

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 8672

3128 HT AK RAILROAD / ANAL: CSHB 352 - HB 512

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Sec. 42.40.180. RULES. (a) The board shall adopt rules to carry out its functions and the purposes of this chapter, including rules to safeguard property owned, managed, or transported by the corporation and to protect employees and persons using the corporation's property or services. At least 15 days before the adoption, amendment, or repeal of a rule the board shall give public notice of the proposed action by publishing a notice in at least three newspapers of general circulation in the state and by mailing a copy of the notice to each person who has requested notice of proposed changes to rules. The notice must state the time, place, and nature of the proceedings and must contain a summary of the subject of the proposed change.

(b) On the date and at the time and place designated in the notice required under (a) of this section the board shall provide each interested person an opportunity to present statements in writing concerning the proposed change and shall give members of the public an opportunity to present oral statements for a total period of at least one hour.

(c) The board shall consider all relevant matters presented to it before adopting, amending, or repealing a rule. The board may take action on a rule that varies in content from the summary provided with the notice of the proposed change if the subject of the rule was reflected in the summary and it provided reasonable notice to the public as to whether their interests could be affected by the board's action on that subject.

(d) The board shall establish in the bylaws of the corporation additional procedures for adopting rules if necessary.

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

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

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

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Sec. 42.40.210. PREVIOUSLY ADOPTED RULES AND ORDERS. The board may provide by resolution that rules and orders in effect on the date of transfer remain in effect until amended or repealed by the board. AS 42.40.180 does not apply to actions taken under this section.

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Sec. 42.40.190. PREVIOUSLY ADOPTED RULES AND ORDERS. The board may provide by resolution that rules and orders in effect on the date of transfer that are not inconsistent with this chapter or other state law remain in effect until amended or repealed by the board. The board may adopt the substance of former federal rules or orders relating to the Alaska Railroad and this may not be considered a continuation of the federal rules or orders if adopted by the board in accordance with procedural requirements of this chapter or other law.

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Sec. 42.40.220. PUBLIC DISCLOSURE OF INFORMATION. (a) Except as provided under (b) of this section, information in the possession of the corporation is public and is open to public inspection at reasonable times.

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

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

(b) The corporation may by rule designate as confidential and withhold public disclosure of matters of a nonpublic, privileged, or proprietary nature. Those matters include personnel records, communications with and work product of legal counsel, and consistent with the standards and practices of the United States Interstate Commerce Commission for the protection of these matters, other information including proprietary information associated with specific shippers, divisions and contract rate agreements.

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

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

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

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

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prohibition contained in this section.

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

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Sec. 42.40.190. EMERGENCY RULES. (a) The board shall establish in the bylaws of the corporation a procedure for the adoption, amendment, or repeal of a rule on an emergency basis. An emergency change may be made only when necessary for the orderly operation of the corporation's facilities or programs. The requirements of AS 42.40.180 do not apply to actions taken under this section. However, within 10 days after the adoption, amendment, or repeal of a rule on an emergency basis the board shall give notice of its action that substantially complies with the notice requirements of AS 42.40.180(a).

(b) An action taken under this section remains in effect for not more than 120 days. To prevent an emergency change from lapsing the board may make the same change under AS 42.40.180 before the end of the 120-day period.

SEE PAGE 16, PARAGRAPH C
LINE 9
FOR EMERGENCY RULES

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Sec. 42.40.200. VALIDITY OF RULES. (a) Failure to mail notice to a person under AS 42.40.180(a) or 42.40.190(a) does not invalidate an action taken by the board.

(b) An interested person may challenge a rule adopted, amended, or repealed by the board by bringing an action in the superior court. In addition to other grounds, a court may declare a change invalid

(1) for substantial failure by the board to comply with AS 42.40.180 or 42.40.190; or

(2) if the rule was adopted under AS 42.40.190, upon the grounds that the emergency change was not necessary for the orderly operation of the corporation's facilities or program.

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ARTICLE 4. POWERS AND DUTIES.

Sec. 42.40.250. 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, personal property, rights, rights-of-way, franchises, easements, and other interest in land, and acquire by appropriation water rights that are located in the state, taking title to the property in the name of the corporation;
- (8) hold, maintain, use, operate, lease, exchange, donate, improve, convey, alienate, dispose of, or transfer land or personal property, subject to other provisions of this chapter;
- (9) 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 other provisions of federal or state law or municipal ordinances;
- (10) undertake and provide for the management, operation, maintenance, use, and control of all of the property of the corporation, including all land and personal property of the Alaska Railroad transferred under 45 U.S.C. 1201(a) and described in the report dated July 14, 1983, as amended, submitted to Congress and the legislature under 45 U.S.C. 1204(a);
- (11) recommend to the legislature and the governor any tax, financing, or financial arrangement the corporation considers appropriate for expansion or extension and operation of the Alaska Railroad;
- (12) maintain offices and facilities at places it designates;
- (13) apply to the state, the United States, and foreign countries or other proper agencies for the permits, licenses, or approvals necessary to construct, maintain, and operate railroad transportation services, and obtain, hold, and reuse the licenses and permits in the same manner as other railroad operators;

