

ALASKA LEGISLATURE COMMITTEE FILES 1903-1904 06/2

3125 HT AK RR BILL DRAFTS (FILE 2) - COMP: SB 10, SB 352, HB 512

1 official of a United States railroad that is not now and never was a
2 connecting carrier of the Alaska Railroad.

3 (d) One member shall be an employee who is a member of a bar-
4 gaining unit representing employees of the corporation.

5 (e) Except for the commissioner of commerce and economic devel-
6 opment and the chief executive officer of the corporation, the members
7 of the board shall be confirmed by a majority of the members of each
8 house of the legislature in joint session. A member appointed by the
9 governor has the full powers and responsibilities of a confirmed board
10 member until the member is rejected by the legislature.

11 Sec. 42.40.030. TERM OF OFFICE. Except for the commissioner of
12 commerce and economic development and the chief executive officer of
13 the corporation, members of the board serve for staggered terms of
14 five years each at the pleasure of the governor.

15 Sec. 42.40.040. VACANCIES. (a) Except for the commissioner of
16 commerce and economic development and the chief executive officer, a
17 vacancy on the board is filled by appointment by the governor, and the
18 appointment must be confirmed by the members of each house of the
19 legislature in joint session. A member appointed to fill a vacancy
20 holds office for the balance of the term for which the member's prede-
21 cessor was appointed.

22 (b) A vacancy on the board does not impair the authority of a
23 quorum of members to exercise the powers and perform the duties of the
24 board.

25 (c) A member of the board whose term has expired shall serve
26 until a successor has been appointed.

27 Sec. 42.40.050. COMPENSATION AND EXPENSES. (a) An appointed
28 member of the board is entitled to compensation at a rate of \$400 for
29 each day the member is engaged in the actual performance of duties as

1 a member of the board. The board may provide by rule for compensation
 2 for partial days during which an appointed member is engaged in actual
 3 performance of duties as a member of the board.

4 (b) In addition to compensation under (a) of this section, an
 5 appointed member of the board is entitled to per diem and travel
 6 expenses authorized by law for state boards and commissions.

7 Sec. 42.40.060. BOARD OFFICERS. (a) The board shall elect from
 8 its membership a chairman and vice-chairman and prescribe their duties
 9 by rule.

10 (b) The board shall appoint a secretary and prescribe the duties
 11 of the secretary.

12 ARTICLE 2. MANAGEMENT.

13 Sec. 42.40.100. MANAGEMENT BY THE BOARD. The board is responsi-
 14 ble for the management of the corporation but shall delegate certain
 15 powers and duties to the chief executive officer in accordance with
 16 AS 42.40.120. In managing the corporation the board shall

17 (1) be responsible for the management of the financial and
 18 legal obligations of the Alaska Railroad;

19 (2) operate the Alaska Railroad as a common carrier subject
 20 to the jurisdiction of the United States Interstate Commerce Commis-
 21 sion consistent with 45 U.S.C. 1207;

22 (3) generally manage the corporation on a self-sustaining
 23 basis;

24 (4) provide for safe, efficient, and economical transporta-
 25 tion to meet the overall needs of the state;

26 (5) raise needed capital by issuing obligations of the
 27 corporation while ensuring that borrowing by the corporation does not
 28 directly or indirectly endanger the state's own borrowing capacity;

29 (6) review state and other land disposal proposals to aid

1 in planning for future development or expansion of transportation ser-
2 vices;

3 (7) ensure that the accounting and procurement procedures
4 of the corporation meet accepted railroad industry standards.

5 Sec. 42.40.110. EXECUTIVE OFFICERS. (a) The board shall ap-
6 point the chief executive officer of the corporation who serves at the
7 pleasure of the board. The board shall fix compensation for the chief
8 executive officer.

9 (b) The chief executive officer of the corporation shall appoint
0 and fix the compensation for other executive officers. The appoint-
1 ment of other executive officers and their compensation are subject to
2 board approval.

3 Sec. 42.40.120. DELEGATION. (a) The board shall by rule dele-
4 gate to the chief executive officer powers and duties necessary or
5 appropriate for the management of the daily affairs and operations of
6 the corporation.

7 (b) Within 60 days after its first meeting, the board shall by
8 rule delegate the following powers and duties of the corporation to
9 the chief executive officer or other executive officers designated by
0 the board:

1 (1) leasing, granting easements in, issuing permits for the
2 use of, or conveying other interests in property;

3 (2) establishing specific rates, tariffs, divisions, and
4 contract rate agreements;

5 (3) making routine changes in service levels;

6 (4) establishing procurement and accounting procedures for
7 the corporation; and

8 (5) performing procurement activities.

9 (c) The board may by rule require the exercise of a power or

1 duty delegated under (a) or (b) of this section to be subject to board
2 approval. Specific board approval is required for the following:

3 (1) except for executing a release of a mortgage or other
4 lien after payment is received, conveying the corporation's entire
5 interest in land;

6 (2) issuing notes, debentures, and bonds;

7 (3) mortgaging or pledging corporation assets;

8 (4) donating property or other assets belonging to the
9 corporation;

10 (5) acting as a surety or guarantor;

11 (6) adopting a long-range program or capital improvement
12 plan;

13 (7) certifying annual reports;

14 (8) effecting generally applicable increases and decreases
15 in rates other than those periodically approved by the United States
16 Interstate Commerce Commission;

17 (9) diversifying, expanding, or reducing services provided
18 on the date of transfer, except as authorized in a major way under
19 this chapter;

20 (10) expanding the main or branch rail lines, other than
21 performing routine track alignment as necessary to maintain service
22 levels in effect on the date of transfer;

23 (11) selecting independent auditors and accountants;

24 (12) exercising the power of eminent domain;

25 (13) entering into collective bargaining agreements;

26 (14) adopting annual budgets; and

27 (15) beginning capital projects with an estimated completion
28 cost of more than \$500,000 or an estimated completion time of more
29 than one year.

ARTICLE 3. ADMINISTRATIVE PROVISIONS.

1
2 Sec. 42.40.150. MEETINGS OF THE BOARD. (a) The chairman of the
3 board shall call meetings of the board at least once every three
4 months and may call other meetings of the board as necessary. The
5 chairman shall preside at meetings.

6 (b) Except for executive sessions, the meetings of the board are
7 public. The board shall provide by rule for a method of providing
8 notice to the public of its meetings.

9 (c) The board shall keep minutes of each meeting and shall send
10 a certified copy of the public portion of each meeting to the governor
11 and the legislature.

12 Sec. 42.40.160. QUORUM AND VOTING. (a) Five members of the
13 board constitutes a quorum for the transaction of business.

14 (b) Five affirmative votes are required for board action. The
15 board shall provide by rule for the manner of voting, except that the
16 board may not provide for voting by proxy. The rules may provide for
17 voting and conferring by telecommunication devices.

18 Sec. 42.40.170. EXECUTIVE SESSIONS. The board may consider in
19 an executive session matters that pertain to personnel, the corpora-
20 tion's legal position, land acquisition or disposal, or proprietary or
21 other information of a type treated as confidential under the stan-
22 dards and practices of the United States Interstate Commerce Commis-
23 sion, including practices that protect information associated with
24 specific shippers, divisions, and contract rate agreements.

25 Sec. 42.40.180. RULES. (a) The board may adopt rules
26 (1) governing the business of the corporation; and
27 (2) designed to safeguard property owned, managed, or
28 transported by the corporation and to protect employees and persons
29 using the corporation's property or services.

1 (b) Within 90 days after its first meeting, the board shall
2 establish a procedure for adopting, amending, and repealing rules to
3 carry out the functions and the purposes of this chapter. The proce-
4 dures shall provide for advance public notice and opportunity for
5 public comment on proposed rules or changes to rules that, in the
6 determination of the board, will have a substantial impact on the
7 public or be used in the corporation's dealings with a significant
8 segment of the public.

9 (c) The board shall establish a procedure for the adoption,
10 amendment, or repeal of a rule on an emergency basis when essential
11 for the orderly operation of the corporation's facilities or programs.

12 Sec. 42.40.190. PREVIOUSLY ADOPTED RULES AND ORDERS. The board
13 may provide by resolution that rules and orders in effect on the date
14 of transfer that are not inconsistent with this chapter or other state
15 law remain in effect until amended or repealed by the board. The
16 board may adopt the substance of former federal rules or orders relat-
17 ing to the Alaska Railroad and this may not be considered a continua-
18 tion of the federal rules or orders if adopted by the board in accor-
19 dance with procedural requirements of this chapter or other law.

20 Sec. 42.40.200. PUBLIC DISCLOSURE OF INFORMATION. (a) Except
21 as provided under (b) of this section, information in the possession
22 of the corporation is public and is open to public inspection at
23 reasonable times.

24 (b) The corporation may by rule designate as confidential and
25 withhold public disclosure of matters of a nonpublic, privileged, or
26 proprietary nature. Those matters include personnel records, communi-
27 cations with and work product of legal counsel, and, consistent with
28 the standards and practices of the United States Interstate Commerce
29 Commission for the protection of these matters, other information

1 including proprietary information associated with specific shippers,
2 divisions and contract rate agreements.

3 Sec. 42.40.210. CONFLICTS OF INTEREST. (a) Except as provided
4 in this section, a board member or executive officer of the corpora-
5 tion may not participate in a decision of the corporation in which
6 that person or a member of that person's immediate family has a direct
7 or direct financial interest unless the financial interest is a
8 remote financial interest and participation is approved under (b) of
9 this section.

10 (b) A board member or executive officer may participate in a
11 decision if that person or a member of that person's immediate family
12 has only a remote interest, the fact and extent of the interest is
13 disclosed to the board in a public meeting and is noted in the minutes
14 of the board before any participation by the member or in the deci-
15 sion, and thereafter in a public meeting the board by vote authorizes
16 or approves the participation. If the person whose participation is
17 under consideration is a board member, that person may not vote under
18 this subsection. For purposes of this subsection, "remote interest"
19 means an interest that in good faith is defined as remote by rules
20 adopted by the corporation.

21 (c) A board member or executive officer is not considered to be
22 financially interested in a decision when the decision could not
23 affect that person in a manner different from its effect on the public
24 or community.

25 (d) Within 120 days of the first meeting of the board, the board
26 shall adopt and may subsequently amend rules implementing this sec-
27 tion, providing additional conflict of interest and ethical rules it
28 considers appropriate, and providing for the removal by the board of a
29 board member or executive officer who intentionally violates a

1 prohibition contained in this section.

2 (e) For purposes of this section "participate in a decision"
3 includes all discussions, deliberations, preliminary negotiations, and
4 votes concerning a matter that is the subject of formal action by the
5 board.

6 ARTICLE 4. POWERS AND DUTIES.

7 Sec. 42.40.250. GENERAL POWERS. In addition to the exercise of
8 other powers authorized by law, the corporation may

- 9 (1) adopt a seal;
- 10 (2) adopt bylaws governing the business of the corporation;
- 11 (3) sue and be sued;
- 12 (4) appoint trustees and agents of the corporation and
13 prescribe their powers and duties;
- 14 (5) hire legal counsel to represent the corporation;
- 15 (6) make contracts and execute instruments necessary or
16 convenient in the exercise of its powers and duties;
- 17 (7) acquire by purchase, lease, bequest, devise, gift,
18 exchange, the satisfaction of debts, the foreclosure of mortgages, or
19 otherwise, personal property, rights, rights-of-way, franchises,
20 easements, and other interest in land, and acquire by appropriation
21 water rights that are located in the state, taking title to the prop-
22 erty in the name of the corporation;
- 23 (8) hold, maintain, use, operate, lease, exchange, donate,
24 improve, convey, alienate, dispose of, mortgage, encumber, and other-
25 wise grant security interests in or transfer land or personal prop-
26 erty, subject to other provisions of this chapter;
- 27 (9) contract with and accept transfers, gifts, grants or
28 loans of funds or property from the United States and the state or its
29 political subdivisions, subject to other provisions of federal or

1 state law or municipal ordinances;

2 (10) undertake and provide for the management, operation,
3 maintenance, use, and control of all of the property of the corpo-
4 ration, including tracks, equipment and other property transferred to
5 the corporation by the federal government or any person;

6 (11) recommend to the legislature and the governor any tax,
7 financing, or financial arrangement the corporation considers appro-
8 priate to carry out the duties under this chapter;

9 (12) maintain offices and facilities at places it desig-
10 nates;

11 (13) apply to the state, the United States, and foreign
12 countries or other proper agencies for the permits, licenses, or
13 approvals necessary to construct, maintain, and operate railroad
14 transportation services, and obtain, hold, and reuse the licenses and
15 permits in the same manner as other railroad operators;

16 (14) prescribe rates to be charged for services provided by
17 the Alaska Railroad consistent with 45 U.S.C. 1201 - 1214 (Alaska
18 Railroad Transfer Act of 1982);

19 (15) determine the routes, schedules, and types of service
20 to be provided by the Alaska Railroad;

21 (16) enter into contracts, leases, and other agreements
22 with connecting carriers, shippers, and other persons concerning the
23 services, activities, operations, property, and facilities of the
24 railroad, including agreements that contain provisions to preserve and
25 expand the railroad's traffic base;

26 (17) plan for and undertake expansion of the railroad and
27 railroad activities, including extension of the rail system, and
28 contract with other modes of transportation service connecting to the
29 rail system;



1 (18) hire and discharge railroad personnel and determine
 2 benefits and other terms of employment, in accordance with 45 U.S.C.
 3 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

4 (19) assume and satisfy liabilities of the United States in
 5 accordance with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of
 6 1982);

7 (20) maintain or provide for a security force to enforce
 8 state law and the corporation's rules with respect to violations that
 9 occur on or to property owned, managed or transported by the corpo-
 10 ration;

11 (21) issue its bonds or notes and provide for and secure
 12 their payment, provide for the rights of their holders and hold or
 13 dispose of them;

14 (22) purchase the corporation's bonds at a price not more
 15 than the principal amount of them plus interest;

16 (23) cancel bonds of the corporation purchased by the corpo-
 17 ration;

18 (24) secure the payment of its obligations by pledge, mort-
 19 gage, or other lien on its contracts, revenues, income, or property;

20 (25) consent to the modification of the rate of interest,
 21 time of payment of an installment of principal or interest, or other
 22 term of a loan, contract, or agreement to which the corporation is a
 23 party;

24 (26) borrow money, including the amounts necessary to estab-
 25 lish reasonable reserves, and pay financing charges and interest on
 26 the obligations for a reasonable period after which the corporation
 27 estimates other money will be available to pay the interest, consul-
 28 tant, advisory, and legal fees, and other expenses necessary or inci-
 29 dent to borrowing;

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(27) acquire, hold, and dispose of stocks, memberships, contracts, bonds, general or limited partnership interests or other interests in another corporation, association, partnership, joint venture, or other legal entity, and exercise the powers or rights in connection with these interests that are provided in contracts or agreements and that are allowed by law concerning the satisfaction of debts;

(28) undertake and provide for the acquisition, construction, maintenance, equipping, and operation of connecting, switching, terminal, or other railroads and railroad facilities in the state;

(29) do all things necessary or desirable to carry out the powers and duties of the corporation granted or necessarily implied in this chapter or other laws of the state or the laws or regulations of the federal government.

