegation of the hearing power absent express statutory authorization, and AS 44.62.500, requiring the hearing officer to prepare a proposed decision and forbidding members of the applicable government agency from voting on the decision if they have not

heard the evidence. Alaska Transp. Comm'n v. Gandia, Sup. Ct. Op. No. 1964 (File No. 3469), 602 P.2d 402 (1979).

Use of hearing officer without commissioners. — The Alaska transportation commission's use of a hearing officer, without the presence of the individual commissioners, violates neither the applicable state statutes nor constitutional due process. Alaska Transp. Comm'n v. Gandia, Sup. Ct. Op. No. 1964 (File No. 3469), 602 P.2d 402 (1979).

Cited in Keystone Servs., Inc. v. Alaska Transp. Comm'n, Sup. Ct. Op. No. 1485 (File No. 3151), 568 P.2d 952 (1977).

Sec. 42.07.161. Investigations and hearing.

NOTES TO DECISIONS

Use of hearing officer without commissioners. — The Alaska transportation commission's use of a hearing officer, without the presence of the individual commissioners, violates neither the

applicable state statutes nor constitutional due process. Alaska Transp. Comm'n v. Gandia, Sup. Ct. Op. No. 1964 (File No. 3469), 602 P.2d 402 (1979).

Sec. 42.07.171. Enforcement authority. An enforcement officer authorized and designated by the commission or by the Department of Public Safety has the authority set out in this section to enforce regulations and orders of the commission and to enforce the statutes that the commission administers. The commission may authorize the enforcement officer to

(1) require the operator of a surface or air vehicle which may be subject to the authority of the commission to present documents of vehicle registration, ownership, or other documents required by regulation to be in the possession of the operator;

(2) stop a surface or air vehicle which may be subject to the authority of the commission and request the right to inspect cargo within the vehicle to determine whether the operation of the vehicle violates a regulation or order of the commission or a statute which the commission administers; if the operator of that vehicle refuses to permit inspection of the vehicle or its cargo, the enforcement officer may, by

placing a seal on or around the cargo, prohibit the discharge of the cargo except at a point of destination and in the presence of an authorized enforcement officer of the commission;

(3) detain or remove from service a surface vehicle which may be subject to the authority of the commission when it reasonably appears to an enforcement officer of the commission that the continued operation of the vehicle would jeopardize the public safety; if an enforcement officer discovers a safety violation which in his opinion will not cause an accident or breakdown, he may order the vehicle to proceed to a designated repair area where the violation shall be corrected before the vehicle departs the area;

(4) issue citations for a violation of a regulation, order, or statute administered by the commission; and

(5) apply to a court for an appropriate order. (§ 26 ch 115 SLA 1980)

Sec. 42.07.181. Stop orders. (a) The commission may, following a hearing under its regulations, issue a stop order directed to a person violating or aiding or abetting a violation of a regulation, order, or statute administered by the commission.

(b) The commission may issue a stop order on its own motion before a hearing if it finds that immediate and irreparable harm is likely to occur to the public if the order is not issued. In addition, the commission may issue a stop order on its own motion if it finds that the party to whom the order is directed

(1) has failed to file required insurance or surety bonds;

(2) is no longer fit, willing and able to operate properly;

(3) is operating without an appropriate certificate or permit allowing him to conduct the transportation in question; or

(4) is operating a surface vehicle in a manner that will jeopardize the public safety if such an order is not issued.

(c) A stop order issued by the commission on its own motion and without a hearing is effective for 10 days and the order shall provide the respondent a hearing within 10 days. If requested by the respondent, the hearing shall be held in the judicial district in which the principal place of business of the respondent is located. If a hearing has been provided within 10 days, the commission may extend the stop order an additional 10 days in order that the commission may decide the matter.

(d) A single commissioner may issue a stop order without a hearing if he finds that a person engaging in surface transportation regulated under AS 42.10.010 — 42.10.430 does so in a manner that jeopardizes the public safety if a stop order is not issued. A stop order issued by a single commissioner is effective for 48 hours or until a stop order is issued by the commission under (c) of this section.

(e) A respondent subject to a stop order shall be given the opportunity to have the stop order rescinded because he has complied with its requirements.

(f) If, after a hearing, the commission finds that a respondent violated the stop order, the commission may fine that person not more than \$1,000 for each day the violation of the stop order continues or an amount equal to revenue that person earned as a result of violating the stop order, whichever is greater.

(g) A person who refuses to allow an enforcement officer of the commission to examine his vehicle or cargo within the vehicle upon request under AS 42.07.171(2) and who is subsequently determined to have been in violation of a regulation, order, or statute under the jurisdiction of the commission may be fined \$1,000 a day for each day of the violation or fined an amount equal to the gross revenue earned by the violator in that particular operation, whichever is greater.

(h) In this section, "respondent" means a person against whom a stop order or citation is directed. (§ 26 ch 115 SLA 1980)

Sec. 42.07.191. Definition. In AS 42.07.011 — 42.07.191, "commission" means the Alaska Transportation Commission. (§ 26 ch 115 SLA 1980)

Chapter 10. Alaska Motor Freight Carrier Act.

Article 1. Scope and Application.

