

HB

349



Official Business

Alaska State Legislature

House of Representatives

House Transportation Committee

P.O. Box V
Juneau, Alaska
99811

Phone:
(907) 465-4859

January 20, 1988

COMMITTEE CALENDAR:

HB 349: "An Act increasing the membership on the board of directors of the Alaska Railroad Corporation; and providing for an effective date."

FOR THIS MEETING, YOUR PACKET INCLUDES:

- item #1: HB 349
- #2: ARRC position paper
- #3: fiscal notes: House Transportation Committee
Dept. of Commerce & Economic Dev.
- #4: Sewar. statement
- #5: ARRC board membership
- #6: Alaska State Statutes
- #7: a map of the judicial districts

ALASKA RAILROAD CORPORATION



P.O. Box 7-2111 • Anchorage, Alaska 99510-7069

January 19, 1988

Honorable Bette Cato, Chairman
Transportation Committee
House of Representatives
P.O. Box V
Juneau, Alaska 99811

Re: House Bill No. 349, An Act Increasing the Membership
on the Board of Directors of the Alaska Railroad
Corporation

Dear ^{Bette} Representative Cato,

Thank you for this opportunity to express our comments on HB 47 which proposes to add two additional directors to the Alaska Railroad Corporation ("ARRC") board.

We've carefully reviewed the bill and enclose our position paper and fiscal note.

Although we do not oppose this legislation, we respectfully request that consideration be given to adding one, not two, additional board members. As our paper explains, we fear that at nine members our board will become too large and unwieldy. By also changing the number of affirmative votes needed for board action from four to five, the problem with tie votes as you and I discussed some time ago will be avoided. This reduction of proposed appointees will also reduce our projected costs by half.

We've asked our legislative representative, Rick Urion, to attend tomorrow's hearing. Should questions or comments arise concerning our proposal which Rick cannot field, we will stand by here to supplement his responses.

Thank you very much.

Sincerely,

F. G. Turpin
President & CEO

cc: House Transportation Committee
James O. Campbell, Chairman, ARRC Board of Directors
Rick Urion

5820L

January 19, 1988

HOUSE BILL NO. 349A. Act Increasing the Membership on the
Board of Directors of the Alaska Railroad CorporationI. Introduction

HB 349 proposes to add two members to the Alaska Railroad Corporation ("ARRC") Board of Directors, one from Seward and one from Fairbanks. The legislation is intended to provide additional representation for railbelt communities on the ARRC board. Although ARRC does not oppose HB 349, we respectfully request that consideration be given to adding one, not two, additional directors to the ARRC board.

II. Discussion

The powers of the Alaska Railroad Corporation are vested in its board of directors. To insure local control of the railroad's important transportation and governmental functions, ARRC's enabling legislation directs that the seven member panel primarily consist of Alaskan residents. The legislation envisions that the board collectively contain a wide range of skills and experience, including railroad management, business, and labor expertise. In addition, each judicial district directly served by the Alaska Railroad must be represented on the board. This provision ensures that railbelt representation will be broad based.

Nonetheless, concern has been raised that the current board does not include a Seward resident. ARRC and Seward community interests have been commercially, geographically, and financially intertwined for many years. Despite the participation of its representative on ARRC's Community Briefing Council which meets to consider railroad/railbelt concerns and common interests, Seward leaders have requested a permanent Seward seat on the ARRC board.

ARRC does not oppose a modification of the Alaska Railroad Corporation Act ("ARCA") which would provide smaller port communities in the railbelt a common representative on its Board of Directors. However, we request that HB 349 be amended as follows:

(7) one member shall be a resident of Seward, [.]
Whittier, or Nenana.

This modification would allow other port communities located in the railbelt such as Whittier an opportunity to suggest residents for appointment.

ARRC Position Paper
House Bill No. 349
January 19, 1988
Page 2

We also request that subsection (6) be deleted. The provision would require that one board member be a resident of Fairbanks. The Fairbanks community is assured adequate representation by an existing provision which requires that all judicial districts served by the Alaska Railroad be represented. For example, Director Frank Chapados is a resident of that Interior city. We fear that at nine members the ARRC board will become too large and unwieldy. An attached fiscal note also demonstrates that the projected costs of two additional board members is \$25,400. These are not insignificant costs which can be reduced by half by amending the bill.

Without other ARCA modifications, a board of eight directors would find themselves at an impasse when tie votes prevent it from taking action. However, A.S. 42.40.160(b) provides that "(f)our affirmative votes are required for board action." By increasing the number of required affirmative votes for affirmative action from four to five, such impasses will never occur. This revision also seems prudent since the pool of available board members will be increased by one should this proposal be accepted.

III. Conclusion

ARRC is not opposed to the appointment of an additional member to its board. However, as discussed above, it respectfully requests that a single director from a port community in the railbelt be added.

5821L

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HB 349
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: _____
Title: An Act increasing the membership on BRU: _____
the board of directors of the ARRC
Sponsor: Cato Components: _____
Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICE :						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	\$0	\$0	\$0	\$0	\$0	\$0
CAPITAL	\$0	\$0	\$0	\$0	\$0	\$0
REVENUE	\$0	\$0	\$0	\$0	\$0	\$0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	\$0	\$0	\$0	\$0	\$0	\$0

POSITIONS: None

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Compensation, per diem, and other expenditures payable to members of the board of directors of the Alaska Railroad Corporation are the responsibility of the Alaska Railroad Corporation and are not an expenditure of the state of Alaska general fund.