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- (1) adopt a seal;
- (2) adopt bylaw 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, personal property, rights, rights-of-way, franchises, easements, and other interest in land, and acquire by appropriation water rights that are located in the state, taking title to the property in the name of the corporation;
- (8) hold, maintain, use, operate, lease, exchange, donate, improve, convey, alienate, dispose of, mortgage, encumber, and otherwise grant security interests in or transfer land or personal property, subject to other provisions of this chapter;
- (9) 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 other provisions of federal or state law or municipal ordinances;
- (10) undertake and provide for the management, operation, maintenance, use, and control of all of the property of the corporation, including tracks, equipment and other property transferred to the corporation by the federal government or any person;
- (11) recommend to the legislature and the governor any tax, financing, or financial arrangement the corporation considers appropriate to carry out the duties under this chapter;
- (12) maintain offices and facilities at places it designates;
- (13) apply to the state, the United States, and foreign countries or other proper agencies for the permits, licenses, or approvals necessary to construct, maintain, and operate railroad transportation services, and obtain, hold, and reuse the licenses and permits in the same manner as other railroad operators;

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

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

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

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

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

2 (19) assume and satisfy liabilities of the United States in
3 accordance with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of
4 1982) and the closing report of July 14, 1983, as amended, prepared
5 and submitted to Congress and the Legislature under 45 U.S.C. 1204(a);

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

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

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

14 (23) cancel bonds of the corporation purchased by the corpo-
15 ration;

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

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

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

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 | (27) do all things necessary or desirable to carry out the
28 | powers and duties of the corporation granted or necessarily implied in
1 | this chapter or other laws of the state or the laws or regulations of
2 | the federal government.

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

8 | (28) undertake and provide for the acquisition, construc-
9 | tion, maintenance, equipping, and operation of connecting, switching,
10 | terminal, or other railroads and railroad facilities in the state;

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

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4 . Sec. 42.40.260. ANNUAL REPORT. Within 90 days following the end
 5 of the fiscal year of the Alaska Railroad the board shall direct
 6 preparation of, certify and distribute to the governor and to the
 7 legislature a report describing the operations and financial condition
 8 of the corporation during the preceding fiscal year. The report shall
 9 itemize the cost of providing each category of service offered by the
 railroad and the income generated by each category.

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

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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 recognized railroad management expert to assure that the railroad is being managed and operated effectively and efficiently in accordance with the requirements of this chapter.

(b) The corporation shall make all of its financial records available to an auditor appointed by the governor and to the legislative audit division for examination. Disclosure to the public by the auditor or legislative audit division of this information is subject to AS 42.40.220 and rules implementing that section.

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

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

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NO COMPARABLE PROVISION

6 Sec. 42.40.280. STATE OVERSIGHT REPORTS. (a) The board shall
7 provide a state oversight report to the governor and the legislature
8 before undertaking
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10 (1) expansion, reduction, or diversification of services
11 provided by the railroad upon the date of transfer or as provided
12 under this chapter that the board determines would represent a signif-
13 icant and permanent change in the level and nature of services pro-
14 vided;
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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
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20 (3) the issuance of securities, notes, bonds or con-
21 tracts with a term in excess of one year and in an amount exceeding
22 \$5,000,000;
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24 (4) an application for an appropriation to be used for
25 providing any service that is not self-sustaining.
26
27 (b) The report under (a) of this section shall be in writing,
28 describe the proposed undertaking in detail, and specify
29 (1) its financial impact on the corporation;
30 (2) its impact on the level and nature of services provided
31 by the corporation;
32 (3) the reasons the action is necessary or desirable to
33 achieve the purposes of this chapter; and
34 (4) whether and when the undertaking is expected to be
35 self-sustaining financially.

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Sec. 42.40.200. LONG RANGE CAPITAL IMPROVEMENT AND PROGRAM PLAN.

(a) The corporation shall prepare and the board shall adopt a long range capital improvement and program plan. The plan shall explain the manner in which the corporation intends to accomplish the purposes of this chapter and the corporation's anticipated capital improvements during each of the five years after the plan is adopted.

(b) The board shall annually review and approve revisions to the long range capital improvement and program plan. The board shall provide copies of the updated plan to the governor and the legislature by December 1 of each year.