Section

20. Exempt vehicles

Sec. 42.10.020. Exempt vehicles. AS 42.10.010 — 42.10.430 shall apply to all vehicles unless specifically exempted by this section. AS 42.10.010 — 42.10.430, except when specifically otherwise provided, does not apply to

(1) motor vehicles operated exclusively in the transportation of United States mail or in the transportation of newspapers or periodicals alone or in conjunction with an express service delivering packages not to exceed 100 pounds to any one receiver;

(2) motor vehicles owned and operated by the United States, the state, or a borough, city, town, or municipality in the state, or by a department of any of them, except when the vehicles are used to transport property of the general public for compensation in competition with other common carriers subject to this chapter, and to the extent regulation of vehicles operated by the United States is permitted by the laws of the United States;

(3) motor vehicles not exceeding an unladen total gross weight of 16,000 pounds, owned by a person deriving his primary source of livelihood from the operation of a ranch, farm, or dairy and which vehicle is used exclusively to transport his own ranch, farm, or dairy products to and from the market or to transport supplies, commodities, or equipment to be used on his ranch, farm, or dairy; motor vehicles driven under this classification shall be identified as farm vehicles in

or necessary for an integral line of pipe to effectuate the transportation from point to point, excluding, however, gas processing plants, treaters and separators;

(10) "pipeline carrier" means the owner, including corporations organized under the laws of the United States or of other states, of any pipeline, as the term is defined in this section, or any interest in it;

(11) "regulation" includes rules;

(12) "tariff" means a rate, charge, toll, rule or regulation of an oil or gas pipeline facility relating to services furnished by the facility to the general public or other users for compensation. (§ 1 ch 139 SLA 1972; am §§ 7, 8 ch 6 FSSLA 1973)

Effect of amendment. — The 1973 amendment rewrote paragraphs (4) and (8).

Sec. 42.06.640. Short title. This chapter may be cited as the Alaska Pipeline Commission Act. (§ 1 ch 139 SLA 1972)

Chapter 07. Alaska Transportation Commission Act.

Article

- 1. Establishment of Transportation Commission (§§ 42.07.011 — 42.07.111)
- 2. Powers and Duties of Commission (§§ 42.07.121 — 42.07.161)

Repeal of former chapter. — Section 1, ch. 104, SLA 1969, repealed former Chapter 07, entitled "Alaska Transportation

Commission." The former chapter consisted of §§ 42.07.010 — 42.07.150, and derived from § 1, ch. 139, SLA 1966.

Article 1. Establishment of Transportation Commission.

Section

- 11. Creation and composition
- 21. Term of office: vacancy
- 31. Quorum
- 41. Qualifications
- 51. Oath of office
- 61. Restrictions
- 71. Compensation of members of the Alaska Transportation Commission

Section

- 81. Principal office and seal
- 91. Legal counsel
- 101. Employment and compensation of personnel
- ~111. Annual report

Sec. 42.07.011. Creation and composition. (a) There is created the Alaska Transportation Commission within the Department of Commerce and Economic Development. The commission consists of three members appointed by the governor and confirmed by the legislature in joint session.

(b) The governor shall designate one member of the commission as chairman of the commission. This member shall serve as chairman for

a term of two years, but may be appointed for successive terms. (§ 2 ch 104 SLA 1969; am § 86 ch 218 SLA 1976)

Effect of amendment. — The 1976 amendment substituted "Department of Commerce and Economic Development" for "Department of Commerce" at the end of the first sentence of subsection (a).

~~Sec. 42.07.021. Term of office; vacancy. (a) The commissioners first appointed under this chapter shall continue in office for terms of two, four and six years, respectively, but their successors shall each be appointed for a term of six years unless appointed to fill an unexpired term. A commissioner, upon the expiration of his term, shall continue to hold office until his successor is appointed and qualified. The term of a member begins on February 1.~~

~~(b) A vacancy arising in the office of commissioner shall be filled by appointment by the governor and confirmed by the legislature in joint session and an appointee selected to fill a vacancy shall hold office for the balance of the full term for which his predecessor on the commission was appointed.~~

~~(c) A vacancy in the commission does not impair the authority of a quorum of commissioners to exercise all the powers and perform all the duties of the commission.~~

~~(d) The governor may remove a commissioner from office for cause including but not limited to incompetence, neglect of duty or misconduct in office. 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 secretary of state 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. (§ 2 ch 104 SLA 1969; am § 1 ch 218 SLA 1970)~~

Legislative committee report. — For report on ch. 218, SLA 1970 (HCSSB 543), see 1970 House Journal, p. 1244.

~~Sec. 42.07.031. Quorum. Two members of the commission constitute a quorum for the transaction of business, for the performance of a duty, or for the exercise of a power of the commission. (§ 2 ch 104 SLA 1969)~~

~~Sec. 42.07.041. Qualifications. (a) Each commissioner shall be a citizen of the United States and a resident of the state.~~

~~(b) Each commissioner shall be appointed with regard to his fitness and ability to exercise the powers and duties of the commission, based upon his experience and familiarity with the principles of public utility regulation or his educational and experience background in the fields of engineering or transportation or law or business administration, finance and accounting. (§ 2 ch 104 SLA 1969)~~

Sec. 42.07.051. Oath of office. Each commissioner, before entering upon the duties of his office, shall take the oath prescribed for principal officers of the state. (§ 2 ch 104 SLA 1969)

Cross reference. — For further provisions as to oaths of office, see AS 39.05.040 and AS 39.05.130.

