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Introduced: 4/12/85
Referred: Transportation and
Judiciary

1 IN THE HOUSE

BY BINKLEY

2

HOUSE BILL NO. 376

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to municipal regulation of vehicles

7

for hire."

8

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

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* Section 1. AS 29.48.035 is amended by adding a new subsection to

10 read:

11

(d) A municipality may license, control, and regulate taxicabs,

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limousines or other vehicles for hire that are operated within the

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boundaries of the municipality and may fix, establish, and change the

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rates charged for the service. Based on the municipality's determina-

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tion of need for the services, the municipality may regulate entry

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into the business of providing taxicabs, limousines, or other vehicles

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for hire.

STATE OF ALASKA
THE LEGISLATURE

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May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

HT 5/18/85 7AM

Offered: 2/5/86
Referred: Judiciary

Original sponsor: Binkley

1 IN THE HOUSE
2 CS FOR HOUSE BILL NO. 376 (C&RA)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act relating to municipal regulation of passenger
7 vehicles for hire; and providing for an effective
8 date."

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

10 * Section 1. AS 29.35 is amended by adding a new section to read:

11 Sec. 29.35.142. REGULATION OF VEHICLES FOR HIRE. A municipality
12 may license, control, regulate, and establish standards for the safe
13 operation of taxicabs, limousines, or [other passenger vehicles for
14 hire] within the boundaries of the municipality and may fix, establish,
15 and change rates charged for the service. The municipality may set
16 public interest standards and based upon these standards may regulate
17 entry into the business of providing taxicabs, limousines, or other
18 passenger vehicles for hire.

19 * Sec. 2. This Act takes effect March 1, 1987.

Why regulate at all?

*New title -
- delete eff. date
- permits only to
taxi + limos.
→ Needs clarification of what to
regulate.*

AS 29.35.142

Re-schedule
for Friday
problem with us

HR 355

The Finance Committee has considered HOUSE BILL NO. 355 (authorizing the establishment and implementation of onboard observer programs; effective date), recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 355 (Fisheries) (page 2177) and reports it back as follows: Ringstad (Vice-chairman), Cotten, Binkley, Duncan, Szymanski, Frank, Pourchot, Rieger, Uehling and Larson recommend do pass.

A fiscal note appears in House Journal Supplement No. 101.

HB 355 was referred to the Rules Committee for placement on the calendar.

HR 376 *file*

The Judiciary Committee has considered HOUSE BILL NO. 376 (relating to municipal regulation of vehicles for hire), recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 376 (Judiciary):

"An Act relating to municipal regulation of taxicabs, limousines, and other passenger vehicles for hire."

and reports it back as follows: Gruenberg recommends do pass; M.M. Miller (Chairman), Sund and Phillips have no recommendation.

HB 376 was referred to the Rules Committee for placement on the calendar.

HB 423

The Health, Education & Social Services Committee has considered HOUSE BILL NO. 423 (relating to the release of certain dangerous persons and liability for their conduct following release), recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 423 (HESS):

"An Act relating to certain mentally ill persons."

and reports it back as follows: Koponen and Gruenberg, (Co-chairs), Thompson, Pettyjohn, Hanley and Taylor recommend do pass.

A zero fiscal note with analysis appears in House Journal Supplement No. 101.

HB 423 was referred to the Judiciary Committee.

Board of Nursing

Anita Farley

Board of Examiners in Optometry

Jeffery Gonnason, OD

Board of Pharmacy

Laura Kelley
Gerald Race
Claire Strand

Physical Therapy Board

Gail Dudley
Susan Thompson

Board of Psychologist and Psychological Associate
Examiners

Margaret Fischer, Ph.D
James Greenough, Ph.D

Board of Veterinary Examiners

David George
Derrick Leedy, DVM
Patrick Moriarty, DVM

Alaska Workers' Compensation Board

Robert Anders
Thomas Chandler
John Creed
Elmer Eller
Jackie Russell
Donald Scott
Stephen Thompson

The report was signed by Navarre (Chairman) and concurred in by Boucher, Koponen, Hanley, Davis, Collins and Pearce.

SB 273

The Resources Committee has submitted a zero fiscal note on SENATE BILL NO. 273 (relating to classification of state land for retention; effective date).

SB 273 appears on today's calendar.

COMMITTEE REPORT

HOUSE

(7)

FURTHER: JUDICIARY

4/12/85

Date: _____

The Committee on TRANSPORTATION has had HB 376

"An Act relating to municipal regulation of vehicles for hire."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 376 same title
 new title
- and recommends for a vote
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

[Signature] no fiscal note

[Signature] no fiscal note

[Signature] no fiscal note

[Signature]

CHAIRMAN

§ 35.05.050

§ 35.07.010

PUBLIC BUILDINGS AND WORKS

§ 35.10.010

Chapter 07. State Participation in Flood Control Projects.

Section

10. State assumption of nonfederal flood control project costs

Sec. 35.07.010. State assumption of nonfederal flood control project costs. To the extent that funds are made available by the legislature, the state shall assume 90 per cent of the nonfederal costs of planning, land acquisition, construction and maintenance of flood control projects authorized within the state by the United States before or after June 6, 1971, except that the state shall assume the full share of nonfederally funded costs with respect to those facilities which are primarily state responsibilities, including but not limited to highways and roads, parks and recreation, and fish and game facilities. The state shall participate in federal flood control projects under this section only as to those projects authorized and approved by the department. (§ 1 ch 129 SLA 1971; am Executive Order No. 39, § 11 (1977))

Effect of amendment. — The 1977 "Department of Public Works" at the end of amendment, substituted "department" for of the section.

Chapter 10. Public Works.

Article

1. Public Works Planning and Construction (§§ 35.10.010 — 35.10.080)
2. Boat Harbor, Dike, Jetty, and Breakwater Facilities (§§ 35.10.090 — 35.10.120)
3. Financial Provisions (§§ 35.10.130 — 35.10.135)
4. Prohibitions and Penalties (Repealed)
5. Public Facility Procurement Policy (§§ 35.10.160 — 35.10.200)

Article 1. Public Works Planning and Construction.

Section

10. Standard plans and specifications and limitation on cost
15. Architectural barrier regulations: enforcement
20. [Repealed]
25. Compliance with local building codes
30. Inspection and supervising public works construction
40. Failure of contractor to perform work

Section

50. Duty of department to examine and report on existing public buildings
60. Inspection and testing of materials
70. Research on public works
80. Statement of work authorized, completion schedule, and recommendations

Sec. 35.10.010. Standard plans and specifications and limitation on cost. The department shall prepare and adopt plans and specifications and determine standards for the construction of each public work. Each public work shall be limited in cost to the amount of the appropriation made for that purpose. The plans and specifications may be amended from time to time as the department

considers advisable. This section does not apply to the construction of school buildings in incorporated cities, unless the construction is done in whole or in part with state funds, or to the construction of school buildings when the construction amounts to less than \$2,000. (§ 1 art III title III ch 152 SLA 1957)

Am. Jur. 2d reference. — 64 Am. Jur. 2d, Public Works and Contracts, § 1 et seq.

Sec. 35.10.015. Architectural barrier regulations: enforcement. (a) The department shall prepare, promulgate and enforce regulations governing the construction of public buildings and facilities by or for the state, including the University of Alaska, and its political subdivisions, whether financed in whole or in part by federal funds, to ensure that the public buildings and facilities are accessible to, and usable by, the physically handicapped, aged or infirm. The regulations of the department shall conform to a standard comparable to the applicable provisions of federal law or regulation and to the publication entitled "American Standard Specifications for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped" or any amendments to this publication as approved by the American Standards Association, Incorporated, under the sponsorship of the National Society for Crippled Children and Adults and the President's Committee on Employment of the Physically Handicapped.

(b) The department shall develop and maintain an inventory of all public buildings and facilities with respect to their compliance with the regulations adopted under (a) of this section. The department shall make an annual report to the governor and the legislature describing work performed in the preceding calendar year to upgrade public buildings and facilities to conform with the regulations. In addition, the department shall develop cost estimates and recommended priorities for the upgrading of public buildings and facilities that do not conform with the regulations adopted under (a) of this section and shall include these estimates and the recommended priorities in the annual report to the governor and the legislature.