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Sec. 42.40.290. LONG RANGE PROGRAM AND CAPITAL IMPROVEMENT

PLANS. (a) The corporation shall prepare and the board shall adopt a long range program plan and a capital improvement plan. The board shall consult with affected state agencies in preparing the plans. The long range program plan shall explain the manner in which the corporation intends to accomplish the purposes of this chapter during each of the five years after the plan is adopted. The capital improvement plan shall present and explain the corporation's anticipated capital improvements for each of the five years after the plan is adopted and shall reflect efforts to upgrade the railroad and develop safer, more cost-effective rail operations.

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

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Sec. 42.40.290. USE OF CORPORATION ASSETS. The corporation shall apply all money, property, other assets, and credit of the corporation toward activities authorized by this chapter. The corporation may not issue shares of stock, pay dividends, make private distributions of assets, make loans to board members or employees, or engage in business for private benefit. The use of money, property, other assets, or credit of the corporation for a purpose not authorized by law by a person having the possession or control of it is prohibited.

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

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13 Sec. 42.40.300. INDEMNIFICATION. (a) The corporation may
 14 defend and indemnify a current or former member of the board, em-
 15 ployee, or agent of the corporation against all costs, expenses, judg-
 16 ments, and liabilities, including attorney's fees, incurred by or
 17 imposed upon that person in connection with a civil or criminal action
 18 in which the person is involved by affiliation with the corporation,
 19 if the person acted in good faith on behalf of the corporation and
 20 within the scope of official duties or powers.

21 (b) The corporation may purchase insurance to protect and hold
 22 personally harmless its employees, agents, and board members from an
 23 action, claim, or proceeding arising out of the performance, purported
 24 performance, or failure of performance, in good faith, of duties for,
 25 or employment with, the corporation and to hold them harmless from
 26 expenses connected with the defense, settlement, or monetary judgments
 27 on that action, claim, or proceeding. The purchase of insurance is
 28 discretionary with the board and insurance is not considered to be
 29 compensation to the insured person.

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.

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ARTICLE 5. CORPORATION PROPERTY.

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Sec. 42.40.350. LAND. (a) All land transferred under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982) or otherwise acquired by the corporation is under the control of the corporation. All land that is transferred or acquired by the corporation is designated as follows:

(1) railroad rights-of-way or easements or railroad utility corridors;

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

(b) Railroad utility corridors shall be of a width at least 100 feet on both sides of the centerline of the extended main or branch line, or may be of lesser width if the adjoining land is not rail land, and may be surveyed by the metes and bounds method. The corporation may not convey land within a utility corridor. However, the corporation may lease, grant easements or permits, or otherwise authorize use of portions of a utility corridor for transportation, communication, and transmission purposes and support functions associated with those purposes, and for other uses authorized under this chapter if the use does not restrict other parallel uses of the utility corridor.

(c) The corporation may convey, lease, grant easements or permits, or otherwise authorize use of portions of rail land.

ARTICLE 5. CORPORATION PROPERTY.

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Sec. 42.40.350. LAND. (a) All land transferred under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982) or otherwise acquired by the corporation is under the control of the corporation. All land that is transferred or acquired by the corporation is designated as follows:

(1) railroad rights-of-way or easements or railroad utility corridors;

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

(b) Railroad utility corridors shall be of a width at least 100 feet on both sides of the centerline of the extended main or branch line, or may be of lesser width if the adjoining land is not rail land, and may be surveyed by the metes and bounds method. The corporation may not convey land within a utility corridor. Except as provided in AS 42.40.420, the corporation may lease, grant easements or permits, or otherwise authorize use of portions of a utility corridor for transportation, communication, and transmission purposes and support functions associated with those purposes if the use does not restrict other parallel uses of the utility corridor.

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

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Sec. 42.40.360. REQUEST FOR LAND. (a) The board may nominate federal land necessary or useful for present, future or intended railroad purposes and request the commissioner of natural resources to select the land for the state through the federal land selection process.

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

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

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

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

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

(2) notify the corporation of reasons for refusal to designate the identified land for railroad purposes; or

(3) approve in part and deny in part the request.

(b) A conveyance of land under this section may be for less than its appraised value as determined by the commissioner of natural resources.

(c) In the absence of a reservation to the contrary, a conveyance of land under this section vests in the corporation ownership, control of the surface and subsurface, and the exclusive right to extract or use timber and other construction materials, sand, gravel, rock, and the right to tunnel, ditch, recontour, excavate, or otherwise use the land for railroad, transportation, transmission, and related purposes without regard to the classification of the resources as part of the surface or subsurface estate.

(d) The corporation may reconvey to the state land received under this section that the corporation and the commissioner of natural resources jointly identify as unnecessary or unsuitable for the corporation's purposes.

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

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

(2) notify the corporation of reasons for refusal to designate the identified land for railroad purposes; or

(3) approve in part and deny in part the request for designation of the identified land and convey as appropriate.