~~**Sec. 42.07.061. Restrictions.** No commissioner, employee or agent of the commission may have an official or professional relationship or connection with, or hold stock or securities or have a pecuniary interest in, any business or agency subject to regulation under this chapter. Membership in a cooperative association is not a "pecuniary interest" within the meaning of this section. If a commissioner or employee becomes the owner of such stocks or securities or becomes pecuniarily interested in such a business or agency otherwise than voluntarily, his office or employment shall become vacant unless within a reasonable time he divests himself of the ownership or interest. (§ 2 ch 104 SLA 1969)~~

~~**Sec. 42.07.071. Compensation of members of the Alaska Transportation Commission.** The commissioners are in the exempt service under AS 39.25 and shall receive an annual salary equal to that of a district court judge. (§ 2 ch 104 SLA 1969; am § 8 ch 47 SLA 1974; am § 16 ch 148 SLA 1976)~~

Effect of amendments. — The 1974 amendment rewrote this section.

The 1976 amendment deleted "payable in equal monthly installments" from the end of the section.

Editor's note. — Section 13, ch. 263, SLA 1976, amends this section to read as follows: "Sec. 42.07.071. Compensation of members of the Alaska Transportation

Commission. The commissioners are in the exempt service under AS 39.25 and shall receive an annual salary as established under AS 39.23."

Section 21, ch. 263, SLA 1976, provides that this section takes effect "on the effective date of the first recommendations submitted to the legislature under AS 39.23.080(c)."

Sec. 42.07.081. Principal office and seal. (a) The commission shall establish a principal office. For the convenience of the public or of parties to a proceeding the commission may hold hearings or other proceedings at another location.

(b) The commission shall have an official seal. (§ 2 ch 104 SLA 1969)

Sec. 42.07.091. Legal counsel. (a) The attorney general is the legal counsel for the commission. He shall advise the commission in legal matters arising in the discharge of its duties and represent the commission in suits to which it is a party. The attorney general may represent the public interest in any proceeding before the commission.

(b) The commission may employ temporary legal counsel in proceedings before the commission in which the attorney general is representing the public interest or a party before the commission. (§ 2 ch 104 SLA 1969)

Sec. 42.07.101. Employment and compensation of personnel. (a) The commission may employ engineers, hearing officers, experts, clerks, accountants, and other agents and assistants it considers necessary. Employees and agents of the commission, other than legal counsel, are in the classified service under AS 39.25.

(b) In addition to its staff of regular employees the commission may contract for and engage the services of the consultants, experts and hearing officers the commission considers necessary for the purpose of developing information or conducting studies, investigations, hearings or other proceedings. (§ 2 ch 104 SLA 1969; am § 2 ch 218 SLA 1970)

Legislative committee report. — For report on ch. 218, SLA 1970 (HCSSB 543), see 1970 House Journal, p. 1244.

Sec. 42.07.111. Annual report. The commission shall publish an annual report reviewing its work and submit it to the legislature by February 15 of each year. In addition, the report shall contain information and data which bear a significant relationship to the development and regulation of transportation in the state. (§ 2 ch 104 SLA 1969)

Article 2. Powers and Duties of Commission.

<p>Section 121. General powers and duties 131. Authority limited by federal law 141. Administrative authority, regulations and hearing procedures</p>	<p>Section 151. Application of Administrative Procedure Act 161. Investigations and hearing</p>
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Sec. 42.07.121. General powers and duties. The Alaska Transportation Commission shall supervise and regulate transportation in the state as provided in this chapter and in AS 02.05 and chs. 10, 15 and 25 of this title, and may do all things, whether specifically designated in this chapter or in AS 02.05 or chs. 10, 15 or 25 of this title, or in addition thereto, which are necessary or convenient in the exercise of this power and jurisdiction. (§ 2 ch 104 SLA 1969; am § 1 ch 120 SLA 1972)

Effect of amendment. — The 1972 amendment substituted "chs. 10, 15 and 25" for "chs. 10 and 15" and substituted "chs. 10, 15 or 25" for "chs. 10 or 15."

Editor's note. — Section 4, ch. 104, SLA 1969, provides: "All litigations, hearings, investigations and other proceedings whatsoever, pending under any law repealed by this Act, shall continue in full effect, and may be continued and completed under the provisions of this Act. All certificates, orders, rules, regulations, or

tariffs made, issued, or filed under any law repealed by this Act, and in full effect upon May 21, 1969, shall remain in full effect for the term issued, or until revoked, created, or modified under the provisions of this Act. All existing contracts and obligations of the commission, entered into or created under any law repealed by this Act, and in effect upon May 21, 1969, shall remain in full effect and shall continue to be performed by the commission."

