

HB

313



OFFICIAL BUSINESS

ALASKA STATE LEGISLATURE - SENATE

COMMITTEE ON LABOR AND COMMERCE

SENATOR RICHARD I. ELIASON
CHAIRMAN

POUCH V • JUNEAU, ALASKA 99811
(907) 465-3844

6/16/83

LETTER OF INTENT FOR SCS CSHB 313(L&C)

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.
- 6) Do the Alaska Transportation Commission's policies regarding light aircraft ensure that innovative competition which could be beneficial to the public is not eliminated?

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.

Letter of Intent
SCS CSHB 313(L&C)
page 2

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

COMMITTEE REPORT

SENATE

FURTHER:

6/21/63

Date: 6-16

Mr. President:

The Committee on LABOR & COMMERCE has had CONF. STG (10-1)

Wages Administration Commission: 111, 112.

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for SCS CONF 10-1 (10-1) same title new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

[Signature]

[Signature]

CHAIRMAN



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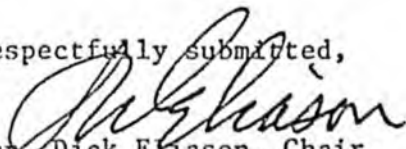
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The Office of Management and Budget will report back to the Thirteenth Legislature within ten days after the second session convenes in 1984. The report shall outline the findings of the audit as well as specific actions to implement any changes recommended.

Further, it is the intent of the Senate Labor and Commerce Committee that during the interim the Alaska Transportation Commission fulfill its statutory responsibility with concentration on protection of the public.

Respectfully submitted,


Sen. Dick Eliason, Chair



OFFICIAL BUSINESS

ALASKA STATE LEGISLATURE - SENATE

COMMITTEE ON LABOR AND COMMERCE

SENATOR RICHARD I. ELIASON
CHAIRMAN

POUCH V • JUNEAU, ALASKA 99811
(907) 465-3844

MEMORANDUM

TO: Pete Jeans, Senior Adviser
Senate Advisory Council

FROM: Sen. Dick Eliason *Dick Eliason*

DATE: June 10, 1983

RE: Research request relating to impact of failure to pass
legislation extending the termination date of the Alaska
Transportation Commission

Please consider this a request for a memorandum from the Senate Advisory Council research staff addressing the following.

There are currently two bills before the legislature which extend the termination of the Alaska Transportation Commission: SB 184, and HB 313. The language now on the books provides for the termination of the ATC June 30, 1983. If the Legislature were to fail to pass a measure extending this termination date, it is my understanding that from July 1, 1983 to June 30, 1984, (sometimes referred to as the "grace year" of a commission subject to sunset provisions) the Commission would have the statutory authority only to conclude its affairs.

I am curious to know what the effect would be on the ATC if the Legislature fails to act on a measure extending the ATC's termination date. They would, of course, be legally terminated on June 30, 1983. What sort of activities would they conduct under the aegis of "concluding their affairs"? What functions performed by ATC would be assumed by other agencies, if any, and how would the transition be executed? If the ATC is allowed to terminate this June, a bill re-creating the Commission would have to be introduced at a future legislative session in order to have ATC resume its activities, correct? If there any instances of boards and commissions in Alaska which were subject to termination under sunset provisions and then re-created, and you feel they are pertinent to this discussion, please touch upon them in the memorandum.

Pete Jeans, Senior Adviser
Senate Advisory Council
June 10, 1983
page two

As you are aware, we are very near the end of session, and I would appreciate a response at your earliest convenience. In light of time constraints imposed by this eleventh hour request and our nearness to adjournment, I hope you understand that I am seeking a brief memo addressing these issues, and not an in-depth study.

Please contact my office if you have any questions, and thank you for your assistance.

Alaska State Legislature

Advisory Council Members

Senator Kerttula, Chairman
Senator Bennett
Senator Vic Fischer
Senator Fahrenkamp



Pouch V
State Capital
Juneau, Alaska 99811
Phone: (907) 465-3114

SENATE ADVISORY COUNCIL

MEMORANDUM

TO: Senator Eliason
FROM: Pete Jeans *PJ*
DATE: June 10, 1983
RE: CSSB184 (L&C)

"An Act Extending the Termination of the Alaska
Transportation Commission."

You have asked us to comment on the ramifications of this bill not passing the Legislature this session.

As you know, this bill has passed the Senate and is currently in the House Labor and Commerce Committee. If this bill does not pass and become law, the Alaska Transportation Commission is terminated June 30, 1983. Under AS44.66.010(b), upon termination, the A.T.C. shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs.

It appears that this provision does allow somewhat of a grace period. The Commission should be able to review all of its functions and be prepared to present to the Legislature in early January of next year alternatives for transferring the functions that should be continued to other agencies or be able to make a strong case to the Legislature for reestablishing the Commission. If this was an early priority for the Legislature next session, the proper action could be taken for continuation of the Commission.

In reality, no action by the Legislature this year will force the Commission to develop a plan for concluding its affairs and have the plan implemented prior to June 30, 1984, if the Legislature does not step in and reestablish the Commission.

