

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

3694 HSTA HB 346

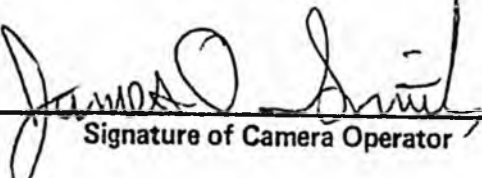
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Date

HB

346

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 346
 Title: Relating to the Alaska Railroad Corporation
 Sponsor: Sund
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Alaska Railroad Corp.
 Program Category Affected: _____
 BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: _____ Phone: _____
 Division: _____ Date: _____
 Approved by Commissioner: Frank Turpin Date: 4/10/85
 Agency: Alaska Railroad Corporation

Distribution (by Agency preparing fiscal note):

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

7/1/84



Official Business

Alaska State Legislature

House of Representatives

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

(907) 465-4963

Alaska Railroad Board of Directors
Pouch 7-2111
Anchorage, Alaska 99510-7069

April 17, 1985

RE: HB 346 "An Act relating to the Alaska Railroad Corporation

The House State Affairs Committee heard HB 346 April 12, 1985. During the committee discussion it was noted that the Alaska Railroad Corporation had taken immediate action on the issue related to the railroad tie bid. The committee understands that at the April 18th meeting of the Railroad Corporation Board of Directors there will be regulations proposed providing for Alaska bidder preference and competitive bidding procedures. The committee would appreciate receiving copies of the proposed amendments and the minutes from the Alaska Railroad Board of Director's meeting.

It is the intent of the committee to move HB 346 to the next committee of referral if the proposed regulations prove to be unsatisfactory. We look forward to working with the Alaska Railroad Corporation on this issue.

Sincerely,

A handwritten signature in cursive script that reads "Katie Hurley".

Katie Hurley, Chair
House State Affairs Committee

TELECOPY COVER LETTER

To: Juneau Information Office

From: Frank Turpin ARRC

Subject: House Bill 344

Telecopier No. 265-2469 Telephone No. 265-2690 Nancy

NOTF: _____

No. of Pages: _____ Including cover sheet

Please distribute to:

Senator Coghill
Rep. John Sund
Robin Taylor
Bette Cato
Katie Hurley

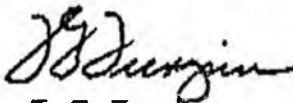
per Lana in LFO

The Hon. J. Sund/R. Taylor
April 11, 1985
Page 2.

The Corporation's final procurement rules, which are soon to be adopted, will provide for competitive bidding and an Alaska bidder preference. For these reasons, your concerns respecting competitive bidding and an Alaska bidder preference have been and can be accommodated without Legislative changes to the Alaska Railroad Corporation Act.

Bidding and preference requirements do make good business and economic sense for the vitality of this Corporation and the State which owns it. I have no intention of neglecting either, as together we see the Railroad operate successfully and self-sufficiently.

Sincerely,



F. G. Turpin
President and Chief Executive Officer

cc:
The Honorable Bette Cato
The Honorable John Coghill
The Honorable Katie Hurley
Board of Directors, Alaska Railroad Corporation

Hurley

Alaska State Legislature



PO. BOX 1441
WRANGELL, ALASKA 99029
(907) 874-2316

While in Juneau
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4905

COMMITTEES:
VICE-CHAIRMAN
HEALTH, EDUCATION & SOCIAL SERVICES
JUDICIARY
FINANCE SUB-COMMITTEE
ON COURT SYSTEM
JOINT COMMITTEE ON
FOREIGN TRADE

House of Representatives

ROBIN L. TAYLOR

April 8, 1985

APR 8 1985

Mr. Frank Turpin
President and Chief Executive
Alaska Railroad Corporation
Pouch 7-2111
Anchorage, Alaska 99510

Dear Mr. Turpin:

I have very recently been made aware of the fact that the Alaska Railroad Corporation has awarded another major contract for the production of railroad ties with disregard to AS 36.15. I find it disturbing Mr. Turpin that after the awards were made, you came to Juneau and said that in the future your procedures would be revised. I also find it disturbing that you made no mention of the much larger contract award to a Portland firm for railroad ties.