~~Sec. 42.07.131. Authority limited by federal law. The provisions of this chapter and AS 02.05 and chs. 10 and 15 of this title apply to transportation carriers engaged in foreign commerce and interstate commerce to the extent permitted by the constitution and laws of the United States. (§ 2 ch 104 SLA 1969)~~

Sec. 42.07.141. Administrative authority, regulations and hearing procedures. (a) The commission may adopt regulations, not inconsistent with the law, necessary or proper in the exercise of its powers or for the performance of its duties under this chapter.

(b) The commission shall adopt regulations, consistent with due process of law, which govern practice and procedure and the conduct of all investigations, hearings and proceedings which it holds.

(c) Common law and statutory rules of evidence apply to investigations, hearings and proceedings before the commission, except when the commission determines that their application is not required in order to assure fair treatment of all parties and that the evidence is relevant and of the sort on which responsible persons are accustomed to rely in the conduct of serious matters.

(d) The commission, each commissioner or an employee authorized by the commission may administer oaths, certify to all official acts, and issue subpoenas and other process to compel the attendance of witnesses and the production of testimony, records, papers, accounts and documents in an inquiry, investigation, hearing, or proceeding before the commission in any part of the state. The commission may petition a court of this state to enforce its subpoenas or other process. (§ 2 ch 104 SLA 1969)

Cross reference. — See Editor's note to AS 42.07.121.

Legislative policy behind subsection (b). — See *Mukluk Freight Lines v. Nabors Alas. Drilling, Inc.*, Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

The legislature has in subsection (b) explicitly expressed a policy requiring compliance with due process guarantees. *Mukluk Freight Lines v. Nabors Alas. Drilling, Inc.*, Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

Commission cannot conduct procedures on ad hoc basis. — The legislative policy behind subsection (b) clearly suggests that the commission should not conduct its procedures on an ad hoc basis. *Mukluk Freight Lines v. Nabors Alas. Drilling, Inc.*, Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

A consistent application of regulations giving parties adequate notice of internal policies and procedures would preclude ad hoc considerations and create standards that could be judicially reviewed in

accordance with the due process guarantees anticipated in subsection (b). *Mukluk Freight Lines v. Nabors Alas. Drilling, Inc.*, Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

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Subsection (b) requires the commission to adopt rules of procedure as a prerequisite to the use of a modified procedure. The ad hoc application of the modified procedure to an application for transfer of operating authority is improper. *Mukluk Freight Lines v. Nabors Alas. Drilling, Inc.*, Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

Effect of exemption in AS 42.07.151(a) on obligation. — It is significant that AS 42.07.161(a) exempted the commission's adjudications from nearly all of the standard procedural safeguards of the Alaska Administrative Procedure Act (AS 44.62). However, this exemption should not be interpreted as giving the commission an unlimited discretion to avoid all procedural safeguards, since subsection (b) requires the promulgation of procedural regulations consistent with due process. *Mukluk*

Freight Lines v. Nabors Alas. Drilling, Inc., Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

Rather AS 42.07.151 and this section should be read in conjunction as giving the commission considerable flexibility in choosing its own procedures, but all the while requiring the procedures to meet due process of law. *Mukluk Freight Lines v. Nabors Alas. Drilling, Inc.*, Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

Sec. 42.07.151. Application of Administrative Procedure Act. (a) The administrative adjudication procedures of the Administrative Procedure Act (AS 44.62) do not apply to adjudicatory proceedings of the commission except that final administrative determinations by the commission are subject to judicial review as provided in AS 44.62.560 — 44.62.570.

(b) AS 44.62.10 — 320, 44.62.640 and 44.62.650 apply to regulations adopted by the commission. (§ 2 ch 104 SLA 1969)

Rules for transfer of permits must be consistent with Administrative Procedure Act. — It is incumbent upon the commission to adopt rules for the transfer of permits consistent with the requirements of the Administrative Procedure Act (AS 44.62). *Mukluk Freight Lines v. Nabors Alas. Drilling, Inc.*, Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

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not be interpreted as giving the commission an unlimited discretion to avoid all procedural safeguards, since AS 42.07.141(b) requires the promulgation of procedural regulations consistent with due process. *Mukluk Freight Lines v. Nabors Alas. Drilling, Inc.*, Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

Rather, this section and 42.07.141 should be read in conjunction as giving the commission considerable flexibility in choosing its own procedures, but all the while requiring the procedures to meet due process of law. *Mukluk Freight Lines v. Nabors Alas. Drilling, Inc.*, Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

Sec. 42.07.161. Investigations and hearing. An investigation or hearing which the commission has power to undertake or to hold may be undertaken or held by or before any one or more commissioners designated for the purpose by the commission. The testimony and evidence in an investigation or hearing may be taken by the commissioner to whom the investigation or hearing has been assigned. All investigations or hearings before or by commissioners are considered to be the investigations and hearings of the commission. A determination or order of commissioners upon such an investigation or hearing, so undertaken, is not effective until approved and confirmed by the commission. Upon confirmation, the determination or order is the determination or order of the commission. (§ 2 ch 104 SLA 1969)

Chapter 66. Review of the Activities of Agencies, Boards and Commissions.

Section

10. Termination of state boards and commissions

Sec. 44.66.010. Termination of state boards and commissions.