(c) In this section, "public facilities" includes vessels owned by the state and operated by the division of marine transportation of the department as a part of the Alaska marine highway system. All ferries owned or operated by the state shall be equipped with elevators or other passenger lifting equipment, ramps, or other facilities and devices to ensure that these vessels are accessible to and usable by physically handicapped, aged or infirm passengers. In this subsection, "accessible to and usable by" means that a physically handicapped, aged or infirm passenger can board, disembark and move between decks and about the public areas aboard a state ferry with personal comfort and with safety to himself, other passengers and members of the crew.

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§ 35.10.020

PUBLIC BUILDINGS AND WORKS

§ 35.10.025

(d) After June 25, 1976, no ferry may be constructed, lengthened, completely renovated, or purchased for use or entered into service by the division of marine transportation of the Department of Public Works as a part of the Alaska marine highway system that does not include adequate facilities and devices to ensure that the vessel is accessible to and usable by physically handicapped, aged or infirm passengers. Some staterooms and all restrooms, indoor passageways, outdoor weather decks, and other public areas aboard the vessel shall be so designed and constructed as to permit access and use by physically handicapped, aged or infirm passengers, including but not limited to those persons occupying a wheelchair.

(e) After June 25, 1976, no public building or facility in the state may be planned, designed, financed, constructed, opened to public use, or otherwise placed in operation unless it meets the standards established under this section. (§ 1 ch 119 SLA 1966; am § 1 ch 48 SLA 1972; am §§ 1 — 4 ch 249 SLA 1976; am Executive Order No. 39, § 11 (1977))

Revisor's note. — Subsections (d) and (e) of this section were enacted as §§ 3 and 4, ch. 249, SLA 1976, rather than as a part of this section.

Effect of amendments. — The 1976 amendment, in the first sentence of present subsection (a), substituted "shall prepare, promulgate and enforce" for "is responsible for preparing and promulgating," inserted "whether financed in whole or in part by federal funds" and added "aged or infirm" to the

end of the sentence. The amendment also substituted "to a standard comparable to the applicable provisions of federal law or regulation and" for "as far as it is feasible" in the second sentence of present subsection (a), and added subsections (b) and (c).

The 1977 amendment, substituted "department" for "Department of Public Works" in the first sentence of subsections (a) and (c).

Sec. 35.10.020. Consultation with municipal planning commissions.

Repealed by § 4 ch 143 SLA 1977.

Cross reference. — For provisions requiring the review and approval by local planning authorities before commencing construction of a public project, see AS 35.30.010. For provisions requiring compliance with municipal ordinances, see AS 35.30.020. For provisions providing for

waiver of local planning authority approval and the compliance requirement, see AS 35.30.030.

Editor's note. — The repealed section derived from § 2, art. III, title III, ch. 152, SLA 1957; § 1, ch. 63, SLA 1974; § 1, ch. 96, SLA 1975; § 1, ch. 50, SLA 1976.

Sec. 35.10.025. Compliance with local building codes. A public building shall be built in accordance with applicable local building codes including the obtaining of required permits. This section applies to all buildings of the state and corporate authorities of the state. (§ 1 ch 89 SLA 1968)

Cross reference. — For other local ordinances and regulations, see AS provisions relating to compliance with 35.30.

Sec. 35.10.030. Inspection and supervising public works construction. The department shall supervise and inspect the construction of public works and shall see that the work performed in constructing, repairing, altering or improving public works is in accordance with the drawings and specifications for them, that the interests of the state are fully protected, and that no person, firm, or corporation employed on any work performs the work in any other or different manner than is provided by the contract and the plans and specifications. (§ 3 art III title III ch 152 SLA 1957)

Sec. 35.10.040. Failure of contractor to perform work. If a contractor or person in charge of the construction of a public building in the state fails to perform the work in a good and workmanlike manner and does not perform the work in accordance with the plans and specifications of the contract, the department shall direct what legal action, if any, shall be taken. (§ 4 art III title III ch 152 SLA 1957)

Am. Jur. 2d and C.J.S. references. — 72 C.J.S. Supplement, Public Contracts, 64 Am. Jur. 2d, Public Works and Contracts, § 40. Contracts, § 81.

Sec. 35.10.050. Duty of department to examine and report on existing public buildings. The department shall, from time to time, examine all existing public buildings and report the condition of each and any necessary additional construction which is needed on them. (§ 4 art III title III ch 152 SLA 1957)

Cross reference. — For provisions relating to thermal and lighting standards in public buildings, see AS 46.11.010.

Sec. 35.10.060. Inspection and testing of materials. The department may inspect and test materials, supplies, equipment and machinery used by a contractor constructing or maintaining public works, and may develop methods and procedures for inspection and testing. (§ 5 art III title III ch 152 SLA 1957)

Sec. 35.10.070. Research on public works. The department may gather, investigate and compile information concerning the use, construction and maintenance of public works, the practices and methods of efficient organization, financing and such other information, data and statistics of the state and the extent of natural resources of building materials in the state. The department shall disseminate this information, together with recommendations it considers advisable. (§ 6 art III title III ch 152 SLA 1957)

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§ 35.10.080

PUBLIC BUILDINGS AND WORKS

§ 35.10.120

Sec. 35.10.080. Statement of work authorized, completion schedule, and recommendations. Not later than February 1 of each year, the department shall prepare a statement showing the public works authorized within the past six-year period and the completion schedule as of that date, together with recommendations regarding the need for additional public works construction, if any. (§ 7 art III title III ch 152 SLA 1957)

Article 2. Boat Harbor, Dike, Jetty, and Breakwater Facilities.

Section

90. Application for federal funds
100. Determining need and priority of projects

Section

110. Contracting with communities for local participation
120. Leasing marine or harbor facilities

Sec. 35.10.090. Application for federal funds. The department shall apply in the name of the state, as applicant, to the appropriate federal agency for the construction or assistance in the construction of boat harbor, dike, jetty or breakwater harbor facilities where the facilities are necessary, feasible and appropriate to the local economy. (§ 1 art IV title III ch 152 SLA 1957)

Sec. 35.10.100. Determining need and priority of projects. The department shall prepare the preliminary determination of need for each such project and its feasibility and appropriateness through representations and data submitted to it by the residents of each community desiring a project, and from other information available to it. The department shall approve and make the final determination of those projects, and their order or priority for which application is made. (§ 2 art IV title III ch 152 SLA 1957)

Sec. 35.10.110. Contracting with communities for local participation. The department may contract with a community for the participation of the community either in the financing of projects or, instead of local financial participation, to contract with the community for its installing necessary piling, floats, and related equipment and facilities whether at the community's direct expense or through local volunteer labor, after completion of the basic boat harbor, dike, jetty, or breakwater facilities. (§ 3 art IV title III ch 152 SLA 1957)

Sec. 35.10.120. Leasing marine or harbor facilities. The department may lease for a period up to 50 years or may sell for a nominal sum to an incorporated city, public utility district, or other incorporated area marine or harbor facilities constructed or rebuilt with territorial funds or state funds or with territorial or state and federal matching funds. The intent of this section is to allow cities, public utility districts, and other incorporated areas to lease or purchase marine or harbor facilities so that they may enforce municipal ordinances on them and legally assess fees to meet maintenance costs. (§ 1 ch 162 SLA 1955)

Article 3. Financial Provisions.

Section

- 130. Construction within appropriations and limits imposed by legislature
- 135. Public facility planning fund

Sec. 35.10.130. Construction within appropriations and limits imposed by legislature. Each public work shall be constructed in a completed manner within the appropriation and limits imposed by the legislature. (§ 1 art V title III ch 1 2 SLA 1957)

Sec. 35.10.135. Public facility planning fund. There is established within the Office of the Governor, division of budget and management a public facility planning fund. The fund is a capital fund and consists of (1) money appropriated by the legislature, (2) money reimbursed to it from the proceeds of the sales of general obligation bonds and revenue bonds issued for projects and (3) money reimbursed to it from appropriations for any projects for which money from the fund has been spent. The fund is available for expenditure, on a reimbursable basis, only for the purposes of providing working capital for facility program planning and for facility procurement planning as specified in this chapter. All expenditures from the fund are subject to an independent audit which shall be made annually and reported to the governor and the legislature. (§ 1 ch 57 SLA 1973; am § 1 ch 58 SLA 1976)

Effect of amendment. — The 1976 amendment rewrote this section. report on ch. 58, SLA 1976 (CSHB 624 am S), see 1976 House Journal, p. 557.