(b) In the absence of a reservation to the contrary, a conveyance of land under this section vests in the corporation ownership, control of the surface and subsurface, and the exclusive right to extract or use timber and other construction materials, sand, gravel, rock, and the right to tunnel, ditch, recontour, excavate, or otherwise use the land for railroad, transportation, transmission, and communication services without regard to the classification of the resources as part of the surface or subsurface estate.

(c) The corporation may reconvey to the state land received under this section or under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1962) that the corporation and the commissioner of natural resources jointly identify as unnecessary or unsuitable for the corporation's purposes.

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Sec. 42.40.380. USE OF STATE LAND. When physical conditions require that track or other right-of-way fixtures of the corporation be moved from the existing location and relocated on state land adjacent to or in the vicinity of the existing right-of-way and the chief executive officer determines that relocation is necessary to maintain safe and adequate rail operations, the corporation may effect the relocation and notify the the Department of Natural Resources. The relocation must affect only the amount of state land necessary to adequately restore or continue safe rail operations at a normal level.

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

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Sec. 42.40.400. EMINENT DOMAIN. (a) The corporation may exercise the power of eminent domain under AS 09.55.240 - 09.55.460 to acquire land for lawful purposes consistent with this chapter. The corporation may acquire a fee simple title whenever, in the judgment of the board, ownership of a fee simple title is necessary to carry out the lawful purposes in condemning the land.

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

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

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Sec. 42.40.390. EMINENT DOMAIN. (a) The corporation may exercise the power of eminent domain under AS 09.55.240 - 09.55.460 to acquire land for railroad purposes consistent with this chapter. The corporation may acquire a fee simple title whenever, in the judgment of the board, ownership of a fee simple title is necessary to carry out the purposes of this chapter.

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

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

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Sec. 42.40.410. VACATION OF LAND. The corporation may vacate
land acquired for railroad purposes by executing and filing a deed in
the appropriate recording district. Upon filing the deed the state
shall acquire title to the land.

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

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Sec. 42.40.390. LAND USE RULES. The board may adopt exclusive rules governing land use by parties having interests in or permits for land owned or managed by the corporation. The power conferred by this section is exercised for the common health, safety, and welfare of the public and to the extent constitutionally permissible, may not be limited by the terms and conditions of leases, contracts, or other transactions.

NO COMPARABLE PROVISION

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Sec. 42.40.420. FEDERAL LAND. The corporation may submit applications on its own behalf as an instrumentality of the state for acquisition of federal land available under federal law that will enhance the operations of the corporation. The corporation may receive in its own name conveyances of all interests in federal land.

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Sec. 42.40.410. FEDERAL LAND. The corporation may submit applications on its own behalf as an instrumentality of the state for acquisition of federal land available under federal law that will enhance the operations of the corporation. The corporation may receive in its own name conveyances of all interests in federal land.

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Sec. 42.40.430. MUNICIPAL USE OF RAILROAD LAND. Upon request the corporation may authorize use of railroad land for municipal purposes. Subject to AS 42.40.350(b), the corporation may authorize a municipality to establish a walkway or trail over a utility corridor. Before authorizing a use under this section the board shall require the municipality to execute an agreement in a form approved by the board to

(1) hold the corporation harmless and indemnify the corporation for any use made of the railroad land including

(A) defending the corporation in a cause of action brought against the corporation as a result of the use; and

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

(2) stop the use of railroad land upon request of the corporation if, as determined by the corporation, the use interferes with expansion or replacement of railroad facilities.

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

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

(A) defending the corporation in a cause of action brought against the corporation as a result of the use; and

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

(2) vacate the right-of-way upon request of the corporation if the right-of-way interferes with expansion or replacement of railroad facilities.

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1 Sec. 42.40.440. ACQUISITION OF GOVERNMENT PROPERTY. The corpor-
2 ation, as an instrumentality of the state, may acquire in its own name
3 from the United States under 50 App U.S.C. 1622 et seq. (Surplus
4 Property Act of 1944), 40 U.S.C. 471 et seq. (Federal Property and
5 Administrative Services Act of 1949), or other law, property under the
6 control of a federal department or agency that is useful for the
7 corporation's purposes. The corporation may acquire from the Depart-
8 ment of Administration property of the state made available under
9 AS 44.71.010 - 44.71.040.

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.

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NO COMPARABLE PROVISION

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

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ARTICLE 6. FINANCIAL PROVISIONS.

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

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ARTICLE 6. FINANCIAL PROVISIONS.

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

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Sec. 42.40.510. FIDELITY BOND. The corporation shall obtain a fidelity bond in an amount determined by the board for board members and each executive officer responsible for accounts and finances. A bond must be in effect during the entire tenure in office of the bonded person.