Sec. 42.40.260. ANNUAL REPORT. Within 90 days following the end of the fiscal year of the Alaska Railroad the board shall direct preparation of, certify and distribute to the governor and to the legislature a report describing the operations and financial condition of the corporation during the preceding fiscal year. The report may include suggestions for legislation relating to the structure, powers or duties of the corporation or to operation facilities of the corporation. The report shall itemize the cost of providing each category of service offered by the railroad and the income generated by each category.

Sec. 42.40.270. AUDITS. (a) The board shall have the financial records of the corporation audited annually by an independent certified public accountant experienced in railroad accounting. The board shall have an annual performance audit conducted by a qualified professional performance auditing firm to assure that the railroad is

1 being managed and operated effectively and efficiently in accordance
2 with the requirements of this chapter.

3 (b) The corporation shall make all of its financial records
4 available to an auditor appointed by the governor and to the legisla-
5 tive audit division for examination. Disclosure to the public by the
6 auditor or legislative audit division of this information is subject
7 to AS 42.40.200 and rules implementing that section.

8 Sec. 42.40.280. STATE OVERSIGHT REPORTS. (a) The board shall
9 provide a state oversight report to the governor and the legislature
10 before undertaking

11 (1) expansion, reduction, or diversification of services
12 provided by the railroad upon the date of transfer or as provided
13 under this chapter that the board determines would represent a signif-
14 icant and permanent change in the level and nature of services pro-
15 vided;

16 (2) extension of the main or branch lines by more than 25
17 miles or five percent of the railroad's total track mileage, whichever
18 is greater; or

19 (3) the issuance of securities, notes, bonds or con-
20 tracts with a term in excess of one year and in an amount exceeding
21 \$5,000,000;

22 (4) an application for an appropriation to be used for
23 providing any service that is not self-sustaining.

24 (b) The report under (a) of this section shall be in writing,
25 describe the proposed undertaking in detail, and specify

26 (1) its financial impact on the corporation;

27 (2) its impact on the level and nature of services provided
28 by the corporation;

29 (3) the reasons the action is necessary or desirable to

1 achieve the purposes of this chapter; and

2 (4) whether and when the undertaking is expected to be
3 self-sustaining financially.

4 Sec. 42.40.290. LONG RANGE PROGRAM AND CAPITAL IMPROVEMENT
5 PLANS. (a) The corporation shall prepare and the board shall adopt a
6 long range program plan and a capital improvement plan. The board
7 shall consult with affected state agencies in preparing the plans.
8 The long range program plan shall explain the manner in which the
9 corporation intends to accomplish the purposes of this chapter during
10 each of the five years after the plan is adopted. The capital im-
11 provement plan shall present and explain the corporation's anticipated
12 capital improvements for each of the five years after the plan is
13 adopted and shall reflect efforts to upgrade the railroad and develop
14 safer, more cost-effective rail operations.

15 (b) The board shall annually review and update the long range
16 program and capital improvement plans. The board shall provide copies
17 of the updated plans to the governor and the legislature by December 1
18 of each year.

19 Sec. 42.40.300. USE OF CORPORATION ASSETS. The corporation
20 shall apply all money, property, other assets, and credit of the
21 corporation toward activities authorized by this chapter. The corpo-
22 ration may not issue shares of stock, pay dividends, make private
23 distributions of assets, make loans to board members or employees, or
24 engage in business for private benefit. The use of money, property,
25 other assets, or credit of the corporation for a purpose not author-
26 ized by law by a person having the possession or control of it is
27 prohibited.

28 Sec. 42.40.310. INDEMNIFICATION. (a) The corporation may
29 defend and indemnify a current or former member of the board,

1 employee, or agent of the corporation against all costs, expenses,
2 judgments, and liabilities, including attorney's fees, incurred by or
3 imposed upon that person in connection with a civil or criminal action
4 in which the person is involved by affiliation with the corporation,
5 if the person acted in good faith on behalf of the corporation and
6 within the scope of official duties or powers.

7 (b) The corporation may purchase insurance to protect and hold
8 personally harmless its employees, agents, and board members from an
9 action, claim, or proceeding arising out of the performance, purported
10 performance, or failure of performance, in good faith, of duties for,
11 or employment with, the corporation and to hold them harmless from
12 expenses connected with the defense, settlement, or monetary judgments
13 from that action, claim, or proceeding. The purchase of insurance is
14 discretionary with the board and insurance is not considered to be
15 compensation to the insured person.

16 ARTICLE 5. CORPORATION PROPERTY.

17 Sec. 42.40.350. LAND. (a) All land transferred under 45 U.S.C.
18 1201 - 1214 (Alaska Railroad Transfer Act of 1982) or otherwise ac-
19 quired by the corporation is under the control of the corporation.
20 All land that is transferred or acquired by the corporation is des-
21 ignated as follows:

22 (1) railroad rights-of-way or easements are railroad util-
23 ity corridors;

24 (2) land other than railroad rights-of-way or easements is
25 rail land.

26 (b) Railroad utility corridors shall be of a width at least 100
27 feet on both sides of the centerline of the extended main or branch
28 line, or may be of lesser width if the adjoining land is not rail
29 land, and may be surveyed by the metes and bounds method. The

1 corporation may not convey land within a utility corridor. Except as
 2 provided in AS 42.40.420, the corporation may lease, grant easements
 3 or permits, or otherwise authorize use of portions of a utility corri-
 4 dor for transportation, communication, and transmission purposes and
 5 support functions associated with those purposes if the use does not
 6 restrict other parallel uses of the utility corridor.

7 (c) The corporation may convey, lease, grant easements or per-
 8 mits, or otherwise authorize use of portions of rail land. However,
 9 sale of rail land is subject to approval by the legislature.

10 Sec. 42.40.360. REQUEST FOR LAND. (a) The board may nominate
 11 federal land for railroad purposes and request the commissioner of
 12 natural resources to select the land for the state through the federal
 13 land selection process.

14 (b) The board may identify and request the commissioner of
 15 natural resources to convey land necessary or useful for present or
 16 future railroad purposes owned by or tentatively approved for transfer
 17 to the state, including land not adjacent to a railroad utility corri-
 18 dor. The request must include a statement of and justification for
 19 the present or future railroad use. Upon receipt of a request, the
 20 commissioner shall temporarily reserve the land identified in the
 21 request for railroad purposes and delay disposal or lease of that land
 22 under other laws to a party other than the corporation. The temporary
 23 reservation of land is subject to valid existing rights and remains in
 24 effect for 180 days.

25 Sec. 42.40.370. CONVEYANCE OF LAND. (a) Within 90 days after
 26 receiving a request under AS 42.40.360(b) the commissioner of natural
 27 resources shall by written decision

28 (1) designate the identified land for railroad purposes
 29 and, subject to valid existing rights, convey the state's interests in

1 the land to the corporation;

2 (2) notify the corporation of reasons for refusal to desig-
3 nate the identified land for railroad purposes; or

4 (3) approve in part and deny in part the request for desig-
5 nation of the identified land and convey as appropriate.

6 (b) In the absence of a reservation to the contrary, a convey-
7 ance of land under this section vests in the corporation ownership,
8 control of the surface and subsurface, and the exclusive right to
9 extract or use timber and other construction materials, sand, gravel,
10 rock, and the right to tunnel, ditch, recontour, excavate, or other-
11 wise use the land for railroad, transportation, transmission, or
12 communication services without regard to the classification of the
13 resources as part of the surface or subsurface estate.

14 (c) The corporation may reconvey to the state land received
15 under this section or under 45 U.S.C. 1201 - 1214 (Alaska Railroad
16 Transfer Act of 1982) that the corporation and the commissioner of
17 natural resources jointly identify as unnecessary or unsuitable for
18 the corporation's purposes.

19 Sec. 42.40.380. USE OF STATE LAND. When physical conditions
20 require that track or other right-of-way fixtures of the corporation
21 be moved from the existing location and relocated on state land adja-
22 cent to or in the vicinity of the existing right-of-way and the chief
23 executive officer determines that relocation is necessary to maintain
24 safe and adequate rail operations, the corporation may effect the
25 relocation with the concurrence of the Department of Natural Re-
26 sources. The relocation must affect only the amount of state land
27 necessary to adequately restore or continue safe rail operations at a
28 normal level.

29 Sec. 42.40.390. EMINENT DOMAIN. (a) The corporation may

1 exercise the power of eminent domain under AS 09.55.240 - 09.55.460 to
2 acquire land for railroad purposes consistent with this chapter. The
3 corporation may acquire a fee simple title whenever, in the judgment
4 of the board, ownership of a fee simple title is necessary to carry
5 out the purposes of this chapter.

6 (b) The corporation may file a declaration of taking in the
7 manner provided for the state under AS 09.55.420.

8 (c) The power of eminent domain conferred under this section
9 includes the power to obtain clay, gravel, sand, timber, rock, or
10 other material for railroad use, the land necessary to obtain the
11 material, and access to the land and material.

12 Sec. 42.40.400. VACATION OF LAND. The corporation may vacate
13 land acquired for railroad purposes by executing and filing a deed in
14 the appropriate recording district. Upon filing the deed the state
15 shall acquire title to the land.

16 Sec. 42.40.410. FEDERAL LAND. The corporation may submit appli-
17 cations on its own behalf as an instrumentality of the state for
18 acquisition of federal land available under federal law that will
19 enhance the operations of the corporation. The corporation may re-
20 ceive in its own name conveyances of all interests in federal land.

21 Sec. 42.40.420. MUNICIPAL RIGHTS-OF-WAY. Upon request of a
22 municipality the corporation may grant to the municipality a right-
23 of-way in a railroad utility corridor or in rail land to be used for a
24 pedestrian walkway or trail. Before granting a right-of-way under
25 this section the board shall require the municipality to execute an
26 agreement in a form approved by the board to

27 (1) hold the corporation harmless and indemnify the corpo-
28 ration for any use made of the right-of-way including

29 (A) defending the corporation in a cause of action

1 brought against the corporation as a result of the use; and

2 (B) indemnifying the corporation for the amount of a
3 judgment rendered against the corporation including prejudgment
4 interest, costs, and attorney's fees; and

5 (2) vacate the right-of-way upon request of the corporation
6 if the right-of-way interferes with expansion or replacement of rail-
7 road facilities.

8 Sec. 42.40.430. ACQUISITION OF GOVERNMENT PROPERTY. The corpor-
9 ation, as an instrumentality of the state, may acquire in its own name
10 from the United States under 50 App U.S.C. 1622 et seq. (Surplus
11 Property Act of 1944), 40 U.S.C. 471 et seq. (Federal Property and
12 Administrative Services Act of 1949), or other law, property under the
13 control of a federal department or agency that is useful for the
14 corporation's purposes. The corporation may acquire from the Depart-
15 ment of Administration property of the state made available under
16 AS 44.71.010 - 44.71.040.

17 Sec. 42.40.440. USE OF PESTICIDES AND HERBICIDES. Vegetation
18 control involving the use of pesticides or herbicides on land owned or
19 managed by the corporation may be conducted only in compliance with
20 state requirements applicable to other state pesticide or herbicide
21 use.

22 ARTICLE 6. FINANCIAL PROVISIONS.

23 Sec. 42.40.500. LIMITATION OF LIABILITY. A liability incurred
24 by the corporation shall be satisfied exclusively from the assets or
25 revenue of the corporation and no creditor or other person has a right
26 of action against the state because of a debt, obligation, or liabil-
27 ity of the corporation.

28 Sec. 42.40.510. FIDELITY BOND. The corporation shall obtain a
29 fidelity bond in an amount determined by the board for board members

1 and each officer of the corporation responsible for accounts and
2 finances. A bond must be in effect during the entire tenure in office
3 of the bonded person.

