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STATE OF ALASKA THE LEGISLATURE

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LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

May 6, 1986

SUBJECT: HCS CSSB 468 (Loans)
(Creating the Railbelt Energy Council)

TO: Representative John Sund
Chairman, House Special Committee on State
Loans

FROM: Teresa B. Cramer *ABC*
Legislative Counsel

You have asked whether the Railbelt energy council created by HCS CSSB 468 (Loans) would violate the separation of powers doctrine of the state constitution because its membership includes members of the legislative and executive branches of state government. Because the council's powers are limited to recommending and reporting, in my opinion there is no constitutional problem.

The Alaska Supreme Court has held that the state constitution recognizes the separation of powers doctrine. Bradner v. Hammond 553, P.2d 1, 5 (1976). Accordingly, the legislature is prohibited from intervening in an executive function. Conversely, the executive branch may not exercise legislative functions. The issue is whether the Railbelt energy council is empowered to exercise legislative or executive functions. Since the council is not assigned power to administer the laws or to enact laws, it is neither executing nor legislating.

The legislature has established other groups that included members of the executive and legislative branches as well as public members to consider matters and make recommendations, though typically these groups have been established by resolution rather than by a bill. The Alaska Railroad Transfer Advisory Commission, consisting of members from the executive branch, legislative branch and public members, was created by ch. 128, SLA 1982 to advise the legislature and the governor about issues concerning the transfer of the Alaska Railroad to non-federal ownership.

If I may be of further assistance, please advise.

TC:mkr
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Cramer ✓
5/7/86

Original sponsor: Resources Committee

1 IN THE SENATE

BY THE HOUSE SPECIAL
COMMITTEE ON STATE LOANS

2 HOUSE CS FOR CS FOR SENATE BILL NO. 468 (Loans)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act creating the Railbelt energy council; and
7 providing for an effective date."

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

9 * Section 1. FINDINGS. The legislature finds that

10 (1) state energy policy should change from a policy of the
11 state assuming responsibility for providing electric power to a policy of
12 the state assisting the private sector and public utilities to provide
13 adequate electric power at reasonable cost;

14 (2) state funds available for energy development should be used
15 to assist in financing projects that utilities cannot finance themselves;

16 (3) utilities should be encouraged to assume the responsibility
17 of regional power generation and transmission rather than relying on the
18 state;

19 (4) energy planning and financing must be efficient and cost-
20 effective;

21 (5) the Railbelt energy fund should be used if necessary to
22 develop power projects that will meet market investment criteria;

23 (6) the Railbelt area generally consists of the region of the
24 state extending from Fairbanks to Homer and served by the Golden Valley
25 Electric Association, the Fairbanks Municipal Utilities System, the
26 Matanuska Electric Association, the Chugach Electric Association, Anchorage
27 Municipal Light and Power, the Seward Electric System, and the Homer Elec-
28 tric Association utilities.

29 * Sec. 2. COUNCIL CREATED. (a) The Railbelt energy council is

1 established to

2 (1) recommend the best options for planning, financing, co
3 structing, and managing electric power facilities in the Railbelt area;

4 (2) examine all alternatives and recommend the best method of
5 meeting projected Railbelt electrical energy demand;

6 (3) recommend alternative financing plans for assisting t
7 private sector and public utilities to meet the future energy needs of t
8 Railbelt area;

9 (4) determine whether a regional generation and transmissi
10 utility organization can operate to the best interests of utility co
11 sumers;

12 (5) cooperate with the Alaska Power Authority to examine t
13 feasibility and desirability of energy projects.

14 (b) Membership on the council consists of two members appointed
15 the governor; two senators appointed by the president of the senate; t
16 members of the house of representatives appointed by the speaker of t
17 house; and one representative from each of the seven Railbelt utilities.

18 (c) By February 15, 1987, the council shall report its recommen
19 tions to the legislature.

20 * Sec. 3. This Act is repealed June 30, 1987.

21 * Sec. 4. This Act takes effect immediately in accordance with AS 0
22 10.070(c).

23
24 give specific recommendations to the leg
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