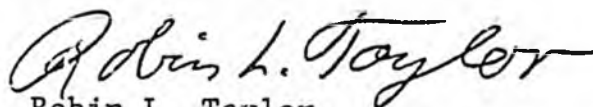
These contracts have committed the railroad to out of state suppliers of ties for the next several years. Your arrival in Juneau last week and subsequent statements that you would be incorporating the Alaska Forest Products Preference law into your contracting procedures in the future was a little like closing the barn door after the horse has left. As you know, I have co-sponsored legislation which would remove federal restrictions that the railroad has been previously operated under. This legislation would allow the railroad greater flexibility to use resources from in-state suppliers for the operation of the railroad. However, I see little benefit in this legislation as it currently reads when you have committed the railroad for the next several years to out-of- state companies.

For the State of Alaska to grow with the future we must have people who are committed to our state and our people. The Territorial Legislature, in its wisdom enacted in 1949 the Forest Products Preference law (AS 36.15). That law is needed possibly even more today than it was in 1949 to help direct the growth and development of this state from within. I am requesting only that you abide by the laws of this state.

Page Two
Mr. Frank Turpin
April 8, 1985

Again, I see this as a clear violation of the intent of state law and I intend to actively support legislation restricting the procurement procedures used by the Alaska Railroad Corporation.

Sincerely,

A handwritten signature in cursive script that reads "Robin L. Taylor". The signature is written in dark ink and is positioned above the typed name and title.

Robin L. Taylor
Representative

Alaska State Legislature



House of Representatives

REPRESENTATIVE
JOHN L. SUND

Box 6440
KETCHIKAN, ALASKA 99901
(907) 225-5552

WHALE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99911
(907) 465-4919

CHAIR, HOUSE SPECIAL COMMITTEE ON LOANS
VICE-CHAIR, JUDICIARY COMMITTEE
MEMBER, SPECIAL COMMITTEE ON OIL AND GAS
MEMBER, RESOURCES COMMITTEE

4/8/85

APR 11 1985

MEMORANDUM

TO: Rep. Katie Hurley, Chair
House Committee on State Affairs

FROM: Rep. Jo

Sund

RE: HB 346 re the Alaska Railroad
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The purpose of this bill is to repeal the exemption the Alaska Railroad Corporation now has to the Alaska Bidder Preference law (AS 37.05.230(1)). The bill also would make the ARR subject to the competitive bid contracting requirements of the Alaska Fiscal Procedures Act.

As you can see from the bill, the ARR Corporation, created last session, is not subject to a number of Alaska statutes, including the Fiscal Procedures Act. HB 346 would make the ARR subject to the provisions of the Fiscal Procedures Act competitive bidding procedures and Alaska bidder preference contracting procedures.

Attached please find the following materials:

- HB 346 relating to the Alaska Railroad
- Fiscal Procedures Act
- Letter from Steve Seley, Wrangel Forest Products
- List of laws that do not apply to the ARR

Chapter 153

AN ACT

Establishing the Alaska Railroad Corporation to manage and operate the Alaska Railroad; and providing for an effective date.

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

(1) it is the policy of the state to

(A) provide safe, economical, and efficient transportation to residents, businesses, visitors, and military installations in the state;

(B) foster and promote the long-term economic growth and development of the state;

(C) develop and implement plans for a transportation network;

(D) foster and promote the development of the state's land and natural resources;

(E) ensure that the Alaska Railroad does not use direct appropriations to fund a particular freight operation if it can be demonstrated that the appropriation has placed privately owned and operated carriers in an unfair competitive position. Nothing herein shall affect the provisions of AS 42.40.220(b);

(2) the Alaska Railroad is an essential part of the state transportation network that may, unless preserved by state action, cease to be a transportation option in Alaska;

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Chapter 153

Chapter 153

1 (3) the federal government has offered to the state the option
2 of taking over the Alaska Railroad to ensure its continued existence; and

3 (4) it is in the state's best interest to accept the railroad
4 under the terms and conditions offered by the United States government.