Prepared by: Rep. Bette Cato, Chairman Phone: 465-4858
Division: House Transportation Committee Date: January 20, 1988

Approved by Commissioner: Rep. Bette Cato, Chairman Date: January 20, 1988
Agency: House Transportation Committee

Distribution (by preparer):

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

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: _____
 Title: An Act increasing the membership on BRU: _____
the board of directors of the ARRC
 Sponsor: Cato Components: _____
 Requester: _____

EXPENDITURES / REVENUES : (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	\$12,800					
TRAVEL	12,000					
CONTRACTUAL						
SUPPLIES	600					
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	\$25,400					

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

Existing law provides \$400 compensation for each meeting that a board member attends (except for Commissioners). Travel costs include air fare, hotel and per diem at the same rate as other boards and commissions.

Prepared by: James B. Blasingame, Director of Administration Phone: 265-2680
 Division: Alaska Railroad Corp. Date: _____

Approved by Commissioner: Frank G. Turpin Date: 1/20/88
 Agency: President & Chief Executive Officer

Distribution (by preparer):

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

CITY OF SEWARD

P.O. BOX 167
SEWARD, ALASKA 99664



- Main Office (907) 224-3331
- Police (907) 224-3338
- Harbor (907) 224-3138
- Fire (907) 224-3445
- Telecopier (907) 224-3248

January 19, 1988

THE HONORABLE BETTE CATO
CHAIRMAN, COMMITTEE ON TRANSPORTATION
HOUSE OF REPRESENTATIVES
P. O. Box V
Juneau, AK 99811

Dear Madam Chairman:

The city of Seward welcomes the opportunity to offer testimony on House Bill 349, which would expand the Alaska Railroad Corporation Board from five (5) to seven (7) members, with one member being a resident of Fairbanks and one member a resident of Seward.

As you are aware, since the state has owned the Alaska Railroad, Seward has expressed the wish to have a representative from Seward on the board of directors. It is the city's position that the board should be comprised of individuals who represent the major railbelt communities. As termini of the railroad, and communities that depend in a significant economic way on the activities of the railroad, it is important that Seward and Fairbanks be represented on the board.

Your committee is aware of the wide degree of issues concerning the city of Seward relating to the Alaska Railroad Corporation. The recently published House Transportation Committee FY88 Interim Report on the Alaska Railroad Corporation summarizes the significant issues involving Seward and the Alaska Railroad. Paramount among these is Seward's lack of representation on the board of directors. The interim report well summarizes what we feel would be the benefits to Seward with direct board representation. Simply put, we would have a voice

CITY OF SEWARD, ALASKA
THE HONORABLE BETTE CATO
Page 2

and a vote, which we do not now have, on matters of extreme importance to Seward. We strongly recommend the committee's favorable recommendation on this Bill.

Sincerely,

CITY OF SEWARD, ALASKA



DARRYL SCHAEFERMEYER
INTERIM CITY MANAGER

DS:alm

Enclosures: Overview and Seward
sections of HTC FY88 Interim Report

cy: Council

OVERVIEW OF ALASKA RAILROAD CORPORATION

The Alaska Railroad has been operating in Alaska for 62 years. On January 5, 1985, it was transferred from federal to state ownership for \$22.3 million. This purchase price did not include any receivables or cash and, therefore, an additional \$10.0 million (\$4.9 million for operating and \$6 million for capital) was appropriated by the legislature to the corporation. Additional costs associated with the transfer totalled \$1.2 million.

Effective January 6, 1985, the Alaska Railroad Corporation became responsible for operating the Alaska Railroad. The powers of the corporation are vested in a seven member Board of Directors. Five of these members are appointed by the Governor and confirmed by the legislature. These members serve for staggered five year terms, each at the pleasure of the Governor. The Commissioner of the Department of Transportation and Public Facilities and the Commissioner of the Department of Commerce and Economic Development make up the remaining two board members.

ARRC is a "quasi-public" corporation. It operates along the lines of a private for profit corporation and, therefore, many of the decisions made by the corporation directors are made from a business/profit approach. According to the statutes enacted for guidelines under which the corporation operates (SEC:42.40.010), the corporation is also a public corporation and an instrumentality of the state within the Department of Commerce and Economic Development. The Corporation has a legal existence independent of and separate from the state.

In 1986, House Transportation staff completed an oversight report on the ARRC. This report (attached) addressed many of the concerns expressed by residents of the state regarding the operations of the corporation. Today, many questions and concerns still linger concerning the ARRC. As a result, the following report was prepared. It addresses the present concerns of community leaders along the railbelt. Perhaps the most confusing point surrounding the ARRC is its status. The Alaska Railroad Corporation Act established the corporation as a state agency while allowing it to run as a private corporation. Many residents feel very frustrated the ARRC does not comply with many of the requirements placed on other state agencies such as the budgeting process, and others are concerned the ARRC is exempt from many of the requirements placed on private industry such as property tax.