Legislative history report. — For

Article 4. Prohibitions and Penalties.

Section

140—150. [Repealed]

Secs. 35.10.140 — 35.10.150.

Repealed by § 21 ch 166 SLA 1978.

Editor's note. — The repealed sections derived from §§ 1, 2, art. II, title IV, ch. 152, SLA 1957.

Article 5. Public Facility Procurement Policy.

Section

- 160. Findings and purpose
- 170. Duties of department
- 180. Physical facility procurement and planning policies

Section

- 190. Coordination by department
- 200. Definitions

Sec. 35.10.160. Findings and purpose. The legislature finds that since the needs of the state for physical facilities of all kinds are diverse the planning, design and construction of public facilities should be executed in accordance with facility procurement policies developed by the Department of Transportation and Public Facilities and reviewed annually by the legislature. (§ 1 ch 216 SLA 1975)

Revisor's note. — The word "developed" in the fourth line was changed by the revisor of statutes pursuant to AS 01.05.031(b)(7).
incorrectly enacted as "development" and

Sec. 35.10.170. Duties of department. In addition to other duties prescribed by statute, the department shall

(1) develop facility procurement policies for the planning, design, construction, maintenance and operation of public facilities of the state;

(2) develop and maintain an inventory of physical facilities currently owned or occupied by the state;

(3) make projections of future public facility needs of the state, analyze facilities needed, and establish methodology for program planning and facilities project planning, design and construction, based upon

(A) a justification of the level of service anticipated by the program agency, utilizing population projections and estimates approved by the governor,

(B) consideration of the geographical area to be served by the facility and relevant data concerning the agency's existing public facilities in that area,

(C) the date by which the services are to be provided,

(D) alternative program methods for providing the services, and

(E) pertinent data requested by the department in accordance with procedures developed under AS 35.10.180;

(4) engage in experimental projects as necessary relating to any available or future method of facility procurement, design or construction and any method of improving existing design, planning and construction techniques;

(5) develop life cycle costs of public facilities of the state;

(6) develop life cycle costing methodologies for the following special purposes:

(A) budget forecasting to support facility program planning and analysis,

(B) systematic cost estimating to forecast planning, design and construction,

(C) budget forecasting to support development of annual maintenance and operating strategies and life cycle cost plans,

(D) alternative methods of space acquisition and space equalization which will maximize the effectiveness of public funds;

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(7) apply for and accept, on behalf of the state, grants from the federal government or an agency of it or from another state foundation, corporation, association or individual for any of the functions or purposes of the department and may expend any of the money received under this section for any of the functions or purposes. (§ 1 ch 216 SLA 1975; am § 1 ch 168 SLA 1978)

Effect of amendment. — The 1978 amendment added the language beginning "based upon" to the end of paragraph (3).

Sec. 35.10.180. Physical facility procurement and planning policies. (a) The department shall develop and keep current by periodic revision physical facility procurement and planning policies for rural schools, public buildings, and other state facilities, and shall develop regulations and guidelines for the implementation of these policies.

(b) In developing and revising these policies the department shall seek public review and evaluation by any reasonable means and shall

(1) consult and cooperate with officials of the federal government, local governments, other political subdivisions of the state and other interested persons regarding physical facility procurement planning;

(2) request and receive from an agency or other unit of the state government the assistance and data needed to carry out the requirements of this section.

(c) The commissioner shall submit copies of proposed policies and plans annually, within 10 days after the legislature convenes, to the legislature. The legislature may approve, reject or modify the policies and plans by concurrent resolution. If the legislature fails to act during the legislative session, the policies and plans are approved. (§ 1 ch 216 SLA 1975)

Sec. 35.10.190. Coordination by department. (a) The department shall coordinate the procurement of physical facilities for the state to insure the greatest cost savings of planning, design and contractual techniques.

(b) When the state or an agency of the state determines that a public facility is to be constructed or renovated, it shall, unless exempted by regulations of the department, submit to the department an application for a certificate that the proposed facility complies with adopted facility procurement policies. The department may reject the application but if it does so it shall state in writing the reasons for the rejection. If a written statement that the application is rejected does not issue within 30 days after receipt of the application by the department, unless the department and the applicant have agreed upon an extension of time for consideration, the certificate of compliance shall not be required. Except as provided otherwise by regulation or by this section, no public facility of the state may be

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PUBLIC BUILDINGS AND WORKS

§ 35.15.010

constructed or renovated by the state unless a certificate that the facility complies with adopted facility procurement has been issued. (§ 1 ch 216 SLA 1975)

Sec. 35.10.200. Definitions. In AS 35.10.160 — 35.10.200,

(1) "life cycle costs" means analytic techniques which provide data to describe the first cost of procurement of public facilities and the maintenance cost, operation cost and occupancy cost of the facilities;

(2) "policies" includes but is not limited to budget accounting and cost planning techniques, facility design techniques, and contractual techniques for the procurement of labor, materials and contractual services.

(3) Repealed by § 35 ch 168 SLA 1978. (§ 1 ch 216 SLA 1975; am § 35 ch 168 SLA 1978)

Effect of amendment. — The 1978 amendment deleted paragraph (3), which read "public facilities" does not include highways or vessels of the marine highway system."

Chapter 15. Construction Procedures.

Section

- 10. Construction by department
- 20. Request for public bids
- 30. Advertisement, bids, contracts, and informal bids
- 40. Procedures for the award of contracts
- 50. Award of contracts
- 60. (Obsolete)

Section

- 80. Local control of state public works projects
- 90. Use of appropriated funds
- 100. Responsibility of department
- 110. Title to site and completion of project
- 120. Definitions

Sec. 35.15.010. Construction by department. (a) Except as provided in AS 44.33.300, it shall be the general policy of the department to require the construction of all public works under bid contract. However, when the estimated cost of a construction project is less than \$100,000, or when it appears to be in the best interests of the state, the department may perform the work, notwithstanding any other provisions of law. A complete record shall be kept by the commissioner or his designee of all transactions entered into under this section including names of employees involved in the transactions.

(b) Construction or professional services in connection with the construction of a public work performed by the department under (a) of this section which have an estimated cost exceeding \$5,000 may not be performed by the department unless the commissioner determines, in writing, that the cost to the state will be less than that incurred as a result of a formally advertised or negotiated contract. The determination of the commissioner shall be supported by findings of fact which shall set out enough facts and circumstances to clearly justify the determination. The determinations and findings shall be maintained as a permanent record of the department.

feasible, through a regional office. Each regional office shall be directed by a regional transportation and public facilities director appointed by the commissioner. (E.O. No. 39, § 2 (1977))

Sec. 44.42.050. State transportation plan. (a) The commissioner shall develop annually a comprehensive, intermodal, long-range transportation plan for the state. In developing and revising the state plan, the commissioner shall consider means and costs of improving existing modes and facilities, state and federal subsidies, and the costs and benefits of new transportation modes and facilities. The commissioner shall also consider the recommendation of the Alaska Transportation Planning Council. The plan shall be submitted to the governor for review and approval and submitted by the governor to the legislature.

(b) In developing and revising the plan, the commissioner shall seek public review and evaluation by any reasonable means and may

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

(2) request from an agency or other unit of the state government or of a political subdivision of it, or from a public authority, the assistance and data that may be necessary to enable the commissioner to carry out responsibilities under this section; every such entity shall provide the assistance and data requested.

(c) Copies of the plan, as revised, shall be kept on file as a public document in the office of the commissioner and at each regional office of the department.