4 Sec. 42.40.520. INSURANCE. The corporation shall keep in force
5 public liability insurance in an amount reasonably calculated to cover
6 potential claims against the corporation or state for bodily injury,
7 death or disability and property damage that may arise from or be
8 related to corporation operations and activities.

9 Sec. 42.40.530. REVENUE. Revenue generated by or appropriated
10 to the corporation shall be retained and managed by the corporation
11 for railroad and related purposes in accordance with 45 U.S.C. 1207-
12 (a)(5) (Alaska Railroad Transfer Act of 1982).

13 Sec. 42.40.540. APPROPRIATIONS. The corporation may request,
14 with the concurrence of the governor, a direct appropriation or grant
15 from the legislature to assist in carrying out the provisions of this
16 chapter.

17 ARTICLE 7. BONDS AND NOTES.

18 Sec. 42.40.600. GENERAL PROVISIONS. (a) The corporation by
19 resolution may issue bonds and notes to provide money to carry out its
20 purposes.

21 (b) Bonds and notes may be issued in one or more series and
22 shall, as provided by the resolution of the board,

23 (1) be dated;

24 (2) bear interest at a required rate or rates per year or
25 within a maximum rate;

26 (3) be in a required denomination;

27 (4) be in a coupon or registered form;

28 (5) carry conversion or registration provisions;

29 (6) have a required rank or priority;

1 (7) be executed in the required manner and form;

2 (8) be payable as required from the sources, in the medium
3 of payment, and place or places inside or outside the state;

4 (9) be subject to authentication by a trustee or fiscal
5 agent; and

6 (10) be subject to terms of redemption with or without
7 premium.

8 (c) Bonds and notes may be sold in the manner, on the terms, and
9 at the price the board determines. Notes shall mature at the time or
10 times determined by the board. Bonds shall mature at the time, not
11 exceeding 50 years from their date, determined by the board.

12 Sec. 42.40.610. NEGOTIABLE INSTRUMENTS. Bonds and notes issued
13 under this chapter and interest coupons attached to them are nego-
14 tiable instruments under the laws of this state, subject only to
15 applicable provisions for registration.

16 Sec. 42.40.620. BONDS AND NOTES ELIGIBLE FOR INVESTMENT. Bonds
17 and notes issued under this chapter are securities in which all public
18 officers and public bodies of the state and its political subdivi-
19 sions, all insurance companies, trust companies, banking associations,
20 investment companies, executors, administrators, trustees and other
21 fiduciaries may properly and legally invest funds, including capital
22 in their control or belonging to them. These bonds and notes may be
23 deposited with a state or municipal officer of an agency or political
24 subdivision of the state for any purpose for which the deposit of
25 bonds or notes of the state is authorized by law.

26 Sec. 42.40.630. PAYMENT OF BONDS AND NOTES. The principal and
27 interest on bonds or notes of the corporation is payable from corpo-
28 ration money or assets. Bonds or notes may be additionally secured by
29 a pledge of a grant or contribution from the federal, state, or

1 municipal government or a corporation, association, institution or
2 person, or a pledge of money, income, or revenue of the corporation
3 from any source.

4 Sec. 42.40.640. SECURITY FOR BONDS. In the discretion of the
5 board, an issue of bonds may be secured by a trust indenture, which
6 may be a trust company, bank or national banking association, with
7 corporate trust powers, located inside or outside the state, or by a
8 secured loan agreement or other instrument or under resolution giving
9 powers to a corporate trustee by means of which the corporation may

10 (1) make and enter into any and all the covenants and
11 agreements with the trustees or the holders of the bonds that the
12 corporation may determine to be necessary or desirable, including
13 covenants, provisions, limitations and agreements as to

14 (A) the application, investment, deposit, use and
15 disposition of the proceeds of bonds of the corporation or of
16 money or other property of the corporation or in which it has an
17 interest;

18 (B) the fixing and collection of rentals, charges,
19 fees or other consideration for, and the other terms to be incor-
20 porated in, contracts with respect to the use of any of the
21 corporation's property;

22 (C) the fixing and collection of tariffs, fees,
23 charges or other consideration for the use or service of the
24 Alaska Railroad by passengers, and other users and freight;

25 (D) the terms and conditions upon which additional
26 bonds of the corporation may be issued;

27 (E) the vesting in the trustee of rights and remedies
28 exercisable by the trustee for the protection of the holders of
29 bonds of the corporation and not otherwise in violation of law

1 and the restriction of the rights of an individual holder of
2 bonds of the corporation;

3 (2) pledge, mortgage or assign money, leases, agreements,
4 property, or other assets of the corporation either presently in hand
5 or to be received in the future, or both; and

6 (3) provide for any other matters of like or different
7 character that in any way affect the security or protection of the
8 bonds.

9 Sec. 42.40.650. INDEPENDENT FINANCIAL ADVISOR. In negotiating
10 the private or public sale of bonds or notes to an underwriter, the
11 board shall retain a financial advisor who is independent from the
12 underwriter.

13 Sec. 42.40.660. VALIDITY OF SIGNATURES. If an officer of the
14 corporation whose signature or a facsimile of whose signature appears
15 on bonds, notes, or coupons attached to them ceases to be an officer
16 before the delivery of the bond, note, or coupon, the signature or
17 facsimile is valid the same as if the person had remained in office
18 until delivery.

19 Sec. 42.40.670. VALIDITY OF PLEDGE. (a) The pledge of assets
20 or revenue of the corporation to the payment of the principal or
21 interest on bonds or notes of the corporation is valid and binding
22 from the time the pledge is made and the assets or revenue are immedi-
23 ately subject to the lien of the pledge without physical delivery or
24 further act. The lien of a pledge is valid and binding against all
25 parties having claims of any kind against the corporation, irrespec-
26 tive of whether those parties have notice of the lien of the pledge.

27 (b) Nothing in this section prohibits the corporation from
28 selling assets subject to a pledge, except that a sale may be re-
29 stricted by the trust agreement or resolution providing for the

1 issuance of the bonds or notes.

2 Sec. 42.40.680. REMEDIES. A holder of bonds or notes issued
3 under this chapter or of coupons attached to them, and a trustee under
4 a trust agreement or resolution authorizing the issuance of the bonds
5 or notes, except as restricted by a trust agreement or resolution,
6 either at law or in equity, may

7 (1) enforce all rights granted under this chapter, the
8 trust agreement or resolution, or any other contract executed by the
9 corporation under this chapter; and

10 (2) compel the performance of all duties of the corporation
11 required by this chapter or by the trust agreement or resolution.

12 Sec. 42.40.690. CREDIT OF STATE NOT PLEDGED. (a) The state and
13 its political subdivisions are not liable for the debts of the corpo-
14 ration. Bonds and notes issued under this chapter are payable solely
15 from the revenue or assets of the corporation and do not constitute a

16 (1) debt, liability, or obligation of the state or of a
17 political subdivision of the state; or

18 (2) pledge of the faith and credit of the state or of a
19 political subdivision of the state.

20 (b) The corporation may not pledge the credit or the taxing
21 power of the state or its political subdivisions. Each bond and note
22 issued under this chapter shall contain on its face a statement that

23 (1) the corporation is not obligated to pay it or the
24 interest on it except from the revenue or assets pledged for it; and

25 (2) neither the faith and credit nor the taxing power of
26 the state or of a political subdivision of the state is pledged to the
27 payment of it.

28 Sec. 42.40.700. LIMITATION ON PERSONAL LIABILITY. A board
29 member or employee of the corporation is not subject to personal

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1 liability or accountability because of the execution or issuance of
2 bonds or notes.

3 ARTICLE 8. PERSONNEL AND LABOR RELATIONS.

4 Sec. 42.40.710 CORPORATION EMPLOYEES. (a) Employees of the
5 Alaska Railroad are employees of the corporation and not of the state.
6 The provisions of AS 39 do not apply to employees of the corporation.

7 Sec. 42.40.720. COLLECTIVE BARGAINING RIGHTS. The provisions of
8 AS 23.40.070 - 23.40.260 do not apply to the corporation or to its
9 employees. However, employees who are not executive officers may
10 organize and form, join, or assist an organization to engage in
11 collective bargaining through representatives of their own choosing
12 and engage in concerted activities for the purpose of collective
13 bargaining or other mutual aid or protection.

14 Sec. 42.40.730. RAILROAD LABOR RELATIONS AGENCY. (a) There is
15 established a railroad labor relations agency that consists of three
16 members appointed by the governor. One member shall be a member of
17 the state personnel board. Members serve at the pleasure of the
18 governor.

19 (b) The railroad labor relations agency shall carry out the
20 provisions of AS 42.40.710 - 42.40.890.

21 (c) Members of the railroad labor relations agency receive no
22 compensation for their services, but are entitled to per diem and
23 travel expenses authorized for boards and commissions.

24 Sec. 42.40.740. COLLECTIVE BARGAINING UNIT. The railroad labor
25 relations agency shall decide in each case, in order to ensure employ-
26 ees the fullest freedom in exercising the rights guaranteed by AS 42.-
27 40.710 - 42.40.890 the unit appropriate for the purposes of collective
28 bargaining, based on such factors as community of interest, wages,
29 hours and other working conditions of the employees involved, the

1 history of collective bargaining, and the desires of the employees.
2 Bargaining units shall be as large as is reasonable, and unnecessary
3 fragmenting shall be avoided.

4 Sec. 42.40.750. REPRESENTATIVES AND ELECTIONS. (a) The rail-
5 road labor relations agency shall investigate a petition if it is
6 submitted in a manner prescribed by the labor relations agency by

7 (1) an employee or group of employees or an organization
8 acting in their behalf alleging that 30 percent of the employees of a
9 proposed bargaining unit

10 (A) want to be represented for collective bargaining
11 by a labor or employee organization as exclusive representative;
12 or

13 (B) assert that the organization that has been certi-
14 fied or is currently being recognized by the corporation as
15 bargaining representative is no longer the representative of the
16 majority of employees in an appropriate unit; or

17 (2) the corporation alleging that one or more organizations
18 have presented to it a claim to be recognized as a representative of a
19 majority of employees in an appropriate unit.

20 (b) If the railroad labor relations agency has reasonable cause
21 to believe that a question of representation exists, it shall provide
22 for a hearing upon due notice. If the railroad labor relations agency
23 finds that there is a question of representation, it shall direct an
24 election by secret ballot to determine whether or by which organiza-
25 tion the employees desire to be represented and shall certify the
26 results of the election. Nothing in this subsection prohibits the
27 waiving of hearings by stipulation for the purpose of a consent elec-
28 tion in conformity with the regulations of the railroad labor rela-
29 tions agency or an election in a bargaining unit agreed upon by the

1 parties.

2 (c) The railroad labor relations agency shall determine who is
3 eligible to vote in an election held under this section and shall
4 establish rules governing the election. In an election in which none
5 of the choices on the ballot receives a majority of the votes cast, a
6 runoff election shall be conducted, the ballot providing for selection
7 between the two choices receiving the largest number of valid votes
8 cast in the election. If an organization receives the majority of the
9 votes cast in the election it shall be certified by the railroad labor
10 relations agency as exclusive representative of all the employees in
11 the bargaining unit. An election may not be held in a bargaining unit
12 or in a subdivision of a bargaining unit if a valid election has been
13 held within the preceding 12 months.

14 (d) Nothing in this chapter prohibits recognition of an
15 organization as the exclusive representative by the corporation by
16 mutual consent.

17 (e) An election may not be directed by the railroad labor
18 relations agency in a bargaining unit in which there is in force a
19 valid collective bargaining agreement, except during a 90-day period
20 preceding the expiration date. However, no collective bargaining
21 agreement may bar an election upon petition of employees in the
22 bargaining unit but not parties to the agreement if more than three
23 years have elapsed since the execution of the agreement or the last
24 timely renewal, whichever was later.

25 Sec. 42.40.760. UNFAIR LABOR PRACTICES. (a) The corporation or
26 its agent may not

27 (1) interfere, restrain, or coerce an employee in the
28 exercise of the rights guaranteed in AS 42.40.720;

29 (2) dominate or interfere with the formation, existence, or

1 administration of an organization;

2 (3) discriminate in regard to hire or tenure of employment
3 or a term or condition of employment to encourage or discourage
4 membership in an organization;

5 (4) discharge or discriminate against an employee because
6 the employee has signed or filed an affidavit, petition or complaint
7 or given testimony under AS 42.40.710 - 42.40.890;

8 (5) refuse to bargain collectively in good faith with an
9 organization that is the exclusive representative of employees in an
10 appropriate unit, including the discussing of grievances with the
11 exclusive representative.

12 (b) Nothing in AS 42.40.710 - 42.40.890 prohibits the
13 corporation from making an agreement with an organization to require
14 as a condition of employment

15 (1) membership in the organization that represents the unit
16 on or after the 30th day following the beginning of employment or on
17 the effective date of the agreement, whichever is later; or

18 (2) payment by the employee to the exclusive bargaining
19 agent of a service fee to reimburse the exclusive bargaining agency
20 for the expense of representing the members of the bargaining unit.