These exemptions and benefits were afforded the ARRC to enable the corporation to run smoothly and efficiently thus greatly reducing the amount of general funds dollars required each year to run the corporation. To date, the corporation has not requested any appropriation from the legislature and it does not foresee this happening in the near future.

While the corporation is sensitive to many of the community needs expressed in this report, it is also attempting to meet the mandates layed down in the Alaska Statutes. Corporation management feels it is very difficult to adequately address both of these concerns.

In an attempt to listen to community needs and concerns and be responsive to these concerns, the ARRC established a community advisory council. This is made up of representatives from each of the rail community. This advisory council met several times during the summer, corporation management feel the initial meetings have been very successful and hope this advisory council will provide an mechanism for the ARRC and the rail communities to communicate more effectively and work toward resolving many of the community concerns.

After spending many hours listening to all sides involved, it does appear many of the frustations expressed by both parties may be related to interpretation of the statutes and the questions surrounding the "private versus state" status of the corporation.

THE CITY OF SEWARD

Since the state has owned the Alaska Railroad Corporation, the city of Seward has corresponded with the Alaska Railroad Corporation on a regular basis. In fact, before the state actually took ownership of the ARRC, the city of Seward wrote a lengthy letter to the newly appointed railroad board members to outline the areas they hoped could be addressed and agreed upon by the city and the ARRC.

The attached letter written November 1, 1984 shows the City's concerns, suggestions and requests. Many of the points made in this letter are still the priorities expressed by the City of Seward today (3 years later)

1. Self determination
2. Seward Dock facility
3. Marketing - Seward Terminal Manager
4. Seward Board member
5. Philosophical approach of ARRC
6. Access to railroad information

All of the six points listed above are very closely intertwined. The city of Seward is a very aggressive and progressive community. Much of the development and growth in recent years is directly related to the aggressive attitude of local city government. Seward is one of the few Alaskan deepwater ports. The City has the additional benefit of having much of the infrastructure such as roads, easy access etc. already in place. Seward's major immediate and long range goals include encouraging economic activity, jobs and investment in Seward. Like many other smaller Alaska coastal communities, this is a MUST if the community is to continue to grow and thrive. The Alaska Railroad plays an important part in the overall achievement of these goals and the future economic growth of Seward. WHY?

The \$40 million Seward Coal dock facility is owned by the Alaska Railroad Corporation. Almost all the freight coming into Seward moves over this dock. With a superb deepwater port, lack of effort by the railroad to aggressively market or fully utilize this port greatly frustrates Sewardites who rely on ocean going trade for their livelihood. It is obvious there have been numerous lengthy meetings between the Corporation and the city over these concerns. The corporation realises Seward's wish to obtain the Coal dock, however, corporation management feel this transfer must be in the best interests of both parties. While Seward ownership of the dock would allow Seward to aggressively compete for business, much

City of Seward (cont'd)

The city of Seward hired Mr. Chris Gates to assist Seward in the marketing and economic development of the City and the port. Mr. Gates has been working to encourage the Railroad to take advantage of its port assets in Seward. In discussions with Mr. Gates and city officials, there is a great deal of frustration expressed at the lack of cooperation by the railroad corporation.

Mr. Gates noted as an example that in January of this year Seward longshoremen themselves went to Seattle to attempt to spur interest in and business over the Alaska Railroad dock. Seward longshoremen president, Mr. Stanley Lemas was able to interest a general cargo carrier to call at the Port of Seward on a bimonthly basis. The success of this venture was assured when the Alaska Railroad representatives pledged assistance to the carrier in the form of reduced service charges and land lease rates. This inducement by the railroad put the solicitation "over the top" and the carrier committed to call at Seward.

Alaska Cargo Transport has called at Seward since January, however, the railroad has not followed through with its pledge for reduced service charges or reduced base rates. This has obviously created hardship on the carrier who has repeatedly asked the Railroad to follow through with its original promises.

Seward feels this "type" of lack of co-operation by the ARR placed Seward in an unfair economic disadvantage.

Railroad Response

Much of the frustration experienced by the residents of Seward is shared by the ARRC. Both parties feel the city of Seward and the corporation must work together in order to resolve issues whenever possible. To this end, ARRC management has agreed to provide passenger service to Seward in spite of the fact that it loses revenue. Freight services to and from Seward are continued even though they provide no profit and barely break even. Now the ARRC is being asked to provide carriers with reduced service charges and land lease rates. The question again arises, should ARRC management decisions be made by the corporation in their role as a private entity based primarily on economics and business criteria or, should decisions be made as a public entity giving first consideration to state and local issues and concerns?

1. Self-determination

Seward overwhelmingly supports self-determination. City officials and residents feel strongly that SEWARD should have control over their own future economic growth and activity, and not the Alaska Railroad.

Seward feels this one point is vital because they question whether the ARRC can promote Seward, or can avoid discouraging Seward tonnage that might produce greater incremental return if delivered through another port. For example, the question has been raised about the willingness of the Alaska Railroad to promote general cargo use of the Seward dock to a carrier who, if successful, might rob or "deplete" tonnage currently carried by major ARRC interline carriers (i.e. hydrotrain). Seward feels the railroad appears to be less interested in dock promotion if the cargoes carried by the vessels are not discharged to rail but use a competing mode of transportation from the dock.