(a) Boards and commissions listed in this subsection expire on the date set out after each:

- (1) Alcoholic Beverage Control Board (AS 04.06.010) — June 30, 1983;
- (2) Alaska Transportation Commission (AS 42.07.011) — June 30, 1983;
- (3) State Board of Parole (AS 33.15.010) — June 30, 1982;
- (4) Alaska Public Utilities Commission (AS 42.05.010) — June 30, 1985;
- (5) Repealed by § 20 ch 110 SLA 1981.
- (6) Alaska Council on Science and Technology (AS 44.21.241) — June 30, 1983;
- (7) Alaska Resources Corporation (AS 37.12.010) — June 30, 1992;
- (8) Alaska Code Revision Commission (AS 24.20.075) — June 30, 1985;
- (9) Rural Development Council (AS 44.47.160 — 44.47.190) — June 30, 1987;
- (10) Older Alaskans Commission (AS 44.21.200) — June 30, 1985;
- (11) Council on Domestic Violence and Sexual Assault — June 30, 1985.

(b) Upon termination, a commission listed in (a) of this section shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs.

(c) A commission scheduled for termination under AS 44.66.010 — 44.66.060 may be continued or reestablished by the legislature for a period not to exceed four years. (§ 3 ch 149 SLA 1977; am § 3 ch 101 SLA 1978; am § 10 ch 179 SLA 1978; am § 3 ch 44 SLA 1980; am § 1 ch 115 SLA 1980; am § 11 ch 131 SLA 1980; am § 11 ch 136 SLA 1980; am § 3 ch 172 SLA 1980; am § 1 ch 32 SLA 1981; am § 1 ch 64 SLA 1981; am § 4 ch 79 SLA 1981; am § 3 ch 101 SLA 1981; § 20 ch 110 SLA 1981; am Executive Order No. 48, § 5 (1981); am § 1 ch 65 SLA 1982; am § 31 ch 142 SLA 1982)

Revisor's notes. — In subsection (a)(6), the reference "AS 44.21.241" was substituted for "AS 44.21.200" to reflect the renumbering of that section by the revisor of statutes under AS 01.05.031.

Effect of amendments. — The first 1981 amendment substituted "1982" for "1980" in paragraph (3) of subsection (a).

The second 1981 amendment substituted "1983" for "1981" in subsection (a)(1).

The third 1981 amendment added paragraph (10) of subsection (a).

The fourth 1981 amendment added paragraph (11) of subsection (a).

The fifth 1981 amendment repealed

paragraph (5) of subsection (a) which provided a termination date for the Alaska Pipeline Commission.

The sixth 1981 amendment substituted "AS 44.21.241" for "AS 44.19.181" in paragraph (6) of subsection (a).

The first 1982 amendment substituted

"1985" for "1982" in paragraph (8) of subsection (a).

The second 1982 amendment, effective July 1, 1982, deleted "Renewable" preceding "Resources Corporation" and substituted "June 30, 1992" for "June 30, 1982" in paragraph (7) of subsection (a).

Part 6. State Property.

Chapter

68. State-Owned Vehicles (§ 44.68.020)

74. Management and Disposition (§§ 44.74.010, 44.74.040, 44.74.070)

Chapter 68. State-Owned Vehicles.

Article

1. Use of State-Owned Vehicles (§ 44.68.020)

Article 1. Use of State-Owned Vehicles.

Section

20. Rules regarding the use of state-owned vehicles

Sec. 44.68.020. Rules regarding the use of state-owned vehicles. The Department of Transportation and Public Facilities shall prescribe rules which

(1) define what is the use of state-owned automotive and mechanical vehicles in the conduct of state business and distinguish this use from misappropriation for private use;

(2) prescribe use governing the storage of state-owned vehicles in those locations where storage space, under the jurisdiction of the Department of Highways, is available for storage of state-owned vehicles;

(3) provide for the marking of state-owned vehicles as property of the state and for the use of distinctive license tags for state-owned vehicles. (§ 2 ch 178 SLA 1959; am § 1 ch 12 SLA 1960; am § 50 ch 127 SLA 1974; am Executive Order No. 39, § 11 (1977))

Effect of amendments. — The 1977 amendment substituted "Department of Transportation and Public Facilities" for "Department of Highways."

§ 44.66.020

STATE GOVERNMENT

§ 44.66.050

The fourth 1980 amendment added paragraph (8) of subsection (a).

The fifth 1980 amendment added paragraph (9) of subsection (a).

Sec. 44.66.020. Agency programs. (a) Agency programs and activities listed in this subsection which are specifically designated as provided in AS 44.66.030 are subject to termination during the regular legislative session convening in the month and year set out after each:

(1) programs in the budget categories of general government, public protection, and administration of justice — January, 1980;

(2) programs in the budget categories of education and the University of Alaska — January, 1981;

(3) programs in the budget categories of health and social services — January, 1982;

(4) programs in the budget categories of natural resources management, development and transportation — January, 1983.