21 (c) An organization or its agents may not

22 (1) restrain or coerce

23 (A) an employee in the exercise of the rights
24 guaranteed in AS 42.40.720; or

25 (B) the corporation in the selection of a representa-
26 tive for the purposes of collective bargaining or the adjustment
27 of grievances;

28 (2) refuse to bargain collectively in good faith with the
29 corporation, if it has been designated in accordance with

1 AS 42.40.710 - 42.40.890 as the exclusive representative of employees
2 in an appropriate unit.

3 Sec. 42.40.770. INVESTIGATION AND CONCILIATION OF COMPLAINTS.
4 If a verified written complaint by or for a person claiming to be
5 aggrieved by a practice prohibited by AS 42.40.760 or a written
6 accusation that a person subject to AS 42.40.710 - 42.40.890 has
7 engaged in a prohibited practice, is filed with the railroad labor
8 relations agency, it shall investigate the complaint or accusation.
9 If it determines after a preliminary investigation that probable cause
10 exists in support of the complaint or accusation, it shall try to
11 eliminate the prohibited practice by informal methods of conference,
12 conciliation, and persuasion. Nothing said or done during this
13 endeavor may be used as evidence in a subsequent proceeding.

14 Sec. 42.40.780. COMPLAINT AND ACCUSATION. If the railroad labor
15 relations agency fails to eliminate the prohibited practice by
16 conciliation and to obtain voluntary compliance with AS 42.40.710 -
17 42.40.890 or before it attempts conciliation, it may serve a copy of
18 the complaint or accusation upon the respondent. The complaint or
19 accusation and the subsequent procedures shall be handled in accor-
20 dance with the administrative adjudication portion of the
21 Administrative Procedure Act (AS 44.62).

22 Sec. 42.40.790. ORDERS AND DECISIONS. If the railroad labor
23 relations agency finds that a person named in the written complaint or
24 accusation has engaged in a prohibited practice, the railroad labor
25 relations agency shall issue and serve on the person an order or
26 decision requiring the person to cease and desist from the prohibited
27 practice and to take affirmative action that will carry out the
28 provisions of AS 42.40.710 - 42.40.890. If the railroad labor rela-
29 tions agency finds that a person named in the complaint or accusation

1 has not engaged or is not engaging in a prohibited practice, the
2 railroad labor relations agency shall state its findings of fact and
3 issue an order dismissing the complaint or accusation.

4 Sec. 42.40.800. ENFORCEMENT BY INJUNCTION. The railroad labor
5 relations agency may apply to the superior court in the judicial
6 district in which the prohibited practice occurred for an order
7 enjoining the prohibited acts specified in the order or decision of
8 the railroad labor relations agency. Upon showing by the railroad
9 labor relations agency that the person has engaged or is about to
10 engage in the practice, an injunction, restraining order, or other
11 order that is appropriate may be granted by the court and shall be
12 without bond.

13 Sec. 42.40.810. POWER TO INVESTIGATE AND COMPEL TESTIMONY. (a)
14 For the purpose of the investigations, proceedings, or hearings that
15 the railroad labor relations agency considers necessary to carry out
16 AS 42.40.710 - 42.40.890, the railroad labor relations agency may
17 issue subpoenas requiring the attendance and testimony of witnesses
18 and the production of relevant evidence.

19 (b) The railroad labor relations agency may administer oaths,
20 examine witnesses, and receive evidence.

21 (c) The attendance of witnesses and the production of evidence
22 may be required from any place in the state at any designated place of
23 hearing.

24 (d) If a person refuses to obey a subpoena issued under
25 AS 42.40.710 - 42.40.890, the superior court in the district in which
26 the person resides or is found may, upon application by the railroad
27 labor relations agency, issue an order requiring the person to comply
28 with the subpoena.

29 Sec. 42.40.820. REGULATIONS. The railroad labor relations

1 agency shall adopt regulations under the Administrative Procedure Act
2 (AS 44.62) to carry out AS 42.40.710 - 42.40.890.

3 Sec. 42.40.830. PENALTY FOR VIOLATION OF ORDER OR DECISION. A
4 person who violates a provision of an order or decision of the
5 railroad labor relations agency is guilty of a misdemeanor and is
6 punishable by a fine of not more than \$500.

7 Sec. 42.40.840. MEDIATION. (a) If, after a reasonable period
8 of negotiation over the terms of a collective bargaining agreement, an
9 impasse as determined by the railroad labor relations agency exists
10 between the corporation and an organization, the railroad labor
11 relations agency shall appoint a person mutually agreeable to the
12 parties from a list of seven qualified mediators/arbitrators
13 knowledgeable in railway labor agreements to act as mediator in the
14 dispute.

15 (b) Before the determination of an impasse under this section,
16 the parties may also select a mediator by agreement or mutual consent.

17 (c) It shall be the function of the mediator to bring the
18 parties together to effectuate a settlement of the dispute, but
19 neither the mediator nor the railroad labor relations agency has any
20 power of compulsion in mediation proceedings.

21 Sec. 42.40.850. STRIKES. (a) Following a decision by the
22 mediator to end the mediation proceedings, employees of a collective
23 bargaining unit may engage in a strike for a limited time if a
24 majority of the employees in that collective bargaining unit vote by
25 secret ballot to do so. The limit of the strike is determined by the
26 interest of the health, safety, or welfare of the public.

27 (b) The corporation may apply to the superior court in the
28 judicial district in which the strike is occurring for an order
29 enjoining the strike. A strike may not be enjoined unless it can be

1 shown that it has begun to threaten, or is about to threaten, the
2 health, safety, or welfare of the public. A court, in deciding
3 whether to enjoin the strike, shall consider the total equities in the
4 particular case, including the impact of a strike on the public and
5 the extent to which an employee organization and the corporation have
6 met their statutory obligations.

7 (c) If an impasse or deadlock still exists after the issuance of
8 an injunction, the parties shall submit the dispute to binding arbi-
9 tration. The arbitrator shall be the same person selected under
10 AS 42.40.840 and shall fashion the award considered equitable.

11 (d) Notwithstanding the provisions of (a) - (c) of this section,
12 the parties to the dispute may mutually agree to submit the dispute to
13 binding arbitration at any time.

14 Sec. 42.40.860. AGREEMENTS. (a) The Department of Administra-
15 tion may participate in labor negotiations between the corporation and
16 an organization. The corporation shall seek advice of the Department
17 of Administration before entering into a collective bargaining
18 agreement concerning wages, hours, and other terms and conditions of
19 employment. However, the final decision regarding collective
20 bargaining agreements, shall be made by the board.

21 (b) Upon the completion of negotiations between an organization
22 and the corporation, if a settlement is reached, the corporation shall
23 reduce it to writing in the form of an agreement. The agreement shall
24 include a grievance procedure that shall have binding arbitration as
25 its final step. Either party to the agreement has a right of action
26 to enforce the agreement by petition to the railroad labor relations
27 agency.

28 (c) The parties to an agreement under this section may agree to
29 terms that specify an expiration date for the agreement.

1 Sec. 42.40.870. ORGANIZATION DUES AND EMPLOYEE BENEFITS, DEDUC-
2 TION AND AUTHORIZATION. Upon written authorization of an employee
3 within a bargaining unit, the corporation shall deduct from the
4 payroll of the employee the monthly amount of dues, fees, and other
5 employee benefits as certified by the secretary of the exclusive
6 bargaining representative and shall deliver it to the chief fiscal
7 officer of the exclusive bargaining representative.

8 Sec. 42.40.880. EXEMPTION. Notwithstanding the provisions of
9 AS 42.40.870, a collective bargaining settlement reached, or agreement
10 entered into, under AS 42.40.860 that incorporates union security
11 provisions, including a union shop or agency shop provision or agree-
12 ment, shall safeguard the rights of nonassociation of employees having
13 bona fide religious convictions based on tenets or teachings of a
14 church or religious body of which an employee is a member. Upon
15 submission of proper proof of religious conviction to the railroad
16 labor relations agency, the agency shall declare the employee exempt
17 from becoming a member of an organization. The employee shall pay an
18 amount of money equivalent to regular organization dues, initiation
19 fees, and assessments to the organization. Nonpayment of this money
20 subjects the employee to the same penalty as if it were nonpayment of
21 dues. The receiving organization shall contribute an equivalent
22 amount of money to a charity of its choice not affiliated with a
23 religious, labor, or employee organization. The organization shall
24 submit to the railroad labor relations agency proof of contribution.

25 Sec. 42.40.890. DEFINITIONS. In AS 42.40.710 - 42.40.890

26 (1) "collective bargaining" means the performance of the
27 mutual obligation of the corporation or its designated representatives
28 and the representatives of the employees to meet at reasonable times,
29 including meetings in advance of the budget making process, and

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1 negotiating in good faith with respect to wages, hours, and other
2 terms and conditions of employment, or the negotiation of an agree-
3 ment, or negotiation of a question arising under an agreement and the
4 execution of a written contract incorporating an agreement reached if
5 requested by either party, but these obligations do not compel either
6 party to agree to a proposal or require the making of a concession;

7 (2) "election" means a proceeding conducted by the labor
8 relations agency in which the employees in a collective bargaining
9 unit cast a secret ballot for collective bargaining representatives,
10 or for any other purpose specified in AS 42.40.710 - 42.40.890;

11 (3) "organization" means a labor or employee organization
12 of any kind in which employees participate and that exists for the
13 primary purpose of dealing with the corporation concerning grievances,
14 labor disputes, wages, rates of pay, hours of employment and condi-
15 tions of employment;

16 (4) "terms and conditions of employment" means the hours of
17 employment, the compensation and fringe benefits affecting the working
18 conditions of the employees; it does not mean the general policies
19 describing the function and purposes of the corporation.

20 ARTICLE 9. GENERAL PROVISIONS.

21 Sec. 42.40.900. CLAIMS. (a) All claims and lawsuits involving
22 activities of the railroad, including suits in contract, quasi-con-
23 tract, or tort, shall be brought against the corporation and not
24 against the state.

25 (b) For the purposes of actionable claims, undertakings, pay-
26 ments of judgments, execution, interest, punitive damages, statutes of
27 limitations, bonds, costs, and similar matters related to the pres-
28 entation and prosecution of claims by and against the corporation, the
29 corporation and its board members and employees enjoy the same rights,

1 privileges, and immunities as the state and state officers under
2 AS 09.10.120, AS 09.50.250 - 09.50.290, and AS 09.65.040.

3 (c) Claims against the corporation are not subject to the pro-
4 visions of AS 44.77 regarding claims against the state.

5 (d) The corporation is not subject to the provisions of AS 44.-
6 80.010, regarding the state as a party to an action.

7 Sec. 42.40.910. EXEMPTION FROM TAXATION. (a) The exercise of
8 the powers granted by this chapter shall be in all respects for the
9 benefit of the people of the state, for their well-being and prosper-
10 ity, and for the improvement of their social and economic conditions.
11 Subject to (b) of this section, the real and personal property of the
12 corporation and its assets, income, and receipts are exempt from all
13 taxes and special assessments of the state or a political subdivision
14 of the state.

15 (b) Bonds and notes issued under this chapter are issued by a
16 body corporate and public of the state and for an essential public and
17 governmental purpose. Therefore, the bonds and notes, the interest
18 and income from them, and all fees, charges, funds, revenue, income
19 and other money pledged or available to pay or secure the payment of
20 the bonds and notes or interest on them, are exempt from taxation
21 except for inheritance, transfer, and estate taxes.

22 (c) This section does not affect or limit an exemption from
23 license fees, property taxes, excise taxes, income taxes, or other
24 taxes, provided under any other law, nor does it create a tax
25 exemption with respect to the interest of any business enterprise or
26 other person, other than the corporation.

27 Sec. 42.40.920. APPLICATION OF EXISTING LAWS. (a) The corpo-
28 ration is not subject to the jurisdiction of the Alaska Transportation
29 Commission.

1 (b) Unless specifically provided otherwise in this chapter, the
2 following laws do not apply to the operations of the corporation:

- 3 (1) AS 19;
4 (2) AS 30.15;
5 (3) AS 35;
6 (4) AS 37.05;
7 (5) AS 37.07;
8 (6) AS 37.10.010 - 37.10.060;
9 (7) AS 37.10.085;
10 (8) AS 37.20;
11 (9) AS 37.25;
12 (10) AS 38;
13 (11) AS 44.62.040 - 44.62.320.

14 Sec. 42.40.930. CONFLICTING LAWS INAPPLICABLE. If provisions of
15 this chapter conflict with the provisions of other state law, the pro-
16 visions of this chapter prevail. Provisions of this chapter shall be
17 construed so that they do not conflict with 45 U.S.C. 1201 - 1214
18 (Alaska Railroad Transfer Act of 1982).

19 Sec. 42.40.940. REVERSION OF ASSETS. If the corporation ceases
20 to exist, for whatever reason, its assets revert to the state.

21 Sec. 42.40.980. DEFINITIONS. In this chapter, unless the
22 context otherwise requires,

23 (1) "board" means the board of directors of the Alaska
24 Railroad Corporation;

25 (2) "corporation" means the Alaska Railroad Corporation;

26 (3) "date of transfer" means the date on which the United
27 States Secretary of Transportation delivers the transfer documents
28 under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

29 (4) "employees" means all persons employed by the

1 corporation including executive officers;

2 (5) "executive officer" means the corporation's chief
3 executive officer, an employee who fulfills management functions and
4 is so designated by the board, and employees occupying the following
5 positions on the date of transfer: general manager, assistant general
6 manager, assistant to the general manager, chief of administration,
7 and general counsel;

8 (6) "land" means any interest in real property, including
9 tide and submerged land.

10 Sec. 42.40.990. SHORT TITLE. This chapter may be referred to as
11 the Alaska Railroad Corporation Act.

12 * Sec. 3. AS 42.40.010 is amended to read:

13 Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is
14 established the Alaska Railroad Corporation. The corporation is a
15 public corporation and is an instrumentality of the state [WITHIN THE
16 DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT]. The corporation has
17 a legal existence independent of and separate from the state. The
18 exercise by the corporation of the powers provided in this chapter is
19 considered an essential government function of the state.