Railroad Response

ARRC management is currently negotiating with the city of Seward to transfer management of the Seward coal dock facility to the city. The corporation agrees that self-determination for Seward would be in the best interests of both parties. Transferring the coal dock to Seward would allow the city to aggressively market the coal dock which would directly affect the future economic growth of the city. It would allow Seward to offer incentives to industry that would encourage new trade and business to locate there. However, the corporation does not support a transfer made at ARRC expense. The corporation is concerned about retaining existing business and does not want to be put in a position of directly competing for business with the city. At this time, ARRC management does not feel its concerns have been adequately addressed. The corporation would like some assurance that the transfer of the coal dock to the city of Seward would not negatively impact current ARRC operations while at the same time greatly benefiting Seward. Until those concerns are addressed, ARRC management questions the wisdom of supporting the transfer.

2. Seward Dock Facility

The city of Seward would like the coal dock facility and a small parcel of land located along the seaward edge of the city's small boat harbor transferred to the city of Seward. Since the coal dock terminal was financed by legislative monies (over \$2 million) appropriated to the city and by industrial development bonds issued by the city, Seward believes the coal dock has been improperly offered to the ARRC by the state of Alaska.

Seward feel a compromise regarding the ownership of the coal dock facilities might be reached if the ARRC would agree to a long term lease of these facilities to the city of Seward.

Railroad Response

ARRC management is currently negotiating with the city of Seward to transfer management of the Seward coal dock facility to the city. This issue of transfer of the coal dock facility is inseparable linked to the issue of self-determination for the city of Seward. Transferring the coal dock to Seward would allow the city to aggressively market the coal dock which would directly affect the future economic growth of the city. It would allow Seward to offer incentives to industry that would encourage new trade and business to locate there. However, the corporation does not support a transfer made at ARRC expense. The corporation is concerned about retaining existing business and does not want to be put in a position of directly competing for business with the city. At this time, ARRC management does not feel its concerns have been adequately addressed. The corporation would like some assurance that the transfer of the coal dock to the city of Seward would not negatively impact current ARRC operations while at the same time greatly benefiting Seward. Until those concerns are addressed, ARRC management questions the wisdom of supporting the transfer.

3. Marketing -Seward Terminal Manager

Along with the above concern, Seward is very frustrated with another "policy" type issue that directly affects the communities ability to attract new business and promote the Seward dock. The ARRC has pulled all management and supervisory people from Seward, telling the city to be satisfied instead with a zenith number for all communications to the ARRC. Seward states the ARRC has no "Seward specific" marketing plan, promotion or advertising.

When prospective new clients express an interest in Seward as a possible site for their venture, Seward officials cannot supply them with any information on shipping alternatives or freight rates, etc. Seward feel it is poor business and very negative for marketing to ask these clients to call a zenith number.

Another concern to Seward is the ARRC's recently released five year capital improvements plan. This plan contains no capital improvements for the city of Seward. With ports like Anchorage continually growing and expanding, Seward feels this shows the ARRC's intent for limited future growth of the Seward port.

The ARRC has not committed to maintaining safety and operation levels of the dock-mounted gantry cranes. Pilings, cranes and overall facility upgrading is necessary.

Railroad Response

Since the overwhelming percentage of freight moving through Seward currently passes over the coal dock, the ARRC believes that whoever controls the coal dock should address the issue of terminal manager. Should the coal dock transfer to the city of Seward, the ARRC believes it would be consistant with the city's long range goal of self-determination for the city to employ a terminal manager. If the coal dock were to remain under the auspices of the corporation, then ARRC would be willing to employ a terminal manager. ARRC management believes that until the question of transfer of the dock is resolved, the issue of establishing a terminal manager in Seward cannot be addressed.

4. ARR Board of Directors

Since the state has owned the Alaska Railroad Corporation, Seward has expressed a strong desire to have a local representative from Seward on the Board of Directors. With the lack of progress in many of the areas of concern, Seward residents feel that in order to have a listening ear they need either "representation on the Board" OR a change in what they determine as conflict of interest and board makeup.

Firstly, Seward feels one of the members of the Board has a definite conflict of interest with his appointment. Mr. Dickerson is the chairman of the Anchorage Port Commission. He is also a former member of the Anchorage Assembly and past president of the Anchorage Chamber of Commerce. Both Anchorage and Seward are competitive ports, attracting business means jobs in Anchorage or, jobs in Seward. While Seward is very quick to commend Mr. Dickerson for this past work, it does feel that asking any board member to serve two competing masters at the same time is unhealthy to the long term interests of both master and the individual. To have the chairman of the Anchorage Port Commission maintaining his office and responsibility to maximize the interest of the ARRC's chief competing port (Anchorage) while upholding his responsibility to the citizens of the state of Alaska to increase and maximize the profitability of the Alaska Railroad corporation is a definite conflict of interest.

The remaining board makeup is of concern to Seward. A majority of the members are from Anchorage, or, have previous strong ties to Anchorage. There is no representation by Whittier or Seward, and it is very difficult for Seward or Whittier to feel they have any access or input into the decisions made by the Corporation.

SOLUTION

As the board members serve for staggered five year terms, consideration could be given to filling one of the terms with a resident from Seward. ARRC management support this request.