(d) The plan shall include a description of projects planned for design and construction for the following two years. The description is in addition to the long-range plan required by (a) of this section and by AS 19.10.140. The description shall include an itemization of the estimated cost for each project and the total cost of all projects. The commissioner shall propose and forward to the governor for review and approval and inclusion, as approved, in the capital budget a construction program which includes the projects to be undertaken during the following two years, including recommended project priorities. Funds for transportation construction projects and necessary contingencies shall be itemized as allocations within the bill for the General Appropriations Act. (E.O. No. 39, § 2 (1977))

Sec. 44.42.055. State public facilities plan. (a) The commissioner shall develop and annually revise a statewide comprehensive facility procurement plan for public facilities of the state and its municipalities.

(b) In developing and annually revising the facility procurement plan, the commissioner shall

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

(2) consult with officials and representatives of municipalities, the federal government, interested corporations and other organizations concerning public facility needs in the state;

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

- (A) sewage transmission and treatment systems;
- (B) water transmission and treatment systems;
- (C) electrical generation and distribution systems;
- (D) health care and social services facilities;
- (E) educational facilities;
- (F) transportation facilities;
- (G) public safety and justice facilities;
- (H) recreational facilities;
- (I) sanitation facilities; and
- (J) cultural facilities;

(4) prepare recommendations to accommodate the various levels of service identified by state agencies and other parties with respect to the services described in (3) of this subsection, to include

- (A) current and future facility needs;
- (B) space standards and design guidelines for the appropriate facility types;
- (C) maintenance and operations standards for the appropriate facility types;
- (D) construction techniques and contracting methods;
- (E) facility project budget requirements; and
- (F) relative costs of identified alternatives (life cycle cost analysis) including but not limited to the installation and operation of energy systems that are not dependent on oil or gas for water heating, space heating and cooling requirements, and for the generation of electrical or mechanical power;

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

(6) submit its findings, plans and recommendations to the governor and to the appropriate state agency to facilitate the development of agency capital improvement budget requests.

(c) In the preparation and revision of the facility procurement plan, the commissioner may

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

(2) make recommendations on the total capital improvement program to affected state agencies, local governments, and other interested parties and organizations, and to the divisions of budget and management and policy development and planning.

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

(2) make recommendations on the total capital improvement program to affected state agencies, local governments, and other interested parties and organizations, and to the divisions of budget and management and policy development and planning.

(d) In this section, "public facility"

(1) means a capital improvement within one of the categories described in (b) of this section that is constructed

(A) for subsequent occupancy or operation by the state, a public corporation of the state, the University of Alaska, a political subdivision, or a regional educational attendance area;

(B) by a political subdivision or any private party with the assistance of financial support provided by the state if funds appropriated or paid by way of a grant or loan in advance of construction of the facility, or any part of it, are 50 per cent or more of the estimated costs of construction of the facility;

(2) does not include projects constructed with the proceeds of one or more loans issued by a loan program administered by the Department of Commerce and Economic Development. (§ 14 ch 168 SLA 1978; am § 6 ch 62 SLA 1979; am § 13 ch 83 SLA 1980; am E.O. No. 50, § 11 (1981))

Cross references. — For the responsibility and authority of the supreme court over state court facilities, see AS 22.05.025.

Effect of amendments. — The 1980

amendment rewrote subparagraph (4)(F) in subsection (b).

The 1981 amendment deleted "communication facilities and" near the beginning of subsection (b)(3)(F).

Sec. 44.42.060. Grants to the department. The commissioner may apply for and accept, on behalf of the state, grants from the federal government or an agency of it, or from another state, a foundation, or any person, for any of the functions or purposes of the department. (E.O. No. 39, § 2 (1977))

Sec. 44.42.065. Conservation of energy in public buildings. (a) The department shall, as soon as practicable after July 1, 1980, and at least once every seven years thereafter, perform an energy audit of each public building. A report of the results of the energy audits performed during the preceding year shall be submitted to the legislature not later than February 1 of each year.

(b) The department shall include in the report required in (a) of this section recommendations for corrective measures to improve the energy efficiency and to minimize the life-cycle cost of the public buildings surveyed. These measures may include (1) energy conservation measures, (2) measures involving solar technology and other alternative energy systems, (3) energy management, and (4) maintenance and operating procedures and energy-related modifications. In recommending the corrective measures, the department shall give priority to changes in maintenance and operating procedures over measures requiring substantial structural modification or installation of equipment.

(c) In this section, "energy audit" means a determination of

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93, 2543), 565 P.2d

Collateral references. — 56 Am. Jur.
2d. Municipal Corporations, Counties, and
Other Political Subdivisions, § 140 et seq.
62 C.J.S., Municipal Corporations,
§§ 279, 657.
Liability of municipal corporation for

damages for maintenance of sewer
disposal plant as nuisance, 40 ALR2d
1198.

Municipal liability for maintenance of
public dump as nuisance, 52 ALR2d 1134.

Sec. 29.48.035. Regulatory powers. (a) A municipality may regulate the operation and use of its public rights-of-way, public facilities and services. It may also regulate the following:

(1) vehicle, pedestrian, and other traffic, and licensing and operation of motor vehicles, including snow vehicles and off-highway vehicles, and operators not inconsistent with AS 28.01.010;

(2) licensing of drivers of taxicabs, for-hire automobiles, motor buses, or other vehicles for the transportation of passengers or baggage not inconsistent with AS 28.01.010;

(3) vehicle parking not inconsistent with AS 28.01.010;

(4) transportation fares;

(5) licensing, impounding and disposition of animals;

(6) selling of goods;

(7) selling of food;

(8) abandoned property;

(9) dangerous and disorderly conduct;

(10) alcoholic beverages as provided by AS 04.21.010;

(11) recreational devices as provided by AS 05.20.100;

(12) control of insects and rodents;

(13) offering for sale, exposure for sale, sale, use, or explosion of fireworks;

(14) building, housing and related codes, which may be provided by cities within cities or, in the manner required in (b) or (c) of this section, by first or second class boroughs in the borough area outside cities or areawide, subject to the following:

(A) exceptions to requirements of the codes may be made in the codes among other reasons, in order to provide for the preservation, maintenance and protection of historic sites, buildings and monuments;

(B) codes may not be used to prohibit or restrict the development or use of solar or wind energy unless the assembly or council finds that the development or use of solar or wind energy would endanger the health or safety of the public;

(15) condemnation and abatement of public nuisances and hazards;

(16) garbage and solid-waste collection and disposal;

(17) water pollution control;

(18) air pollution control as provided in AS 46.03.140 — 46.03.230;

(19) other powers and functions affecting the general health, safety, well-being and welfare of its inhabitants;

(20) licensing of day care facilities.

(b) First and second class boroughs may exercise the powers conferred by (a) of this section only after they have been assumed in the manner required under AS 29.33.250 — 29.33.290 for areawide exercise or in the manner required under AS 29.38 for exercise in the borough area outside cities or are conferred by AS 29.48.020 for exercise in the borough area outside cities. However, as to powers conferred under (a)(5), (17), (18) and (20) of this section, exercise of the powers areawide or, as to (a)(5), (17) and (20), in the borough area outside cities is at the option of the borough and is not subject to those restrictions on acquisition of additional borough powers. Upon adoption of a borough ordinance to provide for areawide exercise of the powers specified, no home rule or general law city within the borough may exercise the powers, unless the borough ordinance provides otherwise or the borough by subsequent ordinance ceases to exercise the power.

(c) The provisions of (b) of this section notwithstanding, boroughs which on September 10, 1972 are exercising building, housing or related code powers, except as those code powers relate to flood control, on an areawide basis or in the borough area outside cities shall, subject to acquisition of the powers on an areawide basis by transfer or election as provided in (b) of this section, exercise the powers in the borough area outside cities and, upon agreement of the city and borough, within any city, home rule or otherwise, in which the powers are being exercised on September 10, 1972; if the city does not agree to continue borough exercise of the powers within the city, the city shall exercise the powers within the city. (§ 2 ch 118 SLA 1972; am § 44 ch 53 SLA 1973; am §§ 2—4 ch 91 SLA 1974; am § 18 ch 241 SLA 1976; am §§ 4, 5 ch 253 SLA 1976; am § 6 ch 83 SLA 1980; am § 63 ch 59 SLA 1982)

Effect of amendments. — The 1980 amendment substituted "subject to the following" for a ";" following "outside cities or areawide" at the end of the present introductory paragraph in paragraph (14)

and added subparagraphs (A) and (B) in paragraph (14).