20 * Sec. 4. AS 42.40.020(a) is amended to read:

21 (a) The powers of the corporation are vested in the board of
22 directors. The board consists of [THE COMMISSIONER OF COMMERCE AND
23 ECONOMIC DEVELOPMENT,] the chief executive officer of the corporation,
24 and eight [SEVEN] members appointed by the governor. At least six
25 [FIVE] of the eight [SEVEN] appointed members must be registered
26 voters in the state. No more than two appointed members may be from
27 any one of the four judicial districts in the state. The appointed
28 members must have substantial experience or professional training and
29 expertise in fields relevant to the purposes of this chapter,

1 including transportation, business, and finance. Except for [THE COM-
2 MISSIONER,] the chief executive officer [,] and the member appointed
3 under (d) of this section, a member may not be a state officer or
4 employee.

5 * Sec. 5. AS 42.40.020(e) is amended to read:

6 (e) Except for [THE COMMISSIONER OF COMMERCE AND ECONOMIC DEVEL-
7 OPMENT AND] the chief executive officer of the corporation, the mem-
8 bers of the board shall be confirmed by a majority of the members of
9 each house of the legislature in joint session. A member appointed by
0 the governor has the full powers and responsibilities of a confirmed
1 board member until the member is rejected by the legislature.

2 * Sec. 6. AS 42.40.030 is amended to read:

3 Sec. 42.40.030. TERM OF OFFICE; REMOVAL. (a) Except for [THE
4 COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT AND] the chief
5 executive officer of the corporation, members of the board serve for
6 staggered terms of five years each [AT THE PLEASURE OF THE GOVERNOR].

7 * Sec. 7. AS 42.40.030 is amended by adding a new subsection to read:

8 (b) The governor may, by written notice to the member, remove a
9 member from the board for

10 (1) incapacitation caused by injury or sickness that leaves
11 the member unable to perform duties under this chapter;

12 (2) continued refusal or inability to attend meetings of
13 the board;

14 (3) conviction of a felony; or

15 (4) any conduct that was intended to harm the corporation,
16 even if it does not constitute a crime.

17 * Sec. 8. AS 42.40.040(a) is amended to read:

18 (a) Except for the [COMMISSIONER OF COMMERCE AND ECONOMIC
19 DEVELOPMENT AND THE] chief executive officer, a vacancy on the board

1 is filled by appointment by the governor, and the appointment must be
2 confirmed by the members of each house of the legislature in joint
3 session. A member appointed to fill a vacancy holds office for the
4 balance of the term for which the member's predecessor was appointed.

5 * Sec. 9. SPECIAL REPORT. The corporation shall prepare a report for
6 the governor and the legislature on the long-term operations of the Alaska
7 Railroad that are in the best interest of the state. The report shall be
8 submitted by January 1, 1988. It shall contain specific recommendations on
9 operational alternatives and the transfer of all or part of the railroad's
10 operation's is to the private sector.

11 * Sec. 10. APPOINTMENT OF FIRST BOARD OF DIRECTORS OF ALASKA RAILROAD
12 CORPORATION. Notwithstanding AS 42.40.020 enacted in sec. 1 of this Act,
13 the terms of the appointed members of the first board of directors of the
14 Alaska Railroad Corporation are as follows:

- 15 (1) one shall serve a term of two years;
- 16 (2) two shall serve a term of three years;
- 17 (3) two shall serve a term of four years; and
- 18 (4) two shall serve a term of five years.

19 * Sec. 11. COLLECTIVE BARGAINING AGREEMENTS. (a) As soon as practi-
20 cable after establishment of the Alaska Railroad Corporation and before
21 transfer of the Alaska Railroad to the state, the Alaska Railroad Corpora-
22 tion and its employees shall adopt collective bargaining agreements that
23 continue the provisions of the agreements in effect between the Alaska
24 Railroad and its employees on the date of transfer of the railroad. The
25 collective bargaining agreements adopted under this section between the
26 corporation and its employees shall remain in effect to the extent required
27 under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982).

28 (b) The board of directors of the Alaska Railroad Corporation shall
29 on or before the date of transfer of the Alaska Railroad to the state ad

1 personnel rules necessary to prevent an interruption of services of the
2 railroad.

3 (c) Subject to 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of
4 1982), within 180 days after the first meeting of the board of directors of
5 the Alaska Railroad Corporation, the board and representatives of employee
6 bargaining units shall establish procedures for the renegotiation of
7 collective bargaining agreements adopted under (a) of this section. The
8 board shall renegotiate all agreements adopted under (a) of this section
9 within two years after the date of transfer of the Alaska Railroad to the
10 state unless the parties agree to the contrary.

11 * Sec. 12. Sections 3 - 8 of this Act take effect on the effective date
12 of an amendment to the Constitution of the State of Alaska relating to the
13 Alaska Railroad.

14 * Sec. 13. Sections 1, 2, and 9 - 10 of this Act take effect imme-
15 diately in accordance with AS 01.10.070(c).
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24

AK.
RAILROAD

Comparison:

SB 10, SB 352

HB 512

SIDE-BY-SIDE SUBJECT COMPARISON

OF SB-10 and

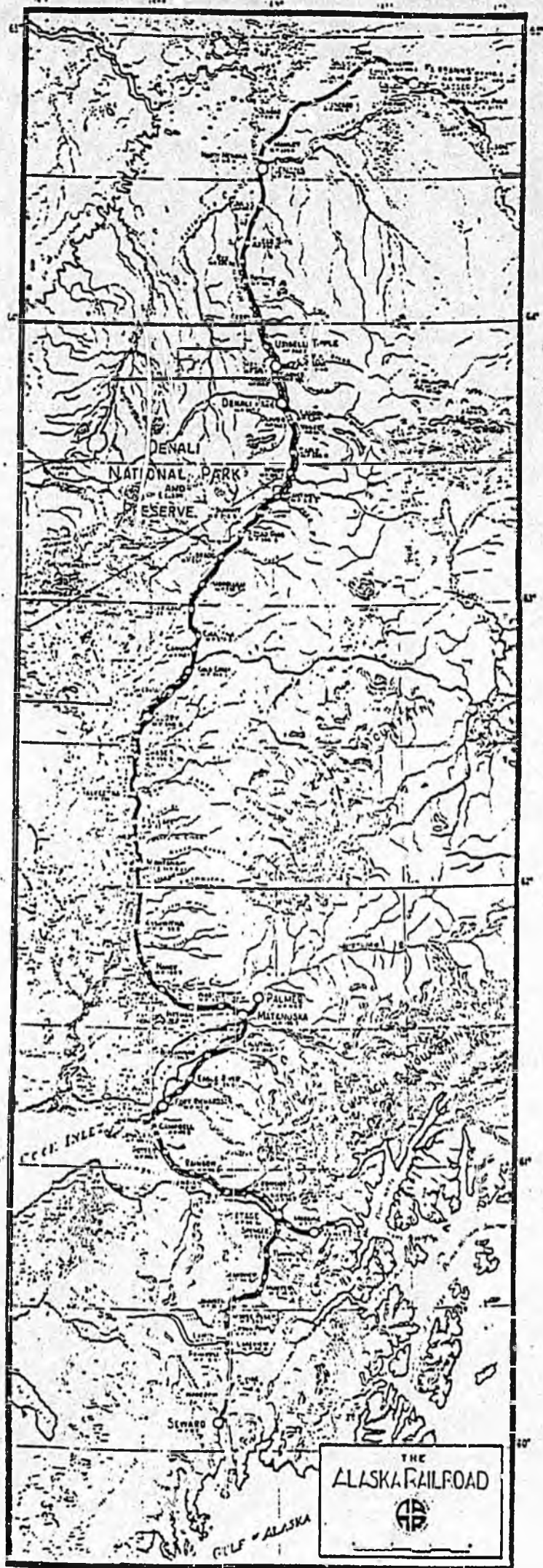
SB-352 (HB-512,

WITH

**COMPARATIVE ANALYSIS BY
LEGISLATIVE AFFAIRS AGENCY,
DIVISION OF LEGAL SERVICES**

**PREPARED BY:
Senate Transportation
Committee Staff**

January 23, 1984



THE
ALASKA RAILROAD



GULF OF ALASKA

Cross Reference/Index

	<u>Comparison</u>	<u>SB 10</u>	<u>SB 352</u>
Legislative Findings, Policy, and Declarations.	1	1	1
Establishment of Authority (Corporation)	4	3	3
Limitation of Liability	6	4	16
Board of Commissioners (Directors)	7	4	3
Term of Office, Vacancies	8	5	4
Compensation and Expenses	9	6	5
Quorum and Notice of Meetings	10	6	5
Voting	11	6	5
Management of Authority (Executive Officers)	12	7	5
Delegation	13	8	5
Conflicts of Interest	15	9	N/A
Public Board Meetings	17	11	7
Minutes of Meetings	18	11	7
Administrative Procedure (Rules)	19	12	7
Public Disclosure of Information	21	14	7
General Powers	22	14	8
Annual Report	26	18	8
Annual Audit	27	18	8

Cross Reference/Index

	<u>Comparison</u>	<u>SB 10</u>	<u>SB 352</u>
Long-range Program and Capital Improvement Plans	28	19	11
Use of Authority (Corporation) Assets	29	20	12
Rail Properties	30	21	13,15
Classification, Acquisition, and use of State Land for Railroad Purposes	32	23	13
Development of Oil, Gas, Minerals, and Geothermal Resources on Authority Land	34	25	N/A
Land Use Regulation	35	26	N/A
Eminent Domain and Acquisition of Property and Materials	36	27	15
Bonds and Notes	37	27	17
Independent Financial Advisor	41	32	22
Validity of Pledge	42	32	22
Remedies	43	32	22
Negotiable Instruments	44	33	23
Bonds and Notes Eligible for Investment	45	33	23
Refunding Bonds	46	33	23
Credit of State not Pledged; Required Disclaimer (Credit of State not Pledged)	47	34	24
No Personal Liability (Officers Not Liable)	48	34	24
Revenues	49	35	17

Cross Reference/Index

	<u>Comparison</u>	<u>SB 10</u>	<u>SB 352</u>
Insurance	51	35	16
Safeguarding of Money	52	35	N/A
Fidelity Bond	53	35	16
Reversion of Assets	54	35	25
State Review	55	35	N/A
Action-Forcing Mechanism	57	37	N/A
Intervention	58	38	N/A
Trusteeship	59	39	N/A
Personnel	60	40	25
Political Activities	61	41	26
Licenses and Permits	62	42	N/A
Claims Against the Authority (Claims)	63	42	16
Unauthorized Representation	65	42	16
Exemption from Taxation	66	42	24
Payments in Place of Local Real Property Taxation and Impact Aid	67	43	N/A
Enforcement of Law and Authority Regulations by Authority Security Force	68	44	N/A
Penalty for Violation of Designated Regulation	69	45	N/A
Construction	70	45	N/A
Definitions	71	45	27

Cross Reference/Index

	<u>Comparison</u>	<u>SB 10</u>	<u>SB 352</u>
Time for Paying Compensation or Damages or Bond to Build Railroad Fences and Cattle Guards	74	47	N/A
Commencement of Legal Existence of Alaska Railroad Authority (Corporation)	76	47	N/A
Appointment of First Members of the Board of Commissioners	77	47	27
Closing Report Submitted under Federal Transfer Legislation	78	48	N/A
Assets and Liabilities to be Noted in Audit	79	48	N/A
Initial Long-range Program and Capital Improvement Plans	80	48	N/A
Pre-existing Rules, Regulations and Orders of the Alaska Railroad	81	49	N/A
Collective Bargaining Agreement Between the Alaska Railroad Authority (Corporation) and Employees	82	49	N/A
Conflicting Laws Inapplicable	83	49	27
Application of Existing Statutes	84	50	26
Subsequently Enacted Statutes	85	51	N/A
Effective Date	86	51	28
(Special Report)	87	N/A	8
(Appropriations)	88	N/A	17
(Interim Receipts, Temporary Bonds, and Temporary Bond Anticipation Notes	89	N/A	21

Cross Reference/Index

	<u>Comparison</u>	<u>SB 10</u>	<u>SB 352</u>
(Validity of Signatures)	90	N/A	21
(Short Title)	91	N/A	27

**Underlined provisions represent language not found
in compared section.**

Introduced: 1/18/83
Referred: Transportation
and Finance

Introduced: 1/23/84
Referred: Transportation
and Finance

1 IN THE SENATE

BY KERITULA

2 SENATE BILL NO. 10

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Railroad; and provid-
7 ing for an effective date."

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

9 * Section 1. LEGISLATIVE FINDINGS, POLICY, AND DECLARATIONS. (a) The
10 legislature finds that

11 (1) the United States government has expressed its determination
12 to discontinue federal operation of the Alaska Railroad at the earliest
13 possible date;

14 (2) for the time being, private acquisition and operation of the
15 railroad in a manner consistent with the federal transfer legislation and
16 this Act is not presently considered to be a reasonable possibility or in
17 the best interests of the citizens of the state;

18 (3) continued operation of the railroad is possible only if the
19 state acquires the railroad from the federal government and provides for
20 operation of the railroad;

21 (4) continued operation and development of the Alaska Railroad
22 is essential to the long-term economic growth and development of the state
23 and its natural resources and will serve an important public purpose; and

24 (5) continued operation of the Alaska Railroad will promote the
25 general welfare of the people of the state by providing important freight
26 and passenger service to residents of the state, businesses, visitors, and
27 military installations in the state.