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Sec. 42.40.510. FIDELITY BOND. The corporation shall obtain a fidelity bond in an amount determined by the board for board members and each officer of the corporation responsible for accounts and finances. A bond must be in effect during the entire tenure in office of the bonded person.

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Sec. 42.40.520. INSURANCE. Except as provided in AS 42.40.300-
(b), the corporation shall protect its assets, services, and employees
by purchasing insurance or providing for certain self-insurance re-
tentions. The corporation shall also maintain casualty, property,
business interruption, marine, boiler and machinery, pollution liabil-
ity, and other insurance in amounts reasonably calculated to cover
potential claims against the corporation or state for bodily injury,
death or disability and property damage that may arise from or be
related to corporation operations and activities.

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

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1 Sec. 42.40.530. REVENUE. Revenue generated by or appropriated
2 to the corporation shall be retained and managed by the corporation
3 for railroad and related purposes in accordance with 45 U.S.C. 1207-
4 (a)(5) (Alaska Railroad Transfer Act of 1962).

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 1962).

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ARTICLE 7. BONDS AND NOTES.

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Sec. 42.40.606. GENERAL PROVISIONS. (a) The corporation by resolution may issue bonds and bond anticipation notes to provide money to carry out its purposes. However, the proceeds may not be used for activities other than those specifically related to the purposes for which the instruments are originally issued.

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

(1) be dated;

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

(3) be in a required denomination;

(4) be in a coupon or registered form;

(5) carry conversion or registration provisions;

(6) have a required rank or priority;

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

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

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

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

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

ARTICLE 7. BONDS AND NOTES.

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Sec. 42.40.606. GENERAL PROVISIONS. (a) The corporation by resolution may issue bonds and notes to provide money to carry out its purposes.

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

(1) be dated;

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

(3) be in a required denomination;

(4) be in a coupon or registered form;

(5) carry conversion or registration provisions;

(6) have a required rank or priority;

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

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

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

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

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

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7 | Sec. 42.40.610. NEGOTIABLE INSTRUMENTS. Bonds and notes issued
8 | under this chapter and interest coupons attached to them are nego-
9 | riable instruments under the laws of this state, subject only to
10 | applicable provisions for registration.

12 | Sec. 42.40.610. NEGOTIABLE INSTRUMENTS. Bonds and notes issued
13 | under this chapter and interest coupons attached to them are nego-
14 | riable instruments under the laws of this state, subject only to
15 | applicable provisions for registration.
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11 Sec. 42.40.620. BONDS AND NOTES ELIGIBLE FOR INVESTMENT. Bonds
12 and notes issued under this chapter are securities in which all public
13 officers and public bodies of the state and its political subdivi-
14 sions, all insurance companies, trust companies, banking associations,
15 investment companies, executors, administrators, trustees and other
16 fiduciaries may properly and legally invest funds, including capital
17 in their control or belonging to them. These bonds and notes may be
18 deposited with a state or municipal officer of an agency or political
19 subdivision of the state for any purpose for which the deposit of
20 bonds or notes of the state is authorized by law.

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

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21 Sec. 42.40.630. PAYMENT OF BONDS AND NOTES. (a) The principal
 22 and interest on bonds or notes of the corporation is payable from
 23 corporation money or assets. Bonds or notes may be additionally
 24 secured by a pledge of a grant or contribution from the federal gov-
 25 ernment or a corporation, association, institution or person, or a
 26 pledge of money, income, or revenue of the corporation from any
 27 source.
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29 (b) Bond anticipation notes may be payable from the proceeds of
 30 the sale of bonds or other bond anticipation notes, or, if bond or
 31 bond anticipation note proceeds are not available, from other money or
 32 assets of the corporation.

27 Sec. 42.40.630. PAYMENT OF BONDS AND NOTES. The principal and
 28 interest on bonds or notes of the corporation is payable from corpo-
 29 ration money or assets. Bonds or notes may be additionally secured by
 30 a pledge of a grant or contribution from the federal, state, or
 31 municipal government or a corporation, association, institution or
 32 person, or a pledge of money, income, or revenue of the corporation
 33 from any source.