The 1982 amendment substituted "AS 04.21.010" for "AS 04.15.070" in paragraph (10) of subsection (a).

NOTES TO DECISIONS

City may not require all businesses to secure licenses. — Because some occupations so intimately influenced the welfare of the public as to require regulation under a former, similar provision, it did not follow that all of them could be required to secure a license for their existence. *City of Anchorage v. Brady's Floor Covering*, 13 Alaska 741, 105 F. Supp. 717 (D. Alaska 1952).

Or to pay license fees. — A municipal corporation exercised only delegated powers, and had no inherent power to levy a tax by way of license or otherwise, or to

exact a license fee for conducting any business or occupation under a former, similar provision. *City of Anchorage v. Brady's Floor Covering*, 13 Alaska 741, 105 F. Supp. 717 (D. Alaska 1952).

Only businesses affected with public interest may be regulated. — As a regulatory license, authority for which was implied under the police power, it was necessary to find that an ordinance concerned trades, professions, businesses or privileges affected with a public interest which the city had the power to regulate under a former, similar provision. *City of*

the powers assumed in the reawide exercise in the 020 for exercisers conferred the powers outside cities e restrictions tion of a borers specified, exercise the e or the borver.
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(A) and (B) in substituted "AS .070" in para-

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Anchorage v. Brady's Floor Covering, 13 Alaska 741, 105 F. Supp. 717 (D. Alaska 1952).

Ordinances regulating massage parlors and physical culture studios were within the statutory powers of the Municipality of Anchorage. Hilbers v. Municipality of Anchorage, Sup. Ct. Op. No. 2084 (File No. 4296), 611 P.2d 31 (1980).

Council has unlimited discretion in licensing vehicles for hire. — A former, similar provision did not set forth any rules or regulations under which a person was entitled to a license from the city council for the use for hire of a motor vehicle. It simply left it to the unbridled discretion of the town council to refuse or grant an application for such a license. Town of Fairbanks v. Mabee, 11 Alaska 476 (1948).

And in approving changes of business locations. — A former, similar provision failed to lay down any regulations as to when a person would be entitled to have his application for change of business location approved by the town council. The granting or refusal of such a change was left to the unrestricted discretion of the city council. Town of Fairbanks v. Mabee, 11 Alaska 476 (1948).

Power to license does not include power to prohibit by excessive fee. — Under a power given to license and regulate under a former, similar provision, an

ordinance could not practically prohibit the business by requiring an excessive license fee. Town of Valdez v. Bell, 6 Alaska 109 (1918).

Additional liquor license may menace health and safety. — With 12 liquor establishments in the vicinity of the place chosen by an applicant for the exercise of his license, it could easily have been that additional liquor stores in that vicinity would not have been for the good of the people of the city and would have been a menace to their health and safety under the terms of a former, similar provision, so that council was authorized in not passing a resolution approving his application. In re Kaye, 11 Alaska 556 (1948).

Landing and take-offs of airplanes may be prohibited as endangering public safety. — Under a former, similar provision, a town had a right to prohibit the use of its property for landing and take-offs of airplanes inasmuch as that was greatly endangering the public safety. Seltenreich v. Town of Fairbanks, 13 Alaska 582, 103 F. Supp. 319 (D. Alaska 1952), aff'd, 14 Alaska 568, 211 F.2d 83 (9th Cir.), cert. denied, 15 Alaska 272, 348 U.S. 887, 75 S. Ct. 206, 99 L. Ed. 697 (1954).

Applied in Cremer v. Anchorage, Sup. Ct. Op. No. 1579 (File No. 3597), 575 P.2d 306 (1978).

Collateral references. — 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, § 423 et seq.

62 C.J.S., Municipal Corporations §§ 132, 218, 307, 590.

Conflict between statutes and local regulations as to automobiles, 21 ALR 1186; 64 ALR 993; 147 ALR 522.

Public regulation of dry cleaning and dyeing establishments, 49 ALR 110; 128 ALR 678.

Municipal regulation of sale of poisons, drugs or medicines, 54 ALR 735.

Validity of ordinance prohibiting or regulating solicitation of patronage for hotels, roominghouses, etc., 121 ALR 275.

Use beyond municipal limits of municipal equipment for extinguishment of fires, 122 ALR 1158.

Power to require closing of place of amusement or public assembly because of fire hazard, 140 ALR 1048.

Validity of municipal regulation of aircraft flight paths or altitudes, 36 ALR3d 1314.

Validity and construction of municipal ordinances regulating community antenna television service (CATV), 41 ALR3d 384.

Applicability of zoning regulations to waste disposal facilities of state or local governmental entities, 59 ALR3d 1244.

Sec. 29.48.037. Extraterritorial jurisdiction. (a) A municipality may provide parks, roads (including ice roads), trails, playgrounds, emergency medical services, cemeteries and airports outside its boundaries, subject to AS 29.33.010, and may regulate their use and oper-

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : CSHB 376 (Trsp)
 Title : "An Act relating to municipal regulation of vehicles for hire..."

Sponsor : Binkley / H. Trsp. Comm.
 Requestor : H. Community & Regional Affairs
 Date of Request : 2/03/86

FISCAL DETAIL

Agency Affected : Public Safety
 BRU : Motor Vehicles

Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-	-0-	-0-

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

This act doesn't directly affect the Department of Public Safety.

Prepared by : K. Niles
Kathy Niles, Admin. Ass't
 Division : Commissioner's Office

Phone : 465-4336
 Date : 2/03/86

Approved by Commissioner : [Signature]
 Agency : Public Safety

Date : 2/3/86

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)



FEDERAL TRADE COMMISSION

Seattle Regional Office
2806 Federal Building
915 Second Avenue
Seattle, Washington 98174
(206) 442-4656

February 11, 1985

Assemblyman John Wood
4757 Business Park Blvd.
Anchorage, Alaska 99503

Dear Assemblyman Wood:

As you requested, we are sending you information on recent Commission activity concerning taxicab regulation along with our views on your proposed ordinance AO #84-251. The ordinance would provide for the issuance of an increase of 25 new taxicab permits or a 25 percent increase in the total number of permits each year, whichever is greater. I understand that two alternative ordinance provisions also are being considered calling for (1) a 10% annual increase in permits or (2) hearings upon application for one or more new permits to determine the public convenience and necessity of new permits. We are grateful for this opportunity to present our views and hope they will be of assistance to the Assembly in its consideration of this legislation.

This letter represents the views of the Seattle Regional Office and the Bureaus of Competition, Economics, and Consumer Protection of the Federal Trade Commission. The views expressed here are not necessarily those of the Commission or of any individual Commissioner, although the Commission has authorized the presentation of these views.

As you may know, the Federal Trade Commission staff has had an interest in the competitive effects of taxicab regulation for some time. As long ago as 1978 the Seattle Regional Office submitted comments in support of the deregulation of taxicabs in that city. More recently the Commission staff has submitted its views on legislation relating to taxicab regulation to the city governments of Seattle, Chicago, San Francisco, and the District of Columbia as well as to the Colorado State legislature. Such comments are consistent with the Commission's dual goals of promoting competition and protecting consumers.

In 1984 the Commission issued complaints¹ against the municipal governments of Minneapolis and New Orleans for engaging in regulatory activities that had the effect of limiting the number of taxicab licenses, increasing fares, and eliminating

¹ The Commission vote on issuing these complaints was 3-2, with Commissioners Bailey and Pertschuk dissenting.

competition. The complaints indicated that the Commission had reason to believe that the two cities, in concert with local cab companies, had violated the antitrust laws, by restricting entry into the market without having been sufficiently authorized to do so by the state legislature. The state of Louisiana later passed a law permitting its cities to regulate taxicab entry and fares. On the other hand, Minneapolis joined those cities that have chosen to permit more competition among taxicabs by amending its ordinance to permit more entry.