28 (b) It is the policy of the state to

29 (1) foster and promote the development of the state's land and

1 IN THE SENATE

BY KERITULA, FAIKS
AND HULLFORD

2 SENATE BILL NO. 352

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Alaska Railroad Corporation
7 to manage and operate the Alaska Railroad; and provid-
8 ing for an effective date."

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

10 ** Section 1. LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature
11 finds that

12 (1) The Alaska Railroad is an essential part of the state trans-
13 portation network that without state action will cease to be a transporta-
14 tion option available within Alaska. The federal government has offered to
15 the state the option of taking over the Alaska Railroad to ensure its
16 continued existence. It is in the state's best interest to accept the
17 railroad under the terms and conditions offered by the United States gov-
18 ernment.

19 (2) There is vast potential in Alaska's natural resource areas
20 and that extension of the Alaska Railroad into natural resource areas is
21 necessary for the achievement of the goals of lower freight cost and long-
22 term economic growth.

23 (b) It is the purpose of this Act to create an entity and to provide
24 that entity with the powers and duties necessary to operate and manage the
25 Alaska Railroad as a viable independent entity pending the eventual trans-
26 fer of the railroad to the private sector for its ownership or operation or
27 both consistent with 43 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of
28 1982).

29 (c) The legislature declares that

The statement of legislative purpose in SB 152 bears little resemblance to that statement in SB 10.

(cont.)

1 natural resources;

2 (2) foster and promote the long-term economic growth and devel-
3 opment of the state;

4 (3) provide necessary and desirable freight and passenger rail
5 transportation services to residents, businesses, visitors, and military
6 installations in the state;

7 (4) develop and implement plans for a transportation network
8 that effect the policies set out in this subsection; and

9 (5) provide safe, economical, and efficient transportation to
10 residents, businesses, visitors, and military installations in the state.

11 (c) The legislature declares that

12 (1) the exercise of the powers of the state in the interest of
13 the people of the state is necessary to accomplish the policy set out in
14 (b) of this section by authorizing the creation of a public authority with
15 the powers, duties, and functions as provided in this Act to operate the
16 Alaska Railroad and to manage its rail, industrial, port and other proper-
17 ties;

18 (2) it is in the best interests of the people of the state for
19 the public authority created by this Act to operate and manage in a prudent
20 manner the Alaska Railroad

21 (A) to be exclusively responsible for the management of the
22 financial and legal obligations of the Alaska Railroad;

23 (B) with the railroad authority, and not the state, consti-
24 tuting a common carrier subject to the jurisdiction of the United
25 States Interstate Commerce Commission;

26 (C) with the ability to raise capital by issuing obliga-
27 tions exempt from federal and state taxation;

28 (D) to carry out its responsibilities on a self-sustaining
29 basis;

(cont.)

1 (1) the exercise of the powers of the state in the interest of
2 the people of the state is necessary to accomplish the policy set out in
3 (a) of this section by authorizing the creation of a public corporation
4 with the powers, duties, and functions as provided in this Act to operate
5 the Alaska Railroad and to manage its rail, industrial, port and other
6 properties;

7 (2) it is in the best interests of the people of the state for
8 the public corporation that will operate and manage the Alaska Railroad to
9 be created in such a way that

10 (A) the corporation will be exclusively responsible for the
11 management of the financial and legal obligations of the Alaska Rail-
12 road;

13 (B) the corporation, and not the state, will constitute a
14 common carrier subject to the jurisdiction of the United States Inter-
15 state Commerce Commission;

16 (C) the corporation will have the ability to raise capital
17 by issuing obligations exempt from federal and state taxation;

18 (D) the corporation may carry out its responsibilities on a
19 self-sustaining basis;

20 (E) the best possible combination of types and levels of
21 safe, efficient and economical transportation can be provided that is
22 necessary to meet the overall needs of the state, supported when
23 necessary by state investment;

24 (F) the railroad may be operated prudently and according to
25 sound business management practices; and

26 (G) borrowing by the corporation does not directly or
27 indirectly endanger the state's own borrowing capacity.

(cont.)

1 (E) to provide the best possible combination of types and
2 levels of safe, efficient, and economical transportation that is
3 necessary to meet the overall needs of the state supported when
4 necessary by state investment;

5 (F) according to sound business management practices;

6 (G) to provide the level of service that best satisfies the
7 needs of the people of the state;

8 (H) in a fiscally sound manner; and

9 (I) to ensure that borrowing by the authority does not
10 directly or indirectly endanger the state's own borrowing capacity;

11 (J) the continued operation of the railroad will assure greater
12 use, development, reclamation, and settlement of the state's land for the
13 maximum benefit of the people; and

14 (K) the important public purposes to be served by the railroad
15 authority require the authority to have all of the powers and duties
16 granted to it by this Act; the legislature intends that the authority,
17 consistent with sound business management practices, exercise its powers
18 and duties as a public service on behalf of the state and recognizes that
19 the exercise of the powers and duties granted by this Act requires the
20 authority to engage in the wide range of conduct authorized by this Act.

* Sec. 2. AS 42 is amended by adding a new chapter to read:

CHAPTER 40. ALASKA RAILROAD AUTHORITY.

ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

Sec. 42.40.010. ESTABLISHMENT OF AUTHORITY. There is established the Alaska Railroad Authority. The authority is a public corporation and, for purposes of art. III, sec. 22, Constitution of the State of Alaska, is an instrumentality of the state within the Department of Transportation and Public Facilities, but the authority has a legal existence independent of and separate from the state. The exercise by the authority of the powers provided in this chapter is considered an essential governmental function of the state. The existence of the authority is perpetual.

* Sec. 2. AS 42 is amended by adding a new chapter to read:

CHAPTER 40. ALASKA RAILROAD CORPORATION.

SB 352

-7-

ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is established the Alaska Railroad Corporation. The corporation is a public corporation for the purposes of art. III, sec. 22, Constitution of the State of Alaska. The corporation shall be considered a principal department only for the purposes of art. III, sec. 26, Constitution of the State of Alaska. The corporation has a legal existence independent of and separate from the state. The exercise by the corporation of the powers provided in this chapter is considered an essential government function of the state.

The statement in SB 10 that the authority is an instrumentality of the state within DOT&PF is omitted from SB 352 and a statement that the corporation "shall be considered a principal department..." is inserted in an apparent effort to justify legislative confirmation of board members. Both SB 10 and SB 352 provide that certain members of the board shall be confirmed by the legislature. The Alaska Supreme Court has found that the power to appoint executive officers is solely an executive function. While Article III, sections 25 and 26 of the state constitution requires legislative confirmation of the appointments of heads of departments and members of quasi-judicial or regulatory agencies, the court has held that those sections represent the outer limits of the legislature's power to confirm.

(cont.)

Comparison continued

(Bradner v. Hammond, 553 P. 2d 1 (Alaska, 1976)) in an apparent effort to force the Alaska Railroad Corporation into a status that will allow for legislative confirmation of appointments to the board, Sec. 42.40.010 of SB 352 contains the following sentence:

"The corporation shall be considered a principal department only for the purposes of Article III, sec. 26, Constitution of the State of Alaska."

Despite this effort at characterizing the board as a ". . . board or commission . . . at the head of a principal department or a regulatory or quasi-judicial agency. . . ." (Article III, Section 26, Constitution of the State of Alaska), I am certain that the court would find that the board does not fit within the terms of Article III, section 26 and that legislative confirmation on that basis is inappropriate.

There is a basis for arguing in support of the confirmation requirement. It could be argued that Bradner applies only to appointments of officers of the executive branch and does not apply to appointments of officers of public corporations or authorities that have an independent legal status from the executive branch of government. Confirmation of appointments to independent public corporations or authorities does not directly invade the governor's power of appointment, because the governor has no duty to administer the corporation that is similar to his duty to administer the executive branch. Nevertheless, it must be stressed that the provision regarding confirmation of board members is subject to constitutional attack.

4 Sec. 42.40.020. LIMITATION OF LIABILITY. A liability incurred
5 by the authority must be satisfied exclusively from the assets and
6 credit of the authority and no creditor or other person has a right of
7 action against the state on account of a debt, obligation, or liabil-
8 ity of the authority.

11 ARTICLE 6. FINANCIAL PROVISIONS.
12 Sec. 42.40.500. LIMITATION OF LIABILITY. A liability incurred
13 by the corporation shall be satisfied exclusively from the assets or
14 revenue of the corporation and no creditor or other person has a right
15 of action against the state because of a debt, obligation, or
16 liability of the corporation.

9 Sec. 42.40.030. BOARD OF COMMISSIONERS. (a) The powers of the
 0 authority are vested in the Board of Commissioners. The board con-
 1 sists of the commissioner of transportation and public facilities, who
 2 serves as a voting member; the chief executive officer of the authori-
 3 ty, who serves as an ex officio nonvoting member; an authority em-
 4 ployee appointed by the governor, who serves as a nonvoting member and
 5 represents the labor organizations that are certified to represent
 6 authority employees; and six voting public members appointed by the
 7 governor. The public members must have substantial experience or
 8 professional training and expertise in fields relevant to the purposes
 9 of this chapter, including, but not limited to transportation, busi-
 0 ness, and finance, and must have the standing in their communities to
 1 command the respect of their fellow citizens. Unless prohibited by
 2 law, one public member shall be or have been an executive official of
 3 an American railroad that is not now or was never a connecting carrier
 4 of the Alaska railroad. At least four public members must be selected
 5 from areas served by the railroad. The public members may not be
 6 state officers or employees.

7 (b) The public members of the board shall be confirmed by a
 8 majority of the membership of the legislature in joint session. A
 9 public member appointed by the governor, unless and until the member

has been rejected by the legislature, has the full powers and respon-
 sibilities of a confirmed board member.

(c) The board shall elect from its membership a chairman, a
vice-chairman, a treasurer, and a secretary and prescribe their
 specific duties by rule.

(d) The chairman shall call meetings of the board at least once
 every three months. The chairman may call other meetings of the board
 as the chairman considers necessary. The chairman shall preside at
 meetings of the board.

(e) The governor by written notice to the member may remove a
public member from the board for

(1) incapacitation caused by injury or sickness that leaves
 the member unable to perform duties under this chapter;

(2) continued refusal or inability to attend meetings of
 the board;

(3) conviction of a misdemeanor involving moral turpitude
 or a felony; or

(4) any conduct that was intended to harm the authority
whether or not it constitutes a crime.

11 Sec. 42.40.020. BOARD OF DIRECTORS. (a) The powers of the
 12 corporation are vested in the board of directors. The board consists
 13 of five voting members appointed by the governor. These five members
 14 must be residents of and registered voters in the state except as
 15 provided in (b) of this section. No more than two of these members
 16 may be from any one of the four judicial districts in the state. Two
 17 of the voting members must have at least five years experience as
 18 owners or managers of a business in the state. A voting member may
 19 not be a state officer or employee.

20 (b) One person who is not a resident of or registered voter in
 21 the state may be appointed by the governor to be a voting member of
 22 the board, if, at the time of appointment, the person has at least 10
 23 years of experience in management of railroads.

24 (c) In addition to the voting members, the following nonvoting
 25 members shall serve on the board:

26 (1) an employee of the corporation appointed by the gover-
 27 nor to represent the employees;

28 (2) the chief executive officer of the corporation.

29 (d) The voting members of the board shall be confirmed by a
 1 majority of the membership of the legislature in joint session. A
 2 member appointed by the governor has the full powers and responsibili-
 3 ties of a confirmed board member unless and until the member has been
 4 rejected by the legislature.

5 (e) The board shall elect from its membership a chairperson, and
 6 vice-chairperson and prescribe their specific duties by rule.

7 (f) The board shall appoint a secretary and prescribe the spe-
 8 cific duties of the secretary.

9 (g) The chairperson shall call meetings of the board at least
 10 once every three months. The chairperson may call other meetings of
 11 the board as the chairperson considers necessary. The chairperson
 12 shall preside at meetings of the board.

13 (h) The governor may, by written notice to the member, remove a
 14 member from the board for

15 (1) incapacitation caused by injury or sickness that leaves
 16 the member unable to perform duties under this chapter;

17 (2) continued refusal or inability to attend meetings of
 18 the board;

19 (3) conviction of a felony; or

20 (4) conviction of a misdemeanor involving moral turpitude.

The board of directors
 is composed of five
 voting members and one
 non-voting member
 appointed by the
 governor in SB 352.
 The chief executive
 officer of the corpo-
 ration serves as
 another non-voting
 member as in SB 10.
 Otherwise, composition
 of the board of
 commissioners under
 Section 42.40.030 of
 SB 10 is substantially
 different. Material
 in (e) (4) of SB 10
 does not appear in SB
 352.

20 Sec. 42.40.040. TERM OF OFFICE; VACANCIES. (a) The public
21 members of the board serve for staggered terms of five years each.

22 (b) A vacancy on the board is filled by appointment by the
23 governor and the appointment must be confirmed by the legislature in
24 joint session. A member selected to fill a vacancy holds office for
25 the balance of the term for which the member's predecessor is appoint-
26 ed.

27 (c) A vacancy on the board does not impair the authority of a
28 quorum of members to exercise the powers and perform the duties of the
29 board.

1 (d) A member whose term has expired shall serve until a succes-
2 sor has been appointed.