A change in board makeup or the possible addition of two board members to the current seven member Board of Directors, has been offered as a solution by Seward.

Solution to this concern would go a long way in mending some of the damaged "bridges" of the past. Seward and Whittier would feel like they had some say in running the Corporation, and the question of lack of interest in Seward, its concerns, its resources and its residents would be alleviated. Local community members would have an avenue to pursue.

E. Philosophical Approach

The ARRC philosophical approach is an area of great concern to the city of Seward. Seward questions the ARRC "caretaker approach" to many vital issues affecting the city. Residents and city officials are extremely concerned because they feel very strongly that the future growth and development of the city of Seward is very closely tied to the growth and development of the ARRC. As has been stated repeatedly by Seward, the immediate short term and long range plan for the city is to increase economic development, diversify the local economy and work to promote tourism. Seward feel if the ARRC will not aggressively compete for all new business (truck, plane, ship or train), the city of Seward cannot diversify or grow. THIS IS TREMENDOUSLY FRUSTRATING TO SEWARD.

Seward officials feel the Board of Directors for the Corporation have a "caretaker approach" to running the corporation, particularly when it comes to marketing any area that does not directly benefit the corporation itself. When one considers the corporation does control the Seward coal dock facility then it becomes very clear that the corporation also largely controls the future economic development of Seward. Most new business, freight and industry to Seward will probably use the dock facility and, unless the corporation is willing to market this facility aggressively, the future of Seward is very limited.

Seward would like to see a consistent and well defined philosophical approach by the ARRC Board of Directors. City officials feel corporation management wears two hats, one as a "quasi" legal private corporation mandated by the legislature to make a profit and, the other as a state agency. While Seward understands the reasons for the legislature establishing the corporation Seward residents feel the ARRC management continually "change hats" to benefit the corporation instead of having a consistent management philosophy. Seward cite as an example the fact that as a state agency the ARRC is exempt from payment of property taxes on land owned by the corporation in the city of Seward yet, as a private for profit corporation the ARRC states the corporation is mandated to make a profit and therefore must negotiate any leases with the city at fair market value. Seward feel the corporation has the best of both worlds, a private for profit corporation that is afforded all the exemptions of a state agency.

In summary Seward would like to see a clear, well defined philosophical approach adopted by the corporation. This approach should state what the corporation intends to do in the future. This would go a long way to answering Seward's concern that ARRC management and the state of Alaska's main objective is to have the financial records and books of the corporation look very positive to attract a buyer for the ARRC within the next five years. Seward feels that if continues to be the approach of the ARRC the future economic development of Seward looks very bleak.

Railroad response

Alaska Railroad Corporation management state the corporation is being run closely following the Alaska Statutes. 42.40 On several occasions ARRC management has asked questions regarding the legislatures intent for the ARRC. Management has also expressed its concern of not knowing what the future plans for the Corporation are, AS 42.40.260 (b) states every 5 years the annual report by the A. shall include an analysis and documentation of at least three offers to sell the corporation. Management state it is difficult to define long range plans when the future of the ARRC itself is unknown.

6. Accessibility to Railroad records

Seward officials feel that since the state has acquired the ARRC the records and information available from the corporation have been much less accessible.

On numerous occasions Seward has requested information from the railroad which has not been available. While the Alaska Railroad Corporation has by statute been given the authority to designate information as "confidential", the city of Seward feel the corporation has taken this authority to extremes. Under federal ownership information such as the amount of freight hauled on a monthly basis to and from Seward and other areas was available, under state ownership this is no longer available. Seward feel information such as this would be very beneficial in helping them assess the amount of freight movement to and from Seward and would greatly benefit prospective clients in estimating their freight costs.

In summary, Seward officials do not object to the corporations right to withhold information that is of a proprietary or privileged nature however, Seward does feel that as the corporation is an instrumentality within the state the records of the corporation, its budgets, finances and overall fiscal records should be much more accessible to individuals requesting this information.

Railroad response

AS 42.40.220 (b) states: Records of the corporation are, in general, public. However, the corporation may designate by rule and withhold public disclosure of matters of a privileged or proprietary nature. These matters include personnel, records, communications with and work product of legal counsel, and, consistent with the standards and practices of the United States Interstate Commerce Commission for the protection of these matters, other information including proprietary information associated with specific shippers, divisions and contract rate agreements.

This is an area that has received a great deal of comment. Many complaints have arisen regarding competitive rates set by the Alaska Railroad Corporation.

While the state auditors must be allowed access to all ARRC financial records for the purpose of the audit, information designated by the corporation under the Public Disclosure section may not be released by the state auditors. The auditors report may include a summary and facts and findings however, no specific reference to any information designated to be withheld from public disclosure may be released.