(b) An agency program or activity designated in (a) of this section shall be subject to termination during the regular legislative session convening four years after the preceding review and may be subject to termination at any time upon the recommendation of the Legislative Budget and Audit Committee and the concurrence of the legislature as if under AS 44:66.030. (§ 3 ch 149 SLA 1977)

Sec. 44.66.030. Program identification. During the legislative session preceding each of the years set out in AS 44.66.020, the Legislative Budget and Audit Committee shall designate, not later than March 1 of those years, the programs and activities within each program category which shall be subject to termination in the next fiscal year. The recommendations of the Legislative Budget and Audit Committee shall be submitted to the respective houses of the legislature in the form of a bill which, if enacted into law, would terminate those designated programs and activities on or before July 1 of the following year. (§ 3 ch 149 SLA 1977)

Sec. 44.66.050. Legislative oversight. (a) Before the termination, dissolution, continuation or reestablishment of a board or commission under AS 08.03.010 or AS 44.66.010, or of an agency program under AS 44.66.020 and 44.66.030, a committee of reference of each house, which shall be the standing committee of legislative jurisdiction as provided in the Uniform Rules of the Legislature, shall hold one or more hearings to receive testimony from the public, the commissioner of the department having administrative responsibility for each named board, commission, or agency program, and the members of the board or commission involved. The hearings may be joint hearings. The committee shall also consider the proposed budget of the board, commission, or agency program, prepared in accordance with AS 37.07.050(f), and the performance audit of the activities of the board, commission, or agency program, prepared by the legislative audit division as prescribed in AS 24.20.271(1). The committee may consider

any other report of the activities of the board, commission or program, including but not limited to annual reports, summaries prepared by the Legislative Affairs Agency, and any evaluation or general report of the manner of conduct of activities of the board, commission, or agency program prepared by the office of the ombudsman.

(b) During a public hearing, the board, commission or agency shall have the burden of demonstrating a public need for its continued existence or the continuation of the program, and the extent to which any change in the manner of exercise of its functions or activities may increase efficiency of administration or operation consistent with the public interest.

(c) A determination as to whether a board or commission or agency program has demonstrated a public need for its continued existence shall take into consideration the following factors:

(1) the extent to which the board, commission or program has operated in the public interest;

(2) the extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters;

(3) the extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest;

(4) the extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided;

(5) the extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions;

(6) the efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved;

(7) the extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public;

(8) the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission or agency to its own activities and the area of activity or interest; and

(9) the extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency, board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

(d) As to each board, commission, or agency program assigned to it for purposes of review, the committee of reference shall, not later than the 60th day of the legislative session, submit a report to the presiding officer of the house. The report shall contain a summary of the findings of the committee as to the compliance of the board, commission or program with the factors enumerated in (c) of this section, together with a summary or recommendations of the committee as to each of the following:

(1) an identification of the problems or the needs that the programs and activities of the board, commission or agency are intended to address;

(2) a statement, to the extent practicable, of the objectives of the program of the board, commission, or agency program, and its anticipated accomplishments;

(3) an identification of any other programs having similar, conflicting or duplicate objectives;

(4) an assessment of alternative methods of achieving the purposes of the program;

(5) an assessment of the consequences of eliminating the board, commission or program and consolidating its activities with another program, or of funding it at a lower level;

(6) a justification for the recommended continuation or extension of the board, commission or program, and an explanation of the manner in which it avoids duplication of or conflict with other efforts; and

(7) any other information which, in the opinion of the committee, would improve the performance of the board, commission or agency with respect to its representation of and responsiveness to the public interest.

(e) The committee of reference may introduce a bill providing for the reorganization or continuation of the board, commission or agency program. No more than one board, commission, or agency program shall be continued or reestablished in any legislative bill, and the board, commission, or agency program shall be mentioned in the title of the bill. (§ 3 ch 149 SLA 1977)

Sec. 44.66.060. Existing claims. This chapter shall not cause the termination or dismissal of a claim or right of a citizen against a board, commission or program of an agency terminated under this chapter which is subject to litigation. Claims and rights shall be assumed by the department to which the board or commission terminated under this chapter was attached for administrative purposes. (§ 3 ch 149 SLA 1977)

or necessary for an integral line of pipe to effectuate the transportation from point to point, excluding, however, gas processing plants, treaters and separators;

(10) "pipeline carrier" means the owner, including corporations organized under the laws of the United States or of other states, of any pipeline, as the term is defined in this section, or any interest in it;

(11) "regulation" includes rules;

(12) "tariff" means a rate, charge, toll, rule or regulation of an oil or gas pipeline facility relating to services furnished by the facility to the general public or other users for compensation. (§ 1 ch 139 SLA 1972; am §§ 7, 8 ch 6 FSSLA 1973)

Effect of amendment. — The 1973 amendment rewrote paragraphs (4) and (8).

Sec. 42.06.640. Short title. This chapter may be cited as the Alaska Pipeline Commission Act. (§ 1 ch 139 SLA 1972)

Chapter 07. Alaska Transportation Commission Act.

Article

- 1. Establishment of Transportation Commission (§§ 42.07.011 — 42.07.111)
- 2. Powers and Duties of Commission (§§ 42.07.121 — 42.07.161)

Repeal of former chapter. — Section 1, ch. 104, SLA 1969, repealed former Chapter 07, entitled "Alaska Transportation Commission." The former chapter consisted of §§ 42.07.010 — 42.07.150, and derived from § 1, ch. 139, SLA 1966.