21 Sec. 42.40.030. TERM OF OFFICE. The appointed members of the
22 board serve for staggered terms of five years each.

23 Sec. 42.40.040. VACANCIES. (a) A vacancy on the board is
24 filled by appointment by the governor, and the appointment must be
25 confirmed by the legislature in joint session. A member selected to
26 fill a vacancy holds office for the balance of the term for which the
27 member's predecessor is appointed.

28 (b) A vacancy on the board does not impair the authority of a
29 quorum of members to exercise the powers and perform the duties of the
1 board.

2 (c) A member whose term has expired shall serve until a succes-
3 sor has been appointed.

3 Sec. 42.40.050. COMPENSATION AND EXPENSES. A public member of
 4 the board is entitled to compensation at the rate of \$300 for each day
 5 the member is engaged in actual performance of duties as a member of
 6 the board. The board shall provide by rule for compensation for
 7 partial days during which a member is engaged in the actual perfor-
 8 mance of duties. A member is entitled to per diem and travel expenses
 9 authorized by law for state boards and commissions under AS 39.20.180.

4 Sec. 42.40.050. COMPENSATION AND EXPENSES. (a) An appointed
 5 member of the board is entitled to compensation at a rate of \$200 for
 6 each day the member is engaged in the actual performance of duties as
 7 a member of the board.
 8 (b) In addition to compensation under (b) of this section, an
 9 appointed member of the board is entitled to per diem and travel
 10 expenses authorized by law for state boards and commissions.

Compensation for board members is \$200 per day in SB 352 and \$300 per day in SB 10. In addition, compensation is available to appointed members only under SB 352. There is no provision for payment for partial days in SB 10.

0 Sec. 42.40.060. QUORUM AND NOTICE OF MEETINGS. Four voting
1 members of the board constitute a quorum for the transaction of
2 business. In addition to the notice requirements of AS 14.62, notice
3 of a meeting of the board, including an agenda for the meeting, must
4 be given to

- 5 (1) each member of the board;
6 (2) the governor;
7 (3) the leadership of the legislature;
8 (4) at least two newspapers of statewide circulation; and
9 (5) members of the general public upon request.

11 Sec. 42.40.060. QUORUM AND NOTICE OF MEETINGS. Three voting
12 members of the board constitute a quorum for the transaction of busi-
13 ness.

Three voting members constitutes a quorum in SB 352 rather than four as in SB 10. The additional provisions on notice of meetings in SB 10 do not appear in SB 352.

0 Sec. 42.40.070. VOTING. The board shall provide by rule for t
1 manner of voting and any representation of persons absent from mee
2 ings. The rules may provide for voting and conferring by means
3 telecommunication devices or by mail or for voting as directed in
4 written proxy taking a position on a particular issue so long
5 voting is consistent with AS 44.62.310. However, no proxy is allowed
6 that delegates to the holder discretion to act for a principal on
7 undisclosed or general matters.

14 Sec. 42.40.070. VOTING. The board shall provide by rule for the
15 manner of voting and representation of persons absent from meetings.
16 The rules may provide for voting and conferring by means of telecommu-
17 nication devices or by mail or for voting as directed in a written
18 proxy taking a position on a particular issue.

SB 352 does not
contain the last line
in SB 10 limiting use
of proxy.

28 Sec. 42.40.080. MANAGEMENT OF AUTHORITY. (a) Unless the board
29 provides for management of the authority by a third-party contractor
1 under (b) of this section,

2 (1) the board shall appoint and fix compensation for the
3 chief executive officer and legal counsel of the authority; the ap-
4 pointment of legal counsel is subject to the approval, for competence,
5 of the governor;

6 (2) the chief executive officer shall appoint and fix
7 compensation for the other executive officials; the appointments and
8 compensation are subject to board approval;

9 (3) officials appointed under (1) and (2) of this subsec-
10 tion serve at the pleasure of the board;

11 (4) the chief executive officer may appoint and fix compen-
12 sation for any additional personnel necessary to carry out the pur-
13 poses of this chapter;

14 (5) except as may be required by federal law, no executive
15 official of the authority may be compensated at a rate in excess of
16 that established under AS 39.20.086 for the heads of principal execu-
17 tive departments of the state.

18 (b) The board may provide for, in a manner consistent with the
19 purposes of this chapter and subject to the approval of the state as
20 provided in AS 42.40.600(g), the management and operation of the rail-
21 road by a third-party contractor. Subject to the limitations in (a)
22 of this section, the board may provide for appointment and compensa-
23 tion of any executive official, including but not limited to those
24 provided for in (a) of this section, necessary to augment the manage-
25 ment and operation of the railroad by the third-party contractor.

19 ARTICLE 2. MANAGEMENT.

20 Sec. 42.40.100. EXECUTIVE OFFICERS. (a) The board shall ap-
21 point and fix compensation for the chief executive officer of the
22 corporation. The chief executive officer serves at the pleasure of
23 the board.

24 (b) The chief executive officer of the corporation shall appoint
25 and fix the compensation for other executive officers. The appoint-
26 ment of other executive officers and their compensation are subject to
27 board approval.

No provision is contained in SB 352 for management by a third-party contractor as in SB 10. SB 352 contains no limit on compensation as is found in (a) (5) of SB 10.

6 Sec. 42.40.090. DELEGATION. (a) The board shall by rule dele-
 7 gate powers and duties necessary and appropriate for the management of
 8 the daily affairs and operations of the authority to the chief execu-
 9 tive officer, subject to any requirement of board concurrence or
 authorization imposed by the rules.

(b) Within 180 days of its establishment, the board shall by
 rule delegate the following activities of the authority to the chief
 executive officer or other executive official designated by the board,
 subject to any board review of the activities as may be specified in
the rules:

(1) leasing, granting easements in, issuing permits for the
 use of, or conveying other interests that do not constitute a transfer
 of the authority's entire interest in real property of the authority;

(2) establishment of specific rates, tariffs, divisions and
 contract rate agreements;

(3) routine changes in service levels; and

(4) procurement.

(c) General or particular board authorization or concurrence is
 required for the following:

(1) transfer of the authority's entire interest in real
 property other than the execution of a release of a lien or satis-
 faction of a mortgage after payment has been received;

(2) issuance of notes, debentures, or bonds;

(3) mortgaging or pledging of authority assets;

(4) donation of money, property, or other assets belonging
 to the authority;

(5) an action by the authority as a surety or guarantor;

(6) capital projects with an estimated completion cost in
 excess of \$250,000 or an estimated completion time of more than one
year;

(7) adoption of the long-range program and capital improve-
 ment plans under AS 42.40.325;

(8) certification of annual reports under AS 42.40.310;

28 Sec. 47.40.110. DELEGATION. (a) The board shall by rule dele-
 29 gate powers and duties necessary and appropriate for the management of
 the daily affairs and operations of the corporation to the chief
 executive officer, subject to a requirement of board concurrence or
 authorization imposed by the rules.

(b) Within 60 days of its establishment, the board shall by rule
 delegate the following activities of the corporation to the chief
 executive officer or other executive officers designated by the board:

(1) leasing, granting easements in, issuing permits for the
 use of, or conveying other interests that do not constitute a transfer
 of the corporation's entire interest in real property of the corpora-
 tion;

(2) establishing specific rates, tariffs, divisions, and
 contract rate agreements;

(3) making routine changes in service levels; and

(4) performing procurement activities.

(c) General or particular board authorization or concurrence is
 required for the following:

(1) transferring the corporation's entire interest in real
 property;

(2) issuing notes, debentures, and bonds;

(3) mortgaging or pledging authority assets;

(4) donating property, or other assets belonging to the
corporation;

(5) acting as a surety or guarantor;

(6) adopting a long-range expansion and capital improvement
 plan;

(7) certifying annual reports;

(8) effecting generally applicable increases and decreases
 in rates other than those periodically approved by the United States
 Interstate Commerce Commission;

In (b) 180 days in SB
 10 is changed to 60
 days in SB 352.
 Material in (c) (6) of
 SB 10 does not appear
 in SB 352.

(cont.)

- 1 (9) generally applicable, comprehensive increases and de-
- 2 creases in rates other than those periodically approved by the United
- 3 States Interstate Commerce Commission for application to rail carriers
- 4 generally;
- 5 (10) diversification and major expansion or reduction of
- 6 services beyond those provided on the date of transfer or as provided
- 7 under this chapter;
- 8 (11) the exercise of the power of eminent domain;
- 9 (12) expansion of main or branch lines, other than routine
- 10 track realignment as necessary to maintain service levels in effect on
- 11 the date of transfer; and
- 12 (13) selection of independent auditors and accountants.

(cont.)

- 1 (9) expanding or reducing services in a major way as pro-
- 2 vided under this chapter;
- 3 (10) expanding the main or branch lines, other than perform-
- 4 ing routine track alignment as necessary to maintain service levels in
- 5 effect on the date of transfer; and
- 6 (11) selecting independent auditors and accountants.

13 ARTICLE 2. ADMINISTRATIVE PROVISIONS.

14 Sec. 42.40.200. CONFLICTS OF INTEREST. (a) Except as provided
15 in this section, a board member or employee of the authority may not
16 participate in a decision of the authority in which that person or a
17 member of that person's immediate family has a direct or indirect
18 financial interest unless the financial interest is a remote financial
19 interest and participation is approved under (b) of this section. For
20 purposes of this section, "participate in a decision" includes all
21 discussions, deliberations, preliminary negotiations, and votes con-
22 cerning a matter that is the subject of formal action by the board.

23 (b) A board member or employee may participate in a decision if
24 that person or a member of that person's immediate family has only a
25 remote interest and if the fact and extent of the interest is dis-
26 closed to the board in a public meeting and is noted in the minutes of
27 the board before any participation by the member or employee in the
28 decision, and thereafter in a public meeting the board authorizes or
29 approves the participation by a vote of its membership excluding the
1 interested member or employee. As used in this subsection, "remote
2 interest" means

3 (1) that of a non-salaried officer of a nonprofit corpora-
4 tion;

5 (2) that of an employee or agent of a contracting party
6 when the compensation of the employee or agent consists entirely of
7 fixed wages or salary and the contract is awarded by bid or by other
8 competitive process;

9 (3) that of a landlord or tenant of a contracting party,
10 except when the property subject to the lease or sublease is owned or
11 managed by the authority;

12 (4) that of a holder of less than one percent of the shares
13 of the corporation or cooperative that is the contracting party;

14 (5) that of an owner of a savings and loan account or bank
15 savings or share account or credit union deposit account if the inter-
16 est represented by the account is less than two percent of the total
17 deposits held by the institution; or

18 (6) other interests that in good faith are defined as
19 remote by rules or regulations adopted by the authority.

20 (c) A board member or employee is not considered to be finan-
21 cially interested in a decision when the decision could not affect
22 that person in a manner different from its effect on the public or
23 community.

No comparable
provision

ont.) (d) An action, including the award of a contract, in which a
board member or employee participates in violation of this section or
AS 39.50.090 is void if the board member's vote or employee's partici-
pation was necessary to the decision. If a board member votes or an
employee participates in a decision in violation of this section or
AS 39.50.090 and that vote or participation is not necessary to the
decision, the board may ratify the action after disclosure of the
violation in a public meeting of the board and without participation
by the interested member or employee in the decision to ratify. A
board member or employee who violates a prohibition contained in this
section or in AS 39.50 forfeits office upon a determination by the
board in a public meeting that the violation was intentional.

(e) The executive officials and board members of the authority
are subject to AS 39.50.

(f) Within 120 days of the first meeting of the board, the board
shall adopt and may subsequently amend rules and regulations imple-
menting this section, providing additional conflict of interest and
ethical rules and regulations as it considers appropriate, and provid-
ing for the removal by the board of a board member or employee who
intentionally violates a prohibition contained in this section or in
AS 39.50.

**No comparable
provision**

16 Sec. 42.40.210. PUBLIC BOARD MEETINGS. (a) The meetings of the
17 board are public, with the exception of executive sessions permitted
18 by AS 44.62.310 and (b) of this section.

19 (b) In addition to those subjects which may be discussed in
20 executive session under AS 44.62.310, the board may consider in execu-
21 tive session matters that pertain to personnel, the authority's legal
22 position, land acquisition or disposal, or proprietary information, as
23 defined in a manner consistent with the standards and practices of the
24 United States Interstate Commerce Commission for protection of the
25 information including but not limited to proprietary information
26 associated with specific shippers, divisions, and contract rate agree-
27 ments

7 ARTICLE 3. ADMINISTRATIVE PROVISIONS.

8 Sec. 42.40.200. PUBLIC BOARD MEETINGS. (a) The meetings of the
9 board are public with the exception of an executive session conducted
10 under AS 44.62.310 and (b) of this section.

11 (b) In addition to those subjects that may be discussed in
12 executive session under AS 44.62.310, the board may consider in execu-
13 tive session matters that pertain to personnel, the corporation's
14 legal position, land acquisition or disposal, or proprietary informa-
15 tion, as defined in a manner consistent with the standards and prac-
16 tices of the United States Interstate Commerce Commission for protec-
17 tion of information associated with specific shippers, divisions, and
18 contract rate agreements.

28 Sec. 42.40.220. MINUTES OF MEETINGS. The board shall keep
 29 minutes of each meeting and shall send a certified copy of the minutes
 1 of the public portion of each meeting to the governor and the leader-
 2 ship of the legislature.

19 Sec 42.40.220. MINUTES OF MEETINGS. The board shall keep
 20 minutes of each meeting.

SB 352 contains no requirement that copies of minutes be sent th to the governor and leadership of the legislature as in SB 10.