REVISION DATE: 11/10/87

Railroad Corporation

MEMBER	APPT	REAPPT	TERM
James O. Campbell 826 Overlook Place Anchorage, Ak. 99501 (H) 274-4207 Public/Restricted - Chair	84/10/03		89/10/03
Frank X. Chapados 3060 Riverview Drive Fairbanks 99701 (W) 452-7913 (H) 474-0125 Public/Restricted	84/10/03		89/10/03
Myron M. Christy 36 Via Cheparro San Rafael, CA 94904 (W) (415) (H) 461-2828 Mgmt/Executive	84/11/26	86/10/31	91/10/03
Lewis E. Dickinson 4017 North Point Drive Anchorage 99502 (W) 562-2000 (H) 243-1079 Public/Restricted	84/10/03		88/10/03
Mark S. Hickey DOT/PF Juneau 99811 (W) 465-3900 (H) NONE Comm./Mandated	86/12/01		00/00/00
Tony Smith Commissioner, DCEB Juneau 99811 (W) 465-2500 (H) NONE Comm./Mandated	87/01/06		00/00/00
Gerald D. Valinske 6910 Chad Street Anchorage 99518 (W) 265-2636 (H) 349-7005 Bargaining Unit	84/10/03	87/11/02	92/10/03

Alaska Statutes

Title 42. Public Utilities and Carriers.

Chapter

- 05. Alaska Public Utilities Commission Act (§§ 42.05.141, 42.05.251, 42.05.361, 42.05.365, 42.05.381, 42.05.385, 42.05.431, 42.05.651, 42.05.711, 42.05.720)
- 06. Pipeline Act (§§ 42.06.160 — 42.06.200, 42.06.280, 42.06.340, 42.06.610, 42.06.630)
- 07. Alaska Transportation Commission Act (Repealed)
- 10. Alaska Motor Freight Carrier Act (Repealed)
- 30. Miscellaneous Regulations Governing Public Utilities and Carriers (§§ 42.30.200 — 42.30.380)
- 40. Alaska Railroad Corporation (§§ 42.40.010 — 42.40.990)

Chapter 05. Alaska Public Utilities Commission Act.

Article

- 2. Powers and Duties of the Commission (§ 42.05.141)
- 3. Certificate of Public Convenience and Necessity (§ 42.05.251)
- 5. Rates and Rate Schedules (§§ 42.05.361, 42.05.365, 42.05.381, 42.05.385, 42.05.431)
- 9. Miscellaneous Provisions (§ 42.05.651)
- 10. General Provisions (§§ 42.05.711, 42.05.720)

Article 2. Powers and Duties of the Commission.

Section

- 141. General powers and duties of the commission

Sec. 42.05.141. General powers and duties of the commission.

(a) The Alaska Public Utilities Commission may

(1) regulate every public utility engaged or proposing to engage in such a business inside the state, except to the extent exempted by AS 42.05.711, and the powers of the commission shall be liberally construed to accomplish its stated purposes;

(2) investigate, upon complaint or upon its own motion, the rates, classifications, rules, regulations, practices, services and facilities of a public utility and hold hearings on them;

(3) make or require just, fair and reasonable rates, classifications, regulations, practices, services and facilities for a public utility;

(4) prescribe the system of accounts and regulate the service and safety of operations of a public utility;

Chapter 40. Alaska Railroad Corporation.

Article

1. Establishment and Organization (§§ 42.40.010 — 42.40.060)
2. Management (§§ 42.40.100 — 42.40.120)
3. Administrative Provisions (§§ 42.40.150 — 42.40.230)
4. Powers and Duties (§§ 42.40.250 — 42.40.310)
5. Corporation Property (§§ 42.40.350 — 42.40.450)
6. Financial Provisions (§§ 42.40.500 — 42.40.540)
7. Bonds (§§ 42.40.600 — 42.40.700)
8. Personnel and Labor Relations (§§ 42.40.705 — 42.40.890)
9. General Provisions (§§ 42.40.900 — 42.40.990)

Cross references. — For legislative findings and purpose in enacting this chapter, see § 1, ch. 153, SLA 1984 in the Temporary and Special Acts; for special reports required, see § 3, ch. 153, SLA 1984 in the Temporary and Special Acts.

Legislative history reports. — For legislative letter of intent relating to ch. 153, SLA 1984 (SCS CSHB 512 (Fin) am S), see 1984 Senate Journal, p. 3221.

Article 1. Establishment and Organization.

Section

10. Establishment of the corporation
20. Board of directors
30. Term of office

Section

40. Vacancies
50. Compensation and expenses
60. Board officers

Sec. 42.40.010. Establishment of the corporation. There is established the Alaska Railroad Corporation. The corporation is a public corporation and is an instrumentality of the state within the Department of Commerce and Economic Development. The corporation has a legal existence independent of and separate from the state. The continued operation of the Alaska Railroad by the corporation as provided in this chapter is considered an essential government function of the state. (§ 2 ch 153 SLA 1984)

Sec. 42.40.020. Board of directors. (a) The powers of the corporation are vested in the board of directors. The board consists of the commissioner of commerce and economic development, the commissioner of transportation and public facilities, and five members appointed by the governor. The five appointed members must be registered voters in the state except as provided in (1) and (2) of this subsection. Except for the commissioners and the member appointed under (5) of this section, a member may not be a state officer or employee. Appointed members shall have the following qualifications:

(1) one member of the board shall be a person who has at least 10 years of experience in railroad management; a person who is not a resident of the state may be appointed under this paragraph;

Alaska Statutes

Title 1. General Provisions.

Chapter

10. Laws and Statutes (§§ 01.10.030, 01.10.055, 01.10.060, 01.10.070)

Chapter 05. Alaska Statutes.