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Sec. 42.40.640. AGREEMENTS WITH HOLDERS. The corporation may by provisions in a resolution authorizing or relating to the issuance of bonds or bond anticipation notes enter into the following agreements with the holders of the instruments:

- (1) pledge all or part of its revenue to which its right then exists or may thereafter exist, the money derived from the revenue, and the proceeds of its bonds or notes;
- (2) covenant against pledging all or part of its revenue, or against permitting or suffering a lien on its revenue or property;
- (3) covenant as to establishment of reserves or sinking funds and provide for, regulate, and dispose of the reserves or sinking funds;
- (4) covenant regarding limitations on a right to sell or otherwise dispose of property of any kind;
- (5) covenant as to bonds and notes to be issued, their limitations, terms and conditions, the custody, application and disposition of the proceeds of the bonds and notes;
- (6) covenant as to the issuance of additional bonds or notes, or limitations on the issuance of additional bonds or notes, and the incurring of other debts;
- (7) covenant as to the payment of the principal of or interest on the bonds or notes, the sources and methods of payment, the rank or priority of the bonds or notes with respect to a lien or security, or the acceleration of the maturity of the bonds or notes;
- (8) provide for the replacement of lost, stolen, destroyed or mutilated bonds or notes;
- (9) covenant against extending the time for the payment of bonds or notes, or interest on the bonds or notes;
- (10) covenant as to the redemption of bonds or notes and privileges of their exchange for other bonds or notes of the corporation;
- (11) covenant to create or authorize the creation of special funds of money to be held in pledge or otherwise for operating expenses, payment or redemption of bonds or notes, reserves or other purposes, and as to the use and disposition of the money held in the funds;
- (12) establish the procedure by which the terms of a contract or covenant with or for the benefit of the holders of bonds or notes may be amended or abrogated, the amount of bonds or notes the holders of which must consent to amendment or abrogation, and the manner in which the consent may be given;

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

- (1) make and enter into any and all the covenants and agreements with the trustees or the holders of the bonds that the corporation may determine to be necessary or desirable, including covenants, provisions, limitations and agreements as to
 - (A) the application, investment, deposit, use and disposition of the proceeds of bonds of the corporation or of money or other property of the corporation or in which it has an interest;
 - (B) the fixing and collection of rentals, charges, fees or other consideration for, and the other terms to be incorporated in, contracts with respect to the use of any of the corporation's property;
 - (C) the fixing and collection of tariffs, fees, charges or other consideration for the use or service of the Alaska Railroad by passengers, and other users and freight;
 - (D) the terms and conditions upon which additional bonds of the corporation may be issued;
 - (E) the vesting in the trustee of rights and remedies exercisable by the trustee for the protection of the holders of bonds of the corporation and not otherwise in violation of law and the restriction of the rights of an individual holder of bonds of the corporation;
- (2) pledge, mortgage or assign money, leases, agreements, property, or other assets of the corporation either presently in hand or to be received in the future, or both; and
- (3) provide for any other matters of like or different character that in any way affect the security or protection of the bonds.

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(13) covenant as to the custody of any of its properties or investments, their safekeeping and insurance, and the use and disposition of insurance money;

(14) to vest in a trustee or trustees inside or outside the state property, rights, powers and duties in trust as the corporation may determine that may include any or all of the rights, powers and duties of a trustee appointed by the holders of bonds or notes of the corporation, and to limit or abrogate the rights of the holders of the bonds or notes of the corporation to appoint a trustee under this chapter or limit the rights, powers and duties of the trustee;

(15) to pay the costs or expenses incident to the enforcement of the bonds or notes, of the provisions of the resolution, or of a covenant or agreement of the corporation with the holders of its bonds or notes;

(16) agree with a corporation trustee, that may be a trust company or bank having the powers of a trust company inside or outside the state, as to the pledging or assigning of revenue or funds that or in which the corporation has a right or interest; the agreement may provide for other rights and remedies exercisable by the trustee for the protection of the holders of bonds or notes of the corporation and not otherwise in violation of law, and may provide for the restriction of the rights of an individual holder of bonds or notes of the corporation;

(17) to appoint and provide for the duties and obligations of a paying agent or other fiduciary inside or outside the state;

(18) to limit the rights of the holders of bonds or notes of the corporation to enforce a pledge or covenant securing the bonds or notes; and

(19) covenants other than and in addition to the covenants expressly authorized in this section, of like or different character, and make covenants to do or refrain from doing acts in order to better secure bonds or notes or the, in the absolute discretion of the board, will tend to make bonds or notes more marketable.

CSSB 352(T)

CSHB 512(T)

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Sec. 42.40.670. INDEPENDENT FINANCIAL ADVISOR. In negotiating the private or public sale of bonds or bond anticipation notes to an underwriter, the board shall retain a financial advisor who is independent from the underwriter.

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

CSSB 352(T)

CSHB 512(T)

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Sec. 42.40.680. VALIDITY OF SIGNATURES. If an officer of the corporation whose signature or a facsimile of whose signature appears on bonds, notes, or coupons attached to them ceases to be an officer before the delivery of the bond, note, or coupon, the signature or facsimile is valid the same as if the person had remained in office until delivery.