Sec. 42.40.230. ADMINISTRATIVE PROCEDURE. (a) Except for AS 44.62.310 regarding public meetings, as limited by AS 42.40.210(b), the Administrative Procedure Act (AS 44.62) does not apply to the authority, its rules, regulations, or actions taken under this chapter. The authority shall make available to members of the public copies of the rules and regulations adopted under this section. Within 45 days after adoption, the chairman of the board shall submit a regulation adopted under this section to the chairman of the Administrative Regulation Review Committee under AS 24.20.400 - 24.20.460. The legislature may annul or temporarily suspend a regulation adopted by the authority.

(b) The board shall adopt rules and regulations to govern its procedures and to carry out the purposes of this chapter. Within 30 days after its first meeting the board shall adopt rules establishing a procedure for giving advance public notice and an opportunity for the public to comment on proposed regulations of the authority that, in the determination of the board, will have a substantial impact on the public or be used in the authority's dealings with a significant segment of the public. The rules shall also provide for the adoption of emergency regulations without public notice and comment when the immediate adoption or repeal of a regulation is necessary to continue or reinstate the orderly operation of the authority's facilities or programs. However, emergency regulations may not remain in effect more than 120 days unless during that period the board complies with the public notice and comment procedure required for regulations that are not of an emergency nature.

(c) The rules adopted under (b) of this section establishing a regulation-making procedure and all rules or regulations relating to procurement of property by the authority, conflicts of interest, disclosure of information in the possession of the authority, or the regulation of persons outside the authority through the exercise of police power shall be submitted to the attorney general for review and approval before becoming effective. The attorney general shall respond to the authority within 60 days after receipt of the rules or regulations either approving them as consistent with or disapproving

21 Sec. 42.40.230. RULES. The board shall establish a procedure
22 for adopting rules to carry out its functions and the purposes of this
23 chapter. The rules shall include a procedure for the adoption of
24 emergency rules when the adoption of an emergency rule is essential to
25 continue or to reinstate the orderly operation of the corporation's
26 facilities or program.

Most of the material regarding rule making in SB 10 is omitted from SB 352. The board is simply authorized to adopt rules.

cont.)

9 them as in conflict with the Alaska Statutes and the Constitution of
 10 the State of Alaska. A disapproval of rules or regulations must be
 11 accompanied by a memorandum of law explaining the conflict with exist-
 12 ing law and a recommendation for revisions to cure the defect. Rules
 13 or regulations submitted to the attorney general are considered ap-
 14 proved if the attorney general fails to approve or disapprove the
 15 rules or regulations, as provided in this subsection, within 60 days
 16 after receipt.

17 (d) A regulation is not subject to the procedures in (b) of this
 18 section if it is one that

19 5 (1) relates to the use of public works, including terminal
 20 areas, industrial reserves, rights-of-way and streets, under the
 21 jurisdiction of the ^{Corporation} authority if the effect of the ^{order} regulation is
 22 indicated to the public by means of signs or signals;

23 4. (2) is directed to a specifically named person or to a group
 24 of persons and does not apply ^{to the general public} generally throughout the state; or

25 3. (3) ^{relates to} ~~concerns~~ service schedules of the railroad; or

26 2. (4) relates to specific ^{rates} tariffs, divisions, and contract
 27 rate agreements.

28 (e) The authority is an agency of the state for purposes of
 29 jurisdictional determinations and judicial review of the authority's

30 action.

SB 10

① relates only to the internal management of the Corporation;
 2

Sec. 42.40.240. PUBLIC DISCLOSURE OF INFORMATION. (a) Except as provided by rule or regulation of the authority under this section, facts and information in the possession of the authority are public and communications, reports, files, books, accounts, and papers of every nature in its possession are open to public inspection at reasonable times.

(b) The authority may by rule or regulation designate and withhold disclosure of matters of a nonpublic, privileged, or proprietary nature. Those matters include but are not limited to personnel records, communications with and work product of counsel and, consistent with the standards and practices of the United States Interstate Commerce Commission for the protection of these matters, other information including but not limited to proprietary information associated with specific shippers, divisions, and contract rate agreements.

(c) A person may make written objections to the public disclosure of information contained in an application, report, or document filed with the authority, stating the grounds for the objection. When an objection is made, the board may order the information withheld from public disclosure if the information

(1) would adversely affect the interest of that person and is not required in the interest of the public; or

(2) may be protected from disclosure consistent with the standards and practices of the United States Interstate Commerce Commission including but not limited to proprietary information associated with specific shippers, divisions and contract rate agreements.

27 Sec. 42.40.240. PUBLIC DISCLOSURE OF INFORMATION. (a) Except
28 as provided by rule of the corporation under (b) of this section,
29 information in the possession of the corporation is public and is open
1 to public inspection at reasonable times.

2 (b) Except as provided in AS 42.40.270, the corporation may by
3 rule designate and withhold disclosure of matters of a nonpublic,
4 privileged, or proprietary nature. Those matters include personnel
5 records, communications with and work product of counsel consistent
6 with the standards and practices of the United States Interstate
7 Commerce Commission, and information associated with specific ship-
8 pers, divisions, and contract rate agreements.

SB 352 contains no provision like (c) of SB 10 authorizing objection to public disclosure of information.

ARTICLE 3. POWERS AND DUTIES.

Sec. 42.40.300. GENERAL POWERS. The authority may

- (1) adopt a seal;
- (2) adopt rules and regulations;
- (3) sue and be sued;
- (4) appoint officers, employees, trustees, and agents, and prescribe their powers and duties;
- (5) hire legal counsel to represent the authority;
- (6) make contracts and execute instruments necessary or convenient in the exercise of its powers and duties;
- (7) acquire by purchase, lease, bequest, devise, gift, exchange, the satisfaction of debts, the foreclosure of mortgages, or otherwise, real or personal property, rights, rights-of-way, franchises, easements, and other interests in land, including land lying under water and appropriation of water rights that are located in the state, taking title to the property in the name of the authority;
- (8) acquire property by eminent domain or by declaration of taking;
- (9) hold, maintain, use, operate, lease, exchange, donate, improve, convey, alienate, dispose of, mortgage, encumber, and otherwise grant security interests in or transfer any real or personal property including without limitation facilities and equipment;
- (10) borrow money and issue its bonds or notes and provide for and secure their payment, provide for the rights of their holders and purchase, hold, or dispose of its bonds or notes;
- (11) secure the payment of its obligations by pledge or mortgage or other lien on its contracts, revenues, income, or property;
- (12) contract with and accept transfers, gifts, grants or loans of funds or property from the United States, the state, and its political subdivisions, subject to the provisions of federal, state, or local programs;

ARTICLE 4. POWERS AND DUTIES.

Sec. 42.40.300. GENERAL POWERS. In addition to the exercise of

- other powers authorized by law, the corporation may
- (1) adopt a seal;
- (2) adopt bylaws governing the business of the corporation;
- (3) sue and be sued;
- (4) appoint trustees and agents of the corporation and prescribe their powers and duties;
- (5) hire legal counsel to represent the corporation;
- (6) make contracts and execute instruments necessary or convenient in the exercise of its powers and duties;
- (7) acquire by purchase, lease, bequest, devise, gift, exchange, the satisfaction of debts, the foreclosure of mortgages, or otherwise, real or personal property, rights, rights-of-way, franchises, easements, and other interest in land, including land lying under water and appropriation of water rights that are located in the state, taking title to the property in the name of the corporation;
- (8) acquire property by eminent domain in accordance with AS 42.40.430;
- (9) hold, maintain, use, operate, lease, exchange, donate, improve, convey, alienate, dispose of, or transfer any real or personal property including facilities and equipment;
- (10) contract with and accept transfers, gifts, grants or loans of funds or property from the United States and the state or its political subdivisions, subject to the provisions of federal, state, or local programs;
- (11) undertake and provide for the management, operation, maintenance, use, and control of all of the properties of the corporation including, the tracks, equipment and other property transferred to it by the federal government or by any person;
- (12) recommend to the legislature and the governor any tax,

Not all of the general powers in SB 10 are contained in SB 352, however those powers omitted in this section appear to be essentially covered in other sections. In addition, SB 352 authorizes the adoption of corporate bylaws.



(cont.)

(13) acquire, hold and dispose of stocks, memberships, contracts, bonds, general or limited partnership interests or other interests in another corporation, association, partnership, joint venture or other legal entity, and exercise the powers or rights in connection with these interests which are provided in contracts or agreements and that are allowed by law concerning the satisfaction of debts;

(14) undertake or provide for the management, operation, maintenance, use, and control of all of the properties of the Alaska Railroad including without limitation, the tracks, equipment and other property transferred to it by the federal government or by any person;

(15) undertake or provide for the acquisition, construction, maintenance, equipping, and operation of connecting, switching, terminal, or other railroads and railroad facilities in the state;

(18) recommend to the legislature and the governor any tax, financing, or security measure the authority considers appropriate for maximizing the public interest in the operation of the railroad;

(17) lend its funds, property, credit or services for authority purposes;

(18) consent to the modification of the rate of interest, time of payment of an installment of principal or interest, or other term of a loan, contract, or agreement to which the authority is a party;

(19) include in any borrowing the amounts necessary to establish reasonable reserves and pay financing charges and interest on the obligations for a reasonable period after which the authority estimates funds will be otherwise available to pay the interest, consultant, advisory, and legal fees, and other expenses necessary or incident to borrowing;

(cont.)

1 financing, or financial arrangement the corporation considers appropriate for expansion or extension and operation of the Alaska Railroad;

2
3
4 (13) maintain offices and facilities at places it designates;

5
6 (14) apply to the appropriate agencies of the state, the United States, and a foreign country or other proper agencies for the permits, licenses, or approvals necessary to construct, maintain, and operate railroad transportation services, and to obtain, hold, and reuse licenses and permits in the same manner as other operating units or persons;

7
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11
12 (15) prescribe rates to be charged for services provided by the Alaska Railroad on a competitive basis;

13
14 (16) determine the routes, schedules, and types of service to be provided by the Alaska Railroad;

15
16 (17) enter into contracts and leases with connecting carriers and shippers, that contain provisions to preserve and expand the railroad's traffic base;

17
18
19 (18) plan for and undertake expansion of the railroad and railroad activities, including extension of the Alaska Railroad's rail system, and contract with other modes of transportation service connecting to the railroad's rail services;

20
21
22 (19) adopt rules that are designed to safeguard property owned, managed, or transported by the corporation and to protect employees and persons using the corporation's property or services;

23
24
25
26 (20) hire and discharge railroad personnel and determine benefits and other terms and conditions of employment established in accordance with obligations imposed by 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982);

SB 352

(cont.)

- 1 (20) maintain offices and facilities at places it designates;
 2
 3 (21) purchase the authority's bonds at a price not more than
 4 the principal amount of them plus interest;
 5 (22) cancel bonds purchased under (21) of this section;
 6 (23) apply to the appropriate agencies of the state, the
 7 United States, and to a foreign country and other proper agencies for
 8 the permits, licenses, or approvals necessary to construct, maintain,
 9 and operate transportation services, and to obtain, hold, and reuse
 10 the licenses and permits in the same manner as other operating units
 11 or persons;
 12 (24) prescribe rates to be charged for services provided by
 13 the Alaska Railroad;
 14 (25) determine the routes, schedules, and types of service
 15 to be provided by the Alaska Railroad;
 16 (26) enter into contracts, leases, and other agreements with
 17 connecting carriers, shippers, and other persons concerning the ser-
 18 vices, activities, operations, properties and facilities of the rail-
 19 road, including contracts, leases and other agreements that contain
 20 provisions intended to preserve and expand the railroad's traffic
 21 base;
 22 (27) plan for and undertake expansion of the railroad and
 23 railroad activities, including extension of the Alaska Railroad's rail
 24 system and acquisition and operation of other modes of transportation
 25 service connecting to the railroad's rail service;
 26 (28) adopt regulations having the force of law that are de-
 27 signed to safeguard property owned, managed, or transported by the
 28 authority, to protect employees and persons using the authority's
 29 property or services, and to promote safe, healthy, secure, and

(cont.)

- 1 (21) assume and satisfy liabilities of the United States or
 2 its agencies as provided by the federal transfer legislation and the
 3 closing report or its substantive equivalent as accepted by the legis-
 4 lature;
 5 (22) maintain a security force to enforce state law and the
 6 corporations rules with respect to violations that occur on or to
 7 property owned, managed or transported by the corporation;
 8 (23) borrow money and issue its bonds or notes and provide
 9 for and secure their payment, provide for the rights of their holders
 10 and purchase, hold, or dispose of its bonds or notes;
 11 (24) secure the payment of its obligations by pledge or
 12 mortgage or other lien on its contracts, revenues, income, or proper-
 13 ty;
 14 (25) consent to the modification of the rate of interest,
 15 time of payment of an installment of principal or interest, or other
 16 term of a loan, contract, or agreement to which the corporation is a
 17 party;
 18 (26) include in any borrowing the amounts necessary to
 19 establish reasonable reserves and pay financing charges and interest
 20 on the obligations for a reasonable period after which the corporation
 21 estimates funds will be otherwise available to pay the interest,
 22 consultant, advisory, and legal fees, and other expenses necessary or
 23 incident to borrowing;
 24 (27) purchase the corporation's bonds at a price not more
 25 than the principal amount of them plus interest; and
 26 (28) cancel bonds purchased under (21) of this section. ?