Sec. 01.05.006. Adoption of Alaska Statutes.

Cross references. — For exception to provision that section headings are not a part of the law, see AS 45.01.109.

NOTES TO DECISIONS

Cited in *Schnabel v. State, Ct. App. Op. No. 250* (File No. 7273), 663 P.2d 960 (1983).

Sec. 01.05.031. Revision of statutes.

NOTES TO DECISIONS

Quoted in *Schnabel v. State, Ct. App. Op. No. 250* (File No. 7273), 663 P.2d 960 (1983).

Chapter 10. Laws and Statutes.

Article

2. General Rules of Statutory Construction (§§ 01.10.030, 01.10.055, 01.10.060)
3. Effect of Statutes (01.10.070)

Article 1. Common Law.

Sec. 01.10.010. Applicability of common law.

NOTES TO DECISIONS

Quoted in *Wells v. State, Ct. App. Op. No. 401* (File Nos. 7479, 7663), 687 P.2d 917 (1984); *Beran v. State, Ct. App. Op. No. 506* (File Nos. A-635, A-629, A-630, A-679), 705 P.2d 1280 (1985); *Balentine v. State, Ct. App. Op. No. 538* (File No. A-381), 707 P.2d 922 (1985); *State v. Burke, Ct. App. Op. No. 583* (File No. A-908), 714 P.2d 374 (1986).
Cited in *Jackson v. State, Ct. App. Op. No. 211* (File No. 6664), 657 P.2d 405 (1983); *Stiegele v. State, Ct. App. Op. No. 382* (File No. A-399), 685 P.2d 1255 (1984).

(10) "property" includes real and personal property;

(11) "real property" is coextensive with land, tenements, and hereditaments;

(12) "signature" or "subscription" includes the mark of a person who cannot write, with the name of that person written near the mark by a witness who writes the witness's own name near the name of the person who cannot write; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names to the sworn statement;

(13) "state" means the State of Alaska unless applied to the different parts of the United States and in the latter case it includes the District of Columbia and the territories;

(14) "writing" includes printing. (§ 4 ch 62 SLA 1962; am § 2 ch 66 SLA 1965; am § 10 ch 117 SLA 1968; am § 19 ch 74 SLA 1985)

Revisor's notes. — Reorganized in 1985 to alphabetize the defined terms. Effect of amendments. — The 1985 amendment added paragraph (4).

NOTES TO DECISIONS

Quoted in *Hull v. Alaska Fed. Sav. & Loan Ass'n*, Sup. Ct. Op. No. 2605 (File No. 6346), 658 P.2d 122 (1983).

Article 3. Effect of Statutes.

Section

70. Time statutes become law and take effect

Sec. 01.10.070. Time statutes become law and take effect. (a) All bills passed by the legislature become law upon the governor's signature or upon the governor's veto being overridden or, when the governor allows a bill to become law without signature, on the day after expiration of the period allowed for gubernatorial action by art. II, § 17 of the Alaska Constitution. Acts become effective 90 days after becoming law, unless the legislature, by concurrence of two-thirds of the membership of each house, provides for another effective date.

(b) The actual effective date of an Act having no effective-date provision is determined by starting with the day after it is signed by the governor or the day after the governor's veto is overridden or the day after expiration of the period allowed for gubernatorial action by art. II, § 17 of the Alaska Constitution, and counting 90 calendar days, the Act becoming effective at 12:01 a.m., Alaska Standard Time on the 90th day.

(c) The actual effective date and time of an Act having an immediate-effective-date provision is 12:01 a.m., Alaska Standard Time, on

the day after it is signed by the governor or on the day after the governor's veto is overridden or on the day after expiration of the period allowed for gubernatorial action by art. II, § 17 of the Alaska Constitution.

(d) An Act which specifies a definite effective date becomes effective at 12:01 a.m., Alaska Standard Time on the date specified.

(e) When the governor allows a bill to become law without signature, the governor shall give written notice of that fact to the legislature. The date of this notice has no effect upon the date the bill becomes law nor upon the date the Act takes effect.

(f) In this section

(1) "Act" means a bill which has become law;

(2) "bill" means a legislative document proposing an Act;

(3) "becomes effective" means becomes applicable; "effective date" does not mean date of enactment (or date of becoming law), although the two will coincide when a bill which has an immediate-effective-date provision is allowed to become law without the governor's signature;

(4) "becomes law" means is enacted; "enactment" occurs when any one of the following takes place:

(A) a bill which is passed by the legislature is signed by the governor;

(B) the period specified in art. II, § 17 of the Alaska Constitution expires without gubernatorial action;

(C) the legislature overrides the governor's veto of a bill;

(5) "passed by the legislature" means that the required majority of each house of the legislature has taken final action in approving the same version of a bill. (§ 5 ch 62 SLA 1962; am § 8 ch 126 SLA 1966; am § 1 ch 115 SLA 1974; am §§ 1-3 ch 6 SLA 1984)

Effect of amendments. — The 1984 amendment substituted "Alaska" for "Pacific" near the end of subsection (b), near the beginning of subsection (c), and in subsection (d).