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

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1 Sec. 42.40.670. VALIDITY OF PLEDGE. (a) The pledge of assets
2 or revenue of the corporation to the payment of the principal or
3 interest on bonds or notes of the corporation is valid and binding
4 from the time the pledge is made and the assets or revenue are immedi-
5 ately subject to the lien of the pledge without physical delivery or
6 further act. The lien of a pledge is valid and binding against all
7 parties having claims of any kind against the corporation, irrespec-
8 tive of whether those parties have notice of the lien of the pledge.

9 (b) Nothing in this section prohibits the corporation from
10 selling assets subject to a pledge, except that a sale may be re-
11 stricted by the trust agreement or resolution providing for the issu-
12 ance of the bonds or notes.

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

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

CSSB 352(T)

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Sec. 42.40.700. REMEDIES. A holder of bonds or notes issued under this chapter or of coupons attached to them, and a trustee under a trust agreement or resolution authorizing the issuance of the bonds or notes, except as restricted by a trust agreement or resolution, either at law or in equity, may

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

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

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

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

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

CSSB 352(T)

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24 Sec. 42.40.71C. CREDIT OF STATE NOT PLEDGED. (a) The state and
 25 its political subdivisions are not liable for the debts of the corpo-
 26 ration. Bonds and notes issued under this chapter are payable solely
 27 from the revenue or assets of the corporation and do not constitute a

28 (1) debt, liability, or obligation of the state or of a
 29 political subdivision of the state; or

30 (2) pledge of the faith and credit of the state or of a
 31 political subdivision of the state.

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

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

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

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.

CSSB 352(T)**CSHB 512(T)**

10 | Sec. 42.40.720. LIMITATION ON PERSONAL LIABILITY. A board
11 | member or employee of the corporation is not subject to personal
12 | liability or accountability because of the execution or issuance of
13 | bonds or notes.
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28 | Sec. 42.40.700. LIMITATION ON PERSONAL LIABILITY. A board
29 | member or employee of the corporation is not subject to personal
1 | liability or accountability because of the execution or issuance of
2 | bonds or notes.

CSSB 352(T)**CSHB 512(T)**

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Sec. 42.40.650. INTERIM RECEIPTS, TEMPORARY BONDS, AND TEMPORARY BOND ANTICIPATION NOTES. Before the preparation of definitive bonds or bond anticipation notes, the corporation may issue interim receipts or temporary bonds or bond anticipation notes, with or without coupons, exchangeable for bonds or bond anticipation notes when those definitive bonds or bond anticipation notes have been executed and are available for delivery.

NO COMPARABLE PROVISION

CSSB 352(T)

CSHB 512(T)

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Sec. 42.40.660. REFUNDING BONDS. (a) The corporation may provide for the issuance of refunding bonds for the purpose of refunding bonds then outstanding that have been issued under this chapter, including the payment of a redemption premium on them and interest that accrues to the date of redemption of the bonds. Refunding bonds shall be issued in accordance with provisions of this chapter that relate to the issuance of bonds to the extent those provisions are appropriate.

(b) Refunding bonds may be sold or exchanged for outstanding bonds issued under this chapter and the proceeds may be applied to the purchase, redemption or payment of the outstanding bonds in addition to other authorized purposes. Pending the application of the proceeds of refunding bonds to the payment of the principal, accrued interest and redemption premium on the bonds being refunded, and, if permitted in the resolution authorizing the issuance of the refunding bonds or in the trust agreement securing them, to the payment of interest on the refunding bonds and expenses in connection with the refunding, the proceeds may be invested in direct obligations of the United States or obligations the principal of and the interest on which are unconditionally guaranteed by the United States that mature or may be redeemed not later than the date the proceeds of the refunding bonds, together with the interest accruing on them, will be required for the purposes intended.

NO COMPARABLE PROVISION

CSSB 352(T)

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ARTICLE 8. PERSONNEL AND LABOR RELATIONS.

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Sec. 42.40.750 CORPORATION EMPLOYEES. (a) Employees of the Alaska Railroad are employees of the corporation and not of the state. The provisions of AS 39 do not apply to employees of the corporation.

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ARTICLE 8. PERSONNEL AND LABOR RELATIONS.

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

CSSB 352(T)

CSHB 512(T)

19 Sec. 42.40.760. COLLECTIVE BARGAINING RIGHTS. The provisions of
20 AS 23.40 (Public Employee Relations Act) do not apply to the corpo-
21 ration or to its employees. However, employees that are not executive
22 officers may organize and form, join, or assist an organization to
23 engage in collective bargaining with respect to wages, hours and other
terms and conditions of employment.

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.

CSSB 352(T)**CSHB 512(T)**

4 Sec. 42.40.769. RAILROAD EMPLOYEES LABOR RELATIONS AGENCY. (a)
5 There is established a railroad employees labor relations agency that
6 consists of three members appointed by the governor. One member shall
7 be a member of the state personnel board. Members serve at the plea-
8 sure of the governor.