At the same time the Commission issued these complaints, it also released a 176-page report entitled "An Economic Analysis of Taxicab Regulation" by its Bureau of Economics. The principal conclusion of this study is that no persuasive economic rationale exists for restrictions on the total number of taxicabs. The study found that such restrictions waste resources, harm consumers, and impose a disproportionate burden on low income people. By contrast, the report supports in principle other kinds of taxicab regulations dealing with vehicle safety and liability insurance. I understand that you already have a copy of the Bureau of Economics report.

The conclusions of the Commission's Bureau of Economics study are not unique. Another recent study, commissioned by the U.S. Department of Transportation, concluded that the combination of restraints on entry of new cabs and regulations preventing fare discounting cost consumers nearly \$800 million annually and the loss of 38,000 jobs in the taxi industry. Anchorage recently began to allow fare competition. Enactment of the proposed ordinance will lift entry restrictions and is likely to further benefit consumers and suppliers of taxicab services in Anchorage.

Citizens of Seattle, Washington have been enjoying the benefits of deregulation since 1978. During that time, over 200 new jobs for cab drivers have been created. Waiting times for cabs have dropped with the greater number of cabs available. Fares have risen more slowly than transit prices generally. Taxi fares in Seattle are currently approximately 10-15 percent lower than what we estimate they would have been under continued regulation.² Despite efforts to reinforce entry and fare regulations, the city of Seattle has thus far rejected proposals to reestablish such regulations. Other cities that have benefitted from reform of taxicab regulations to permit more entry include Milwaukee and Madison, Wisconsin; Jacksonville, Florida; Spokane, Washington; San Diego, Oakland, Berkeley, and Sacramento, California; and Phoenix and Tucson, Arizona.

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Zerbe, Seattle Taxis: Deregulation Hits a Pothole, Regulation, Nov./Dec. 1983 at 43.

An additional problem with restricted entry is that it affects most those consumers who are most dependent on cabs for transportation and the procurement of necessities: the handicapped, the poor, and the elderly. The members of those groups spend a larger proportion of their incomes on taxi rides than do other segments of the population. A recent study in Seattle indicated that such financially disadvantaged consumers make up 25 percent of total taxicab ridership.

Who gains from entry limitations like Anchorage's? The principal beneficiaries of maintaining the current system are the current holders of taxicab permits. Limitations on the number of permits enables the holders of these taxicab permits to earn supracompetitive profits. For example, we understand that the City of Anchorage charges \$750 per year for a permit. Owners of those permits typically resell them for as much as \$45,000. To cover such a high acquisition cost, the permit holder would have to collect \$12.50 a day from the cab driver using the permit.³ In other words, it would take more than a driver's first fare (on average) to pay this supracompetitive profit.⁴ This is in addition to the cost of purchasing or leasing a cab, the cost of gasoline and insurance, or a take home wage for the driver. This daily expense does not go to cover any of the real costs of providing service, nor is it a tax to maintain the streets. It is simply a cash transfer from consumers to permit holders.

Proponents of restricted entry typically argue that without entry restrictions there will be "too many" taxis. They argue that cab fares will increase and the quality of cabs, drivers and service will decrease. However, the value of a permit demonstrates conclusively that there are too few cabs. Deregulation does not mean letting anyone put any junk vehicle regardless of its condition on the road. There is nothing in the concept of free entry to prevent Anchorage from maintaining reasonable levels of safety and quality in the city's taxicab fleet and establishing reasonable skill and knowledge requirements for

3 At an annual interest rate of 10%, \$45,000 represents the capitalized value of a perpetual stream of profits of \$4,500 per year. For a cab in operation 360 days each year, \$12.50 must be collected each day to equal \$4,500 in one year.

4 The Alaska Attorney General's office estimates the average taxi fare to be about \$10. Anchorage Times, A-1, 12 (January 23, 1985).

drivers.⁵ Open entry means, rather, giving licensees who are qualified the chance to compete and giving consumers lower fares.

Open entry does not necessarily mean that new taxi cabs will simply charge the maximum fares now allowed by Anchorage. The actual fare will be set by competitive forces. Checker and Yellow Cabs' recent experience of trying to charge \$2.00 per mile when rival Alaska Cab was charging \$1.40 per mile illustrates this effect.⁶ Newcomer Alaska Cab's market share went from approximately 12 percent to 70 percent in just 4 months according to estimates by the Attorney General's office. After that time, Yellow and Checker reduced their fares to \$1.40. Reports of the benefit of competition come also from Jacksonville, Florida, and Madison and Milwaukee, Wisconsin, to name a few. Special senior citizens discounts became available in Madison, Sacramento, and Tucson following deregulation.

Open entry does not mean that service will decline. Many cities report that service has improved under deregulation. In Jacksonville, Oakland and San Diego open entry led to an increase in fleet maintenance and a reduction in vehicle age as new fleets entered the market. In Milwaukee, Santa Barbara, and Seattle taxi competition reduced the waiting time for a cab.

Finally, open entry does not mean that all taxicab operators will go broke. As with most businesses, those operators offering higher quality service at lower prices will prosper while less competitive operators will not. This is precisely what happened in Anchorage in the beginning of 1984 and that experience illustrates how Anchorage taxicab consumers respond to competition.

The Assembly is considering three alternative ordinance provisions, all of which seek to ensure new entry but also restrict the amount of new entry. We believe that no entry restrictions beyond those for safe and competent service are necessary. We urge the Assembly to minimize any other restrictions on entry.

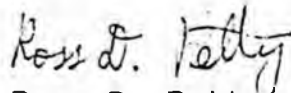
5 Section 11.10.080 of each of the proposals requires vehicle inspections to ensure safety. If the minimum levels for quality and safety were set arbitrarily high enough, they could act as de facto restrictions on entry. However, reasonable standards should not have any significant anticompetitive effect.

6 For a story on the related price-fixing settlement, see Anchorage Times, A-1, 12 (January 23, 1985).

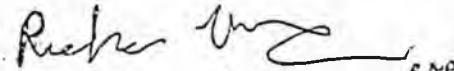
In sum, based on the economic evidence and recent experience throughout the country, we strongly support issuance of more taxicab permits in Anchorage. Freer entry into the taxicab business, consistent with maintenance of safe and competent service, will benefit Anchorage residents and visitors by reducing waiting times for taxis, fostering fare discounting, and creating employment opportunities.

We sincerely thank you for the opportunity to comment on the proposed ordinance AO #84-251.

Sincerely yours,



Ross D. Petty
Assistant Regional Director



Richard O. Zerbe, Jr.
Consulting Economist



FEDERAL TRADE COMMISSION

Seattle Regional Office
2806 Federal Building
915 Second Avenue
Seattle, Washington 98174
(206) 442-4655

April 18, 1985

The Honorable John Binkley
Alaska House of Representatives
Pouch V
Juneau, Alaska 99821

Dear Representative Binkley:

As your staff member, Marybeth Hilburn, requested, I am enclosing some materials on taxicab regulation. The first item is a letter we sent to John Wood of the Anchorage Assembly supporting the issuance of additional taxicab permits. I am also enclosing a report on taxicab regulation prepared by the FTC's Bureau of Economics.

In our conversation, Ms. Hilburn suggested that perhaps it is appropriate to let cities resolve municipal regulatory questions without interference from state or federal authorities. I think that viewpoint overlooks a more basic question, which is why should cities be given the authority to supplant free market competition? It is the mission of the Federal Trade Commission to protect the opportunity of business people, such as taxicab operators, to compete freely. Our report, as well as others cited in the Anchorage comments, indicates that fare and entry regulation cause consumers to pay higher fares and restrict the opportunities for many people to operate taxicabs. For these reasons, the staff of the Federal Trade Commission have opposed regulation of the fares or entry of taxicabs. On the other hand, in the Anchorage comments, and comments to others, the staff of the Commission have supported municipal regulation in areas where the city has a legitimate interest, such as vehicle safety and operator competence.