You requested these comments today and I have not requested a review by Legal Services. I do recommend you have them comment.

Attached are comments from Commissioner Lyon that you may not have.

MEMORANDUM

State of Alaska

TO: Ben Harding
Special Assistant
Office of the Governor

DATE: April 7, 1983

FILE NO:

TELEPHONE NO:

FROM: Richard A. Lyon
Commissioner
Department of Commerce and
Economic Development

SUBJECT: Alaska Transportation
Commission - Sunset

The Alaska Transportation Commission (ATC) was statutorily scheduled for sunset in 1979. However, an extension was granted by the Legislature continuing the Commission to 1983. The question of sunset is now before the Legislature for the second time. An audit performed by the Division of Legislative Audit dated April 1, 1982 did not recommend sunset, but did recommend the Alaska Transportation Commission become a section within the Alaska Public Utilities Commission. Should sunset be recommended, several functions performed by or which are the responsibility of the ATC will require serious consideration:

1. Regulation of surface and air transportation.
2. Essential Air Service Program.
3. Requirement that air and motor carriers have sufficient insurance coverage to protect the public's interest.
4. Commercial Vehicle Safety Program.

The State currently monitors the essential air service program which is administered by the Civil Aeronautics Board. The program was provided for in the Federal Air Deregulation Act of 1978. Federal subsidies under this program will cease in 1988. A determination must be made as to whether the State finds it necessary to continue the subsidy or whether sufficient competition exists without the subsidy to adequately serve the remote areas.

Deregulation of surface and air transportation has taken place in the "Lower 48" states. It does not appear to have a negative effect on the transportation of goods or people. However, Alaska is unique in that the vast majority of this State is not connected by road and covers vast areas. The option of driving from one location to another versus flying does not exist. Consideration must be given to the effect of controlling transportation by competition only.

Both the ATC and the Department of Public Safety are statutorily assigned the responsibility for commercial vehicle safety inspections. However, the Department of Public Safety is the only one currently conducting inspections. The Division of Measurement Standards did temporarily take over the responsibility from the Department of Public Safety when the

permit and scale house program was transferred in FY '83 under a federally funded program which ended March 11, 1983. This authority was delegated by letter from the Commission to the Division of Measurement Standards. The program is not presently funded in the Division of Measurement Standards or ATC in FY '84.

Property and liability insurance is presently required of all common air and motor carriers before they are issued a permit to operate in Alaska. Consideration must be given to continue this requirement if a decision is made to sunset the Alaska Transportation Commission.

The following are several options for your consideration:

1. Continue all operations as presently structured. Monitor the essential air service programs, certificate all air and motor carriers requiring minimal economic analysis, provide for insurance coverage for all carriers, provide for no commercial vehicle safety program. Total cost \$1,500,000.
2. Continue the Alaska Transportation Commission with reorganization. Reorganize the Alaska Transportation Commission's program to more properly prioritize their responsibilities. Legislation should be introduced to completely deregulate dump trucks, except for providing insurance coverage. Absent passage of legislation, this deregulation could be accomplished by permitting all applicants. Sound economic analysis should be performed on all admitted carriers. This analysis' capability could be provided by reclassification of the employees currently regulating dump trucks. A safety program could be added at an additional cost of \$350,000 for a total cost of \$1,900,000.
3. Sunset ATC, transfer required function to other State agencies. The essential air service program could be run with monitoring by the Department of Transportation and Public Facilities. They currently provide input into the recommendations made by ATC. The Department of Public Safety could assume full responsibility for the safety program. Since the Alaska State Troopers are now providing a minimal safety program, consideration should be given to expanding their capability to also conduct inspections at the scale houses in cooperation with the scale house operators. Implement a registration program under either the Division of Occupational Licensing or the Division of Insurance to register and assure insurance filings by all air and motor carriers. Deregulate all transportation services. Cost of this option would be probably under \$100,000 for the registration program and whatever additional cost required by the Department of Public Safety and the Department of Transportation and Public Facilities.

4. Transfer essential functions to the Alaska Public Utilities Commission. This option was recommended by Legislative Audit as a means of continuing essential functions of the Commission. While I feel the regulation of utilities are very different than regulation of the transportation industry and that economics gained by combining the two may be to the detriment of APUC, the option should be analyzed.

The best means to address the above would be to extend the ATC one year and call for an OMB performance audit to be presented to the Legislature when they convene in 1984.

RAL/wfs 4/34

cc: Kevin Bruce
Commissioner Sundberg
Commissioner Casey

Pursuant to your March 26 request, I have identified a number of laws which specifically and/or generally relate to Alaska Transportation Commission public health and safety functions. This list has been prepared in consultation with Mr. Chuck Schmidt of the Attorney General's office (Anchorage). The term "Specific" as used below means statutory provisions which directly refer to public health and safety including insurance requirements. The term "General" refers to provisions which are generally applicable to health, safety and other Commission responsibilities. Depending on how you structure the ATC safety component, these provisions may or may not have to be retained in some form. That decision should be made by Legal Services once ground rules have been established:

I. Alaska Transportation Commission Enabling Act (AS 42.07.011-191):

A. Specific

AS 42.07.136 - Requirements for Exempt Carriers; AS 42.07.171(3) - Enforcement Authority; AS 42.07.181(b) and (d) - Stop Orders.