9 (b) The railroad labor relations agency shall perform the func-
10 tions described in AS 23.40.090 - 23.40.190 and carry out the provi-
11 sions of AS 42.40.750 - 42.40.810.

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

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.

CSSB 352(T)

CSHB 512(T)

NO COMPARABLE PROVISION

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Sec. 42.40.740. COLLECTIVE BARGAINING UNIT. The railroad labor relations agency shall decide in each case, in order to ensure employees the fullest freedom in exercising the rights guaranteed by AS 42.40.710 - 42.40.890 the unit appropriate for the purposes of collective bargaining, based on such factors as community of interest, wages, hours and other working conditions of the employees involved, the history of collective bargaining, and the desires of the employees. Bargaining units shall be as large as is reasonable, and unnecessary fragmenting shall be avoided.

CSSB 352(T)

CSHB 512(T)

NO COMPARABLE PROVISION

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
30 parties.

31 (c) The railroad labor relations agency shall determine who is
32 eligible to vote in an election held under this section and shall
33 establish rules governing the election. In an election in which none
34 of the choices on the ballot receive a majority of the votes cast, a
35 runoff election shall be conducted, the ballot providing for selection
36 between the two choices receiving the largest number of valid votes
37 cast in the election. If an organization receives the majority of the
38 votes cast in the election it shall be certified by the railroad labor
39 relations agency as exclusive representative of all the employees in
40 the bargaining unit. An election may not be held in a bargaining unit
41 or in a subdivision of a bargaining unit if a valid election has been
42 held within the preceding 12 months.
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CSSB 352(T)**CSHB 512(T)**

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.

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2 Sec. 42.40.810. PROHIBITED ACTS. (a) The corporation or an
3 employee may not directly or indirectly:

4 (1) require or coerce an employee to participate in any way
5 in any activity or undertaking unless the activity or undertaking is
6 related to the performance of official duties;

7 (2) require or coerce an employee to make any report con-
8 cerning an activity or undertaking of the employee's activities or
9 undertakings unless the activity or undertaking is related to the
10 performance of official duties;

11 (3) except as directly related to the performance of offi-
12 cial duties, require or coerce an employee to submit to an interro-
13 gation, examination or psychological test that is designed to elicit
14 information concerning

15 (A) a personal relationship with a person connected
16 with the employee by blood or marriage,

17 (B) the employee's religious beliefs or practices,

18 (C) sexual matters,

19 (D) the employee's political affiliation or philoso-
20 phy;

21 (4) coerce an employee to invest or contribute earnings in
22 any manner or for any purpose;

23 (5) restrict or attempt to restrict after-working-hour
24 statements, pronouncements or other activities, not otherwise prohib-
25 ited by law or personnel rule, of an employee, if the employee does
26 not purport to speak or act in an official capacity.

27 (b) The provisions of (a) of this section do not diminish the
28 authority of an authorized law enforcement agency to conduct criminal
29 investigations of employees suspected of being involved in criminal
30 activity.

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CSSC 352(T)sp1

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.

CSSB 352(T)

CSHB 512(T)

NO COMPARABLE PROVISION

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.

CSSB 352(T)**CSHB 512(T)**

NO COMPARABLE PROVISION

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).

CSSB 352(T)

CSHB 512(T)

NO COMPARABLE PROVISION

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Sec. 42.40.790. ORDERS AND DECISIONS. If the railroad labor relations agency finds that a person named in the written complaint or accusation has engaged in a prohibited practice, the railroad labor relations agency shall issue and serve on the person an order or decision requiring the person to cease and desist from the prohibited practice and to take affirmative action that will carry out the provisions of AS 42.40.710 - 42.40.890. If the railroad labor relations agency finds that a person named in the complaint or accusation has not engaged or is not engaging in a prohibited practice, the railroad labor relations agency shall state its findings of fact and issue an order dismissing the complaint or accusation.

CSSB 352(T)

CSHB 512(T)

NO COMPARABLE PROVISION

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.

NO COMPARABLE PROVISION

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

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

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

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

NO COMPARABLE PROVISION

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Sec. 42.40.910. REGULATIONS. The railroad labor relations agency shall adopt regulations under the Administrative Procedure Act (AS 44.62) to carry out AS 42.40.710 - 42.40.890.

NO COMPARABLE PROVISION

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Sec. 42.40.810. PENALTY FOR VIOLATION OF ORDER OR DECISION. A
person who violates a provision of an order or decision of the
railroad labor relations agency is guilty of a misdemeanor and is
punishable by a fine of not more than \$500.

CSSB 352(T)

CSHB 512(T)

NO COMPARABLE PROVISION

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

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

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