Ms. Hilburn explained that you have proposed a bill to authorize the regulation of taxicabs by municipalities in Alaska. If you so request, I would be happy to arrange formal, Commission-approved, staff comments on your specific proposal. I should forewarn you that normally the approval process takes at least a couple of weeks after I receive your request and a copy of the bill itself.

Sincerely yours,

Ross D. Petty (sd)

Ross D. Petty
Assistant Regional Director

Enclosures

UNIVERSITY OF WASHINGTON
SEATTLE, WASHINGTON 98195

Graduate School of Public Affairs, DP-30

April 18, 1985

Rep. John E. Binkley
Pouch V
Juneau, Alaska 99811

Dear Representative Binkley:

This is in response to your request for information concerning the advisability of municipal regulation of taxis. I enclose a copy of an article of mine that recently appeared in *Regulation* magazine, published by the American Enterprise Institute, and an editorial of mine that appeared in February in the Post Intelligencer.

One justification for state enabling legislation is that taxis are a local matter with at least an arguable need for regulation and that therefore these basic decisions to regulate or not, and the form of the regulation, are best left to local control.

My experience suggests, however, that the state may be able to give some guidance to municipalities in the form regulation might take.

It is useful at the outset to distinguish safety and quality regulation from price and entry regulation. Most municipalities regulate through inspection or other provisions, the safety of cabs. Many have insurance requirements and bonding requirements. Some municipalities also require drivers to pay taxes ensuring knowledgeable drivers. There is little disagreement with the proposition that municipalities should be free to pass these sorts of quality and safety regulations as they deem proper.

The controversy concerns entry and price regulations. In communities where there is a reasonably high proportion of radio dispatch calls for cabs, as opposed to customers gained through cruising taxis, neither minimum fare regulations nor entry restrictions are desirable on economic grounds. This is because competition works well in the radio dispatched market to hold fares down and to provide the proper amount of cabs. My recommendation based on examining the experience in other cities is that in this situation all that is needed is a price ceiling.

Unfortunately, taxis are usually a better organized political force than consumers at the municipal level. And many municipals set minimum rather than maximum fares and regulate entry -- at the expense of taxi customers.

Thus, from my perspective it would be nice if the state could encourage

April 18, 1985
Rep. John E. Binkley
page 2

municipalities to set a fare ceiling and not set minimum fares or limit entry, where this is inappropriate.

If I may be of further service let me know.

Sincerely,

Richard O. Zerbe

Richard O. Zerbe, Jr.
Professor

ROZ:kk

STATE OF ALASKA

MEMBER
FINANCE COMMITTEE
SPECIAL COMMITTEE ON FISHERIES



PCUCH V
JUNEAU ALASKA 99811
1907-465-4737
PO BOX 1066
BETHEL ALASKA 99509
1807-543-2972

REPRESENTATIVE JOHNE BINKLEY

APR 30 1985

April 29, 1985

To: Representative Bette Cato
House Transportation Committee

From: Rep. Johne Binkley

Handwritten initials "JB" in black ink, written over the "From" line.

RE: House Bill 376

I am transmitting the information regarding House Bill 376 to your committee for its consideration.

House Bill 376 provides local municipalities the statutory authority to regulate entry into the business of taxicabs, limousines, or other vehicles for hire. Further, the municipality may license, control and regulate the above, and fix, establish and change the rates charged for the service. Currently, the municipalities do not have this specific authority.

Other states have recently adopted similar legislation. I am providing you with materials which discuss both sides of this issue, though I feel it is a matter of local responsibility.

Attachments:

1. April 24, 1985 Letter from Assistant Attorney General Richard Monkman
2. April 18, 1985 Letter from Richard Zerbe, Professor Graduate School of Public Affairs, University of Washington.
3. April 18, 1985 Letter from Ross D. Petty A.sis. Regional Director, Federal Trade Commission.
4. April 11, 1985 Letter from Ross Petty to Anchorage Assemblyman John Wood.

STATE OF ALASKA

MEMBER
FINANCE COMMITTEE
SPECIAL COMMITTEE ON FISHERIES



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REPRESENTATIVE JOHNE BINKLEY

MEMORANDUM

TO: Rep. Bette Cato, Chairman
Transportation Committee

FROM: Rep. John Binkley *John B.*

DATE: April 15, 1985

RE: House Bill 376 - "An Act relating to municipal regulation of vehicles for hire" by Rep. John Binkley

Sectional Analysis

Sec. 1 Amends AS 29.48.035, adding a new subsection to read:

(d) Allows municipalities to license and regulate taxicabs and other vehicles for hire, allows them to fix, set and change rates, and they may regulate entry into the businesses.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
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ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

April 24, 1985

The Honorable John Binkley
Representative
Pouch V
Juneau, AK 99811

Re: House Bill 376

Dear Representative Binkley:

Attorney General Gorsuch has referred your letter of April 17, 1985 to this section for comment.

The proposed legislation would not change the existing municipal exemption from antitrust liability as regards taxicab regulation. AS 29.48.035 gives municipalities authority to "regulate ... vehicle ... traffic, and licensing and operation of motor vehicles" [AS 29.48.035(a)(1)], to "regulate ... licensing of drivers of taxicabs, for-hire automobiles, motor buses, or other vehicles for the transportation of passengers" [AS 29.48.035(a)(2)], and to "regulate ... transportation fares" [AS 29.48.035(a)(4)]. This broad grant of authority would seem to cover all aspects of the taxicab industry. House Bill 376 does not appear to either add to or subtract from this authority, although it sets out the authority somewhat more cogently than present law.

Because the present law grants municipalities such broad authority, the municipalities are exempt from both state and federal antitrust liability. Parker v. Brown, 317 U.S. 341 (1943); Golden State Transport v. City of Los Angeles, 726 F.2d 1430 (9th Cir. 1984). House Bill 376 would not affect the exemption. Commissioner John Pugh, Department of Health and Social Services, recently requested our opinion about an analogous situation involving municipal regulation of ambulance services. A copy of our opinion is attached for your information.

The Anchorage price-fixing case you mention did not involve application of the municipal antitrust exemption. Anchorage ordinances allow private taxicab companies to set whatever fares they choose, up to a maximum charge. Two competing

taxicab companies, it was alleged, got together and agreed to charge the maximum fare, and no lower. This flew directly in the face of the ordinance, which was intended to promote fare competition in the Anchorage taxicab industry. The companies were not "expressly required" by Anchorage ordinance to fix prices, and thus their private activity could be challenged under the anti-trust laws. AS 45.50.572(g). The municipality was not involved in this price-fixing, and thus the municipal exemption did not apply.


We do not have any specific information concerning how municipal regulation of taxicabs has been beneficial or detrimental to consumers. As you are probably aware, this has been the subject of much debate in the Anchorage Assembly over the last year. Assemblyman John Wood has very strong opinions on the subject, and may be better able to assist you in this regard.

Please feel free to call if you have any questions, or if I can be of any further assistance in this matter.

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By:


Richard D. Monkman
Assistant Attorney General
Antitrust Section

RDM:and

Enclosure

cc: Art Peterson,
Assistant Attorney General
Juneau

International Taxicab Association

3849 FARRAGUT AVENUE

KENSINGTON, MARYLAND 20895

TELEPHONE (301) 946-5700

March 14, 1985

Mr. Clark Miller
Bethel Checker Cab Co., Inc.
4031 Fourth Avenue
Post Office Box 216
Bethel, Alaska 99559

Dear Mr. Miller:


California, Louisiana, Virginia and Washington have recently passed laws to grant their cities "express" authority to regulate taxicab entry and fares. Copies of their statutes are enclosed.

We also know that each of the following states have granted explicit authority to regulate taxicab entry and/or fares: Arkansas, Colorado, Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Michigan, Mississippi, Missouri, Nevada, New York, North Carolina, Oklahoma, Pennsylvania, Rhode Island, Vermont and West Virginia.

Most of the remaining states believe that they have granted their local governments the right to regulate taxicabs, but we are uncertain as to the basis for their belief. In many cases they have state court decisions supporting taxicab regulation, but we are not sure this would be sufficient should a case be taken to the U.S. Supreme Court.

If you have any further questions, please contact me.