Article 1. Establishment of Transportation Commission.

Section	Section
11. Creation and composition	81. Principal office and seal
21. Term of office; vacancy	91. Legal counsel
31. Quorum	101. Employment and compensation of personnel
41. Qualifications	111. Annual report
51. Oath of office	
61. Restrictions	
71. Compensation of members of the Alaska Transportation Commission	

Sec. 42.07.011. Creation and composition. (a) There is created the Alaska Transportation Commission within the Department of Commerce and Economic Development. The commission consists of three members appointed by the governor and confirmed by the legislature in joint session.

(b) The governor shall designate one member of the commission as chairman of the commission. This member shall serve as chairman for

a term of two years, but may be appointed for successive terms. (§ 2 ch 104 SLA 1969; am § 86 ch 218 SLA 1976)

Effect of amendment. — The 1976 amendment substituted "Department of Commerce and Economic Development" for "Department of Commerce" at the end of the first sentence of subsection (a).

~~Sec. 42.07.021. Term of office; vacancy. (a) The commissioners first appointed under this chapter shall serve in office for terms of two, four and six years, respectively. Their successors shall each be appointed for a term of six years unless appointed to fill an unexpired term. A commissioner, upon the expiration of his term, shall continue to hold office until his successor is appointed and qualified. The term of a member begins on February 1.~~

~~(b) A vacancy arising in the office of commissioner shall be filled by appointment by the governor and confirmed by the legislature in joint session and an appointee selected to fill a vacancy shall hold office for the balance of the full term for which his predecessor on the commission was appointed.~~

~~(c) A vacancy in the commission does not impair the authority of a quorum of commissioners to exercise all the powers and perform all the duties of the commission.~~

~~(d) The governor may remove a commissioner from office for cause including but not limited to incompetence, neglect of duty or misconduct in office. 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 secretary of state 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. (§ 2 ch 104 SLA 1969; am § 1 ch 218 SLA 1970)~~

Legislative committee report. — For report on ch. 218, SLA 1970 (HCSSB 543), see 1970 House Journal, p. 1244.

~~Sec. 42.07.031. Quorum. Two members of the commission constitute a quorum for the transaction of business, for the performance of a duty, or for the exercise of a power of the commission. (§ 2 ch 104 SLA 1969)~~

~~Sec. 42.07.041. Qualifications. (a) Each commissioner shall be a citizen of the United States and a resident of the state.~~

~~(b) Each commissioner shall be appointed with regard to his fitness and ability to exercise the powers and duties of the commission, based upon his experience and familiarity with the principles of public utility regulation or his educational and experience background in the fields of engineering or transportation or law or business administration, finance and accounting. (§ 2 ch 104 SLA 1969)~~

Sec. 42.07.051. Oath of office. Each commissioner, before entering upon the duties of his office, shall take the oath prescribed for principal officers of the state. (§ 2 ch 104 SLA 1969)

Cross reference. — For further provisions as to oaths of office, see AS 39.05.040 and AS 39.05.130.

Sec. 42.07.061. Restrictions. No commissioner, employee or agent of the commission may have an official or professional relation or connection with, or hold stock or securities or have a pecuniary interest in, any business or agency subject to regulation under this chapter. Membership in a cooperative association is not a "pecuniary interest" within the meaning of this section. If a commissioner or employee becomes the owner of such stocks or securities or becomes pecuniarily interested in such a business or agency otherwise than voluntarily, his office or employment shall become vacant unless within a reasonable time he divests himself of the ownership or interest. (§ 2 ch 104 SLA 1969)

Sec. 42.07.071. Compensation of members of the Alaska Transportation Commission. The commissioners are in the exempt service under AS 39.25 and shall receive an annual salary equal to that of a district court judge. (§ 2 ch 104 SLA 1969; am § 8 ch 47 SLA 1974; am § 16 ch 148 SLA 1976)

Effect of amendments. — The 1974 amendment rewrote this section.

The 1976 amendment deleted "payable in equal monthly installments" from the end of the section.

Editor's note. — Section 16, ch. 263, SLA 1976, amends this section to read as follows: "Sec. 42.07.071. Compensation of members of the Alaska Transportation

Commission. The commissioners are in the exempt service under AS 39.25 and shall receive an annual salary as established under AS 39.23."

Section 21, ch. 263, SLA 1976, provides that this section takes effect "on the effective date of the first recommendations submitted to the legislature under AS 39.23.080(c)."

Sec. 42.07.081. Principal office and seal. (a) The commission shall establish a principal office. For the convenience of the public or of parties to a proceeding the commission may hold hearings or other proceedings at another location.

(b) The commission shall have an official seal. (§ 2 ch 104 SLA 1969)

Sec. 42.07.091. Legal counsel. (a) The attorney general is the legal counsel for the commission. He shall advise the commission in legal matters arising in the discharge of its duties and represent the commission in suits to which it is a party. The attorney general may represent the public interest in any proceeding before the commission.