B. General

AS 42.07.011 - Creation of Commission; AS 42.07.021 - Term of Office; AS 42.07.031 - Quorum; AS 42.07.041 - Qualifications; AS 42.07.061 - Restrictions; AS 42.07.071 - Compensation of ATC Members; AS 42.07.081 - Principal Office and Seal; AS 42.07.091 - Legal Counsel; AS 42.07.101 - Employment of Personnel; AS 42.07.111 - Annual Report

AS 42.07.121 - General Powers and Duties; AS 42.07.141 - Administrative Authority Regulations and Hearing Procedures; AS 42.07.151 - Applicability of Administrative Procedures Act; AS 42.07.161 - Investigations and Hearing

II. Motor Carriers (AS 42.10.010-430)

A. Specific

AS 42.10.010 - Declaration of Policy; AS 42.10.070(3) - Regulatory Power of Commission Over Common Carriers; AS 42.10.080(3) - Regulatory Power Over Contract Carriers; AS 42.10.090(1) - Regulation of Private and Exempt Carriers; AS 42.10.190 - Insurance or Deposit of Security; AS 42.10.200 - Conditions May Be Attached to Permits; AS 42.10.400 - Hours of Operators

B. General

AS 42.10.010 - Declaration of Policy; AS 41.10.020 - Exempt Vehicles; AS 42.10.030 - Compliance Enjoined; AS 42.10.070 - Regulatory Powers of Commission Over Common Carriers; AS 42.10.080 - Regulatory Powers of Over Contract Carriers; AS 42.10.090 - Regulation of Private and Exempt Carriers; AS 42.10.100 - Bond to Protect Shippers and Consignees; AS 42.10.110 - Regulations; AS 42.10.120 - Investigations and Enforcement of Chapter; AS 42.10.130 - Grant or Denial of Permit; AS 42.10.140 - Application for Permits; AS 42.10.150 - Form of Application and Regulations for Filing; AS 42.10.160 - Fees; AS 42.10.170 - Form and Contents of Permits; AS 42.10.180 - Limitation on Renewal of Application; AS 42.10.200 - Conditions May Be Attached to Permits; AS 42.10.210 - Temporary Permits; AS 42.10.220 - Transfer of Permits; AS 42.10.225 - Discontinuance, Abandonment and Temporary Suspension of Permitted Operations; AS 42.10.230 - Modification, Suspension or Revocation of Permits; AS 42.10.391 - Effect of Regulations and Orders, Review Enforcement; AS 42.10.393 - Violation a Misdemeanor; AS 42.10.394 - Civil Penalties for Violation or Noncompliance; AS 42.10.395 - Each Violation a Separate Offense; AS 42.10.398 - Penalties Cumulative, Nonexclusive, Recovery; AS 42.10.399 - Joinder of Actions

III. Air Carriers (AS 02.05.010-250) - For your information, it is my understanding that safety jurisdiction of the ATC is unclear due to questions concerning FAA preemption. Apparently, the ATC exercises safety jurisdiction only in worst case situations leaving the rest to the FAA.

A. Specific

AS 02.05.010(4) - Declaration of Policy; AS 02.05.080(d) - Issuance of Certificates; AS 02.05.130 - Accident Liability Protection Required; AS 02.05.135 - Evidence of Protection;

Deposit of Insurance Policy, Bond or Other Security; AS 02.05.136 - Duration of Protection, Cancellation of Insurance, Bond or Other Security; AS 02.05.137 - Fiduciaries, Insured and Principle

B. General

AS 02.05.030 - General Powers and Duties of the Commission; AS 02.05.040 - Certificates Required; AS 02.05.050 - Authority to Engage in Air Commerce; AS 02.05.060 - Temporary Exemption of Air Carriers; AS 02.05.070 - Applications for Certificates; AS 02.05.075 - Application Fees; AS 02.05.080 - Issuance of Certificates; AS 02.05.090 - Terms and Conditions of Certificates; AS 02.05.100 - Modification, Suspension and Revocation of Certificates; AS 02.05.110 - Transfer or Lease of Certificates; AS 02.05.190 - Complaints to and Investigations by the Commission; AS 02.05.200 - Orders, Notice and Service; AS 02.05.210 - Judicial Enforcement; AS 02.05.230 - Violation a Misdemeanor; AS 02.05.231 - Civil Penalties for Violation; AS 02.05.232 - Each Violation a Separate Offense; AS 02.05.233 - Penalties Cumulative, Actions to Recover Penalties; AS 02.05.234 - Joinder of Actions; AS 02.05.240 - Public Disclosure of Information

IV. Buses/Ferries - As you may know, buses and ferries are exempt from ATC jurisdiction (see AS 47.07.128). The only statutory provision which applies to health and safety matters is AS 42.07.136 - Requirements for Exempt Carriers.

Sorry about the delay. If we can be of further assistance, please let us know.