Sincerely,


Alfred B. LaGasse, III
Executive Vice President

ABL:bk

Enclosures

International Taxicab Association

11300 ROCKVILLE PIKE • ROCKVILLE, MARYLAND 20852 • TELEPHONE (301) 881-1333

THE CASE AGAINST TAXICAB DEREGULATION

I. DESCRIPTION OF THE TAXICAB INDUSTRY.

- Taxicabs are owned by individuals and by small businesses, not by large corporate organizations.
- Preliminary International Taxicab Association (ITA) figures for 20 of the largest U.S. cities show that taxicab medallions are owned by individuals (70%) much more often than by fleets (30%).
- Contrary to popular belief, the "transportation disadvantaged" segment of our population, i.e., elderly, unemployed, handicapped, children and low-income persons, are the greatest users of taxicab services. The 1975 National Personal Transportation Study showed that 60% of all taxicab services are provided to the transportation disadvantaged, while only 40% are provided to members of affluent households, tourists or business persons.
- The taxicab industry is the only remaining private provider of intracity transportation. Taxicabs transported over 1.7 billion passengers in 1981. In many small towns and suburban areas taxis are the only means of public transportation. In larger cities, taxicabs feed passengers into bus or rail transit systems.
- The 1982 U.S. Department of Transportation (DOT) study, Taxicab Operating Characteristics, reported that "From 1976 to 1981 the consumer price index rose by about 58% while the portion of the index referring to the cost of operating an automobile rose by 68%. The increase in fares, however, was slightly less than the increase in automobile operating costs. The taxi operators in the country have therefore not gained on inflation through fare increases during 1975-1981."

II. ECONOMIC THEORY OF DEREGULATION IS NOT APPLICABLE TO THE TAXICAB INDUSTRY.

- An economist in the FTC's Seattle office states that open entry in the taxicab industry should lead to (1) more taxis in the market, (2) lower fares, (3) better service, including faster response time, and (4) falling medallion values. This theory, founded upon the dual premises that (a) more taxis and/or lower fares will produce increased rider demand, and

(b) current regulated fares are at anticompetitive levels, has not carried over into actual practice.

-- Taxi productivity decreases.

While there may be greater numbers of taxis on the streets of deregulated cities, DOT studies confirm that each taxi is being driven fewer hours and is carrying fewer passengers than prior to deregulation. In essence, operating efficiency and productivity have been reduced.

-- Deregulated fares are higher, not lower, than regulated fares.

Taxi fares in deregulated cities are almost universally higher than in regulated cities. Further, DOT studies have demonstrated that, following deregulation, taxi fares increased faster than they had increased in prior regulated years. An FTC consulting economist's study of the fare situation in Seattle (1) is contradicted by the DOT study of Seattle, (2) is based upon unweighted, average deregulated taxi fares, rather than upon weighted averages, (3) states, then totally ignores, the fact that the highest fare increases were seen at the location where open entry had its greatest impact (airport), and (4) concludes, without foundation, that Seattle regulators had let fares fall to "abnormally low real levels" immediately prior to deregulation. In fact, the cost of a 3.5 mile non-airport trip rose 51% and the cost of an 11.5 mile airport trip rose 64% from May, 1979 to May, 1981. DOT studies indicate that it is the new entrant, not the existing taxicab permit holder, who is more likely to charge a high fare after deregulation.

-- Service deteriorates under deregulation.

DOT studies conclude that taxicab services deteriorate markedly in an open entry system:

1. New entrants concentrate on the major trip generators, most notably airports. This results in an oversupply of taxis at those locations.
2. There is no increase in geographic service coverage.
3. There have been little or no service innovations.
4. New entrants do not have radio dispatch capability or, if they do, they have refused to respond to telephone service requests. In Seattle, 25% of all telephone requests are refused. In San Diego, the comparable figure rose from 5% to 18% after deregulation. Additionally, fleets which generally service telephone customers have had to reduce the number of vehicles in operation, thereby increasing the response time for telephone requests.
5. The safety of passengers is jeopardized under deregulation. Vehicle age increases and condition deteriorates; some independent drivers engage in criminal activities; it is difficult for cities to monitor drivers' insurance coverage. Indeed, cities having experienced taxicab

deregulation have found that they incur higher administrative costs, not the lower costs which they had expected to accompany deregulation. These higher costs are associated with application processing, resolution of increased numbers of rider complaints and continued involvement in the regulatory process.

6. Consumer confusion is rampant. It is virtually impossible to engage in price comparison, even if fares are posted, due to the number of variables which make up the complete price (drop, mileage, wait time, baggage, extra person charges).

-- The economic model for deregulation is faulty.

ITA would submit that open entry and unrestricted fare levels have, where attempted, produced (a) lower, not higher, taxicab utilization, (b) higher, not lower, fares, and (c) poorer, not better, taxicab service, because several crucial assumptions upon which the economic model supporting deregulation is based are faulty.

Most importantly, the universal experience of deregulation has been that increasing the supply of taxicabs, even at mandated lower fares, does not result in increased rider demand. The taxicab user is not choosing between alternative forms of transportation. Indeed, available statistics indicate that taxicab ridership is on the decline. Under deregulation, taxicab ridership in San Diego declined by 25%.

Additionally, contrary to the economists' assumptions, current regulated fares are at extremely low, not anticompetitively high, levels. Even the fact that a positive medallion value exists in some regulated cities does not mean that fares are above competitive levels. If that were the case, fares in deregulated cities in which medallion values have been reduced to zero would have decreased rather than increased. A positive medallion value is indicative not of the probability of unjustified profits but rather of the probability of merely earning an income as an operator. By controlling fares, taxicab regulators ensure that operators of taxicabs make only a reasonable profit.

III. THE FTC SHOULD NOT INSTITUTE LEGAL PROCEEDINGS TO DEREGULATE THE TAXICAB INDUSTRY.

- While deregulation in general may be a worthy idea, it should not be pursued when the evidence indicates that it will produce neither a more efficient allocation of resources nor a more efficient delivery of taxicab services.
- Perhaps the most compelling argument against deregulation is the fact that cities such as Atlanta, Indianapolis, Portland and Fresno, which experimented with open entry, have returned

to taxicab regulation. A proposal to re-regulate the industry is pending in Seattle, and a moratorium on new permits is in effect in San Diego.

- A DOT study has concluded that most cities do not wish to consider open entry for the reasons that the current method of taxicab regulation has produced satisfactory results and experiments with deregulation have produced unsatisfactory results. Regulators ensure that taxicab service is available, safe and fairly priced.
- The economic and social costs of deregulation greatly exceed the singular benefit which history teaches has resulted from open entry, namely, the increased opportunity for persons to operate taxicabs. That so-called benefit is minuscule in proportion to the economic detriment associated with deregulation: economic injury to riders, particularly the elderly, handicapped and low-income persons who are dependent upon taxicab services (higher fares, price-gouging, reduced service, dangerous vehicles); economic injury to current permit holders (fewer trips per operator; decline in value of medallions, 70% of which are owned by individual operators); economic injury to the public in general (higher tax burden due to increased administrative costs).
- Deregulation of the taxicab industry is, therefore, economically unsound and should not be pursued.

BRIEF REVIEW OF COMMITTEE MEETING ON HB 376

House Bill 376 "An Act relating to municipal regulation of vehicles for hire" by Representative Binkley was first heard before the House Transportation Committee on May 8, 1986.

During that meeting, we learned that HB 376 was introduced to clarify the statutory authority of local municipalities to regulate entry into the business of vehicles for hire.

Scott Burgess with the Alaska Municipal League provided testimony supporting the need for clarification to this law. There was a problem in a 1982 case in Boulder, Colorado which muddied this issue in terms of municipal regulation under state law.

On Thursday, January 23, Representative Binkley will be bringing us up to date on the work that he has been doing on HB 376.

STATE OF ALASKA

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REPRESENTATIVE JOHNE BINKLEY

APR 30 1985

April 29, 1985

To: Representative Bette Cato
House Transportation Committee

From: Rep. Johne Binkley

Handwritten initials "JKB" and a checkmark.

RE: House Bill 376

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