(b) The commission may employ temporary legal counsel in proceedings before the commission in which the attorney general is representing the public interest or a party before the commission. (§ 2 ch 104 SLA 1969)

Sec. 42.07.101. Employment and compensation of personnel. (a) The commission may employ engineers, hearing officers, experts, clerks, accountants, and other agents and assistants it considers necessary. Employees and agents of the commission, other than legal counsel, are in the classified service under AS 39.25.

(b) In addition to its staff of regular employees the commission may contract for and engage the services of the consultants, experts and hearing officers the commission considers necessary for the purpose of developing information or conducting studies, investigations, hearings or other proceedings. (§ 2 ch 104 SLA 1969; am § 2 ch 218 SLA 1970)

Legislative committee report. — For report on ch. 218, SLA 1970 (HCSSB 543), see 1970 House Journal, p. 1244.

Sec. 42.07.111. Annual report. The commission shall publish an annual report reviewing its work and submit it to the legislature by February 15 of each year. In addition, the report shall contain information and data which bear a significant relationship to the development and regulation of transportation in the state. (§ 2 ch 104 SLA 1969)

Article 2. Powers and Duties of Commission.

Section	Section
121. General powers and duties	151. Application of Administrative Procedure Act
131. Authority limited by federal law	
141. Administrative authority, regulations and hearing procedures	161. Investigations and hearing

Sec. 42.07.121. General powers and duties. The Alaska Transportation Commission shall supervise and regulate transportation in the state as provided in this chapter and in AS 02.05 and chs. 10, 15 and 25 of this title, and may do all things, whether specifically designated in this chapter or in AS 02.05 or chs. 10, 15 or 25 of this title, or in addition thereto, which are necessary or convenient in the exercise of this power and jurisdiction. (§ 2 ch 104 SLA 1969; am § 1 ch 120 SLA 1972)

Effect of amendment. — The 1972 amendment substituted "chs. 10, 15 and 25" for "chs. 10 and 15" and substituted "chs. 10, 15 or 25" for "chs. 10 or 15."

Editor's note. — Section 4, ch. 104, SLA 1969, provides: "All litigations, hearings, investigations and other proceedings whatsoever, pending under any law repealed by this Act, shall continue in full effect, and may be continued and completed under the provisions of this Act. All certificates, orders, rules, regulations, or

tariffs made, issued, or filed under any law repealed by this Act, and in full effect upon May 21, 1969, shall remain in full effect for the term issued, or until revoked, vacated, or modified under the provisions of this Act. All existing contracts and obligations of the commission, entered into or created under any law repealed by this Act, and in effect upon May 21, 1969, shall remain in full effect and shall continue to be performed by the commission."

~~Sec. 42.07.131. Authority limited by federal law. The provisions of this chapter and AS 02.05 and chs. 10 and 15 of this title apply to transportation carriers engaged in foreign commerce and interstate commerce to the extent permitted by the constitution and laws of the United States. (§ 2 ch 104 SLA 1969)~~

Sec. 42.07.141. Administrative authority, regulations and hearing procedures. (a) The commission may adopt regulations, not inconsistent with the law, necessary or proper in the exercise of its powers or for the performance of its duties under this chapter.

(b) The commission shall adopt regulations, consistent with due process of law, which govern practice and procedure and the conduct of all investigations, hearings and proceedings which it holds.

(c) Common law and statutory rules of evidence apply to investigations, hearings and proceedings before the commission, except when the commission determines that their application is not required in order to assure fair treatment of all parties and that the evidence is relevant and of the sort on which responsible persons are accustomed to rely in the conduct of serious matters.

(d) The commission, each commissioner or an employee authorized by the commission may administer oaths, certify to all official acts, and issue subpoenas and other process to compel the attendance of witnesses and the production of testimony, records, papers, accounts and documents in an inquiry, investigation, hearing, or proceeding before the commission in any part of the state. The commission may petition a court of this state to enforce its subpoenas or other process. (§ 2 ch 104 SLA 1969)

Cross reference. — See Editor's note to AS 42.07.121.

Legislative policy behind subsection (b). — See *Mukluk Freight Lines v. Nabors Alas. Drilling, Inc.*, Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

The legislature has in subsection (b) explicitly expressed a policy requiring compliance with due process guarantees. *Mukluk Freight Lines v. Nabors Alas. Drilling, Inc.*, Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

Commission cannot conduct procedures on ad hoc basis. — The legislative policy behind subsection (b) clearly suggests that the commission should not conduct its procedures on an ad hoc basis. *Mukluk Freight Lines v. Nabors Alas. Drilling, Inc.*, Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

A consistent application of regulations giving parties adequate notice of internal policies and procedures would preclude ad hoc considerations and create standards that could be judicially reviewed in

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Sec. 42.07.161. Investigations and hearing. An investigation or hearing which the commission has power to undertake or to hold may be undertaken or held by or before any one or more commissioners designated for the purpose by the commission. The testimony and evidence in an investigation or hearing may be taken by the commissioner to whom the investigation or hearing has been assigned. All investigations or hearings before or by commissioners are considered to be the investigations and hearings of the commission. A determination or order of commissioners upon such an investigation or hearing, so undertaken, is not effective until approved and confirmed by the commission. Upon confirmation, the determination or order is the determination or order of the commission. (§ 2 ch 104 SLA 1969)