NOTES TO DECISIONS

Applied in *Atlantic Richfield Co. v. State*, Sup. Ct. Op. No. 2695 (File No. S-52), 666 P.2d 1031 (1985).

Sec. 01.10.080. Computation of time.

NOTES TO DECISIONS

Quoted in *Fairbanks N. Star Borough v. Tundra Tours, Inc.*, Sup. Ct. Op. No. 3052 (File Nos. S-524, S-554), P.2d (1986).

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HOUSE BILL 349 - AN ACT INCREASING THE MEMBERSHIP ON THE BOARD OF DIRECTORS OF THE ALASKA RAILROAD CORPORATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEN THE ALASKA RAILROAD CORPORATION WAS FORMED IN 1985, THE GENERAL POWERS OF THE CORPORATION WERE VESTED IN A 7 MEMBER BOARD OF DIRECTORS. WE SPENT CONSIDERABLE TIME DRAFTING THE ACT TO ENSURE THE ALASKA RAILROAD BOARD MEMBERSHIP PROVIDED FOR REPRESENTATION FROM THE PRIVATE INDUSTRY, JUDICIAL DISTRICTS AFFECTED BY THE RAILROAD, UNIONS, EXPERIENCED RAILROAD MANAGEMENT AND THE COMMISSIONERS FROM THE DEPARTMENT OF TRANSPORTATION AND THE DEPARTMENT OF COMMERCE.

LIKE ANY NEWLY FORMED CORPORATION, THERE NEEDS TO BE YEARLY EVALUATIONS AND OVERSIGHT TO PINPOINT ANY PROBLEMS AND ALSO TO LOOK AT AREAS WHERE IMPROVEMENTS CAN BE MADE.

AFTER THREE YEARS OF OVERSIGHT AND EVALUATION OF THE ALASKA RAILROAD CORPORATION, I FEEL STRONGLY THAT A GREAT DEAL OF THE RECENTLY DISCUSSED COMMUNICATION CONCERNS WITH THE RAIL COMMUNITIES COULD BE OVERCOME IF THESE COMMUNITIES HAD REPRESENTATION ON THE ALASKA RAILROAD BOARD OF DIRECTORS.

THE HOUSE TRANSPORTATION COMMITTEE INTERIM REPORT COMPLETED THIS PAST INTERIM EVALUATED THE ALAKSA RAILROAD CORPORATIONS RELATIONSHIP WITH THE RAIL COMMUNITIES. THIS REPORT CLEARLY

DEMONSTRATES A NEED FOR INCREASED INPUT FROM SEVERAL RAIL COMMUNITIES AND, A REAL NEED FOR A MORE OPEN LINE OF COMMUNICATIONS BETWEEN THE RAILROAD AND THE RAIL COMMUNITIES. HB 349 WOULD ADD TWO ADDITIONAL MEMBERS TO THE CURRENT SEVEN MEMBER BOARD OF DIRECTORS. ONE OF THESE MEMBERS WOULD BE A RESIDENT OF SEWARD AND THE OTHER A RESIDENT OF FAIRBANKS. AS YOU WILL NOTE FROM THE CURRENT BOARD MEMBERSHIP LIST ENCLOSED IN YOUR FOLDERS, THE CURRENT BOARD MEMBERSHIP PROVIDES VERY ADEQUATE REPRESENTATION FROM AREAS SUCH AS ANCHORAGE. THERE IS CURRENTLY NO REPRESENTATIVE FROM EITHER WHITTIER OR SEWARD, TWO COMMUNITIES WHOSE GROWTH AND DAILY OPERATIONS ARE GREATLY INFLUENCED AND AFFECTED BY THE ALASKA RAILROAD.

HB 349 WOULD HAVE NO FISCAL IMPACT TO THE STATE.

I FEEL HB 349 WOULD HELP ELIMINATE MANY OF THE COMMUNICATION CONCERNS THAT CURRENTLY EXIST AND WOULD ALSO PROVIDE FAIR AND ADEQUATE REPRESENTATION FROM ALL RAIL COMMUNITIES.

I DO ASK YOUR SUPPORT FOR HB 349. OF THE SEVEN SEATS

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
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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

H. TRANS.

1-20-88

1:30 p.m.

HOUSE COMMITTEE REPORT

(7)

Date referred: 1/11/88

FURTHER REFERRALS: Finance

DATE: January 20, 1988

The Transportation Committee has considered HB 349

"An Act increasing the membership on the board of directors of the Alaska Railroad Corporation; and providing for an effective date."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

Bill Hurd

Robert Egan

W. A. Brander

M. W. Miller

Heinrich Springer

Bette Cuth

SIGNING OTHER RECOMMENDATIONS:

Bette Cuth

 Chairman's signature



Official Business

COMMITTEE:

House Transportation Committee

DATE: January 20, 1988

Subject of meeting:

*HB 349: "An Act increasing the membership on the board of directors of the Alaska Railroad Corporation; and providing for an effective date."

SIGN-IN

NAME Please include **ADDRESS** Please use full address. **PHONE** **REPRESENTING** **DO YOU WANT TO TESTIFY?**
(title) Please include zip.

NAME	ADDRESS	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
Kent Dawson	376 4 th St. #203 Seward AK 99661	586-2667	City of Seward	yes

*indicates first public hearing