5 (b) It is the purpose of this Act to

6 (1) create a viable economic entity with the powers and duties
7 necessary to operate and manage the Alaska Railroad pending eventual trans-
8 fer of the railroad to the private sector for its ownership or operation or
9 both consistent with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of
10 1982);

11 (2) provide for the level of transportation service that best
12 satisfies the needs of the people of the state consistent with the other
13 findings and policies of this section;

14 (3) create a public corporation with the powers, duties, and
15 functions needed to operate the Alaska Railroad and manage its rail, indus-
16 trial, port and other properties in the best interest of the people of the
17 state by ensuring that the corporation will

18 (A) be exclusively responsible for the management of the
19 financial and legal obligations of the Alaska Railroad;

20 (B) operate the railroad as a common carrier subject to the
21 jurisdiction of the United States Interstate Commerce Commission
22 consistent with 45 U.S.C. 1207;

23 (C) have the ability to raise capital by issuing bonds upon
24 approval of the legislature exempt from federal and state taxation and
25 applying for federal money to which the state may be entitled or that
26 may be available;

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

29 (E) provide the best possible combination of types and

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Chapter 153

1 levels of safe, efficient, and economical transportation to meet the
2 overall needs of the state, supported when necessary by state invest-
3 ment;

4 (F) provide for the prudent operation of the railroad
5 according to sound business management practices; and

6 (G) preserve the integrity of the railroad utility corridor
7 for transportation, communication, and transmission purposes;

8 (4) ensure that borrowing by the corporation does not directly
9 or indirectly endanger the state's own borrowing capacity.

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

11 CHAPTER 40. ALASKA RAILROAD CORPORATION.

12 ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

42.40.010

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 continued operation of the Alaska Railroad by the corporation as
19 provided in this chapter is considered an essential government func-
20 tion of the state.

42.40.020

21 Sec. 42.40.020. BOARD OF DIRECTORS. (a) The powers of the
22 corporation are vested in the board of directors. The board consists
23 of the commissioner of commerce and economic development, the commis-
24 sioner of transportation and public facilities, and five members
25 appointed by the governor. The five appointed members must be regis-
26 tered voters in the state except as provided in (1) and (2) of this
27 subsection. Except for the commissioners and the member appointed
28 under (5) of this section, a member may not be a state officer or
29 employee. Appointed members shall have the following qualifications:

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Chapter 153

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

4 (2) one member of the board shall be or have been an execu-
5 tive official of a United States railroad and shall be selected in
6 accordance with any requirements imposed under 49 U.S.C. (Interstate
7 Commerce Act); a person who is not a resident of the state may be ap-
8 pointed under this paragraph;

9 (3) at least one member shall be from each judicial dis-
10 trict directly served by the Alaska Railroad;

11 (4) one members shall have at least five years experience
12 as owners or managers of a business in the state;

13 (5) one member shall be an employee who is a member of a
14 bargaining unit representing employees of the corporation.

15 (b) Except for the commissioners, the members of the board shall
16 be confirmed by a majority of the members of the legislature in joint
17 session. A member appointed by the governor has the full powers and
18 responsibilities of a confirmed board member until the member is
19 rejected by the legislature or the legislature adjourns without con-
20 firming the member.

21 Sec. 42.40.030. TERM OF OFFICE. Except for the commissioner of
22 commerce and economic development and the commissioner of transporta-
23 tion and public facilities, members of the board serve for staggered
24 terms of five years each at the pleasure of the governor.

42.40.030

25 Sec. 42.40.040. VACANCIES. (a) Except for the commissioner of
26 commerce and economic development and the commissioner of transporta-
27 tion and public facilities, a vacancy on the board is filled by ap-
28 pointment by the governor, and the appointment must be confirmed by
29 the members of the legislature in joint session. A member appointed

42.40.040

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Chapter 153

1 to fill a vacancy holds office for the balance of the term for which
2 the member's predecessor was appointed.

3 (b) A vacancy on the board does not impair the authority of a
4 quorum of members to exercise the powers and perform the duties of the
5 board.

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

42.40.050

8 Sec. 42.40.050. COMPENSATION AND EXPENSES. (a) An appointed
9 member of the board is entitled to compensation at a rate of \$400 for
10 each day the member is engaged in the actual performance of duties as
11 a member of the board. The board may provide by rule for compensation
12 for partial days during which an appointed member is engaged in actual
13 performance of duties as a member of the board.

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

42.40.060

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

20 (b) The board shall appoint a secretary and prescribe the duties
21 of the secretary.

ARTICLE 2. MANAGEMENT.

42.40.100

22
23 Sec. 42.40.100. MANAGEMENT BY THE BOARD. The board is responsi-
24 ble for the management of the corporation, but shall delegate certain
25 powers and duties to the chief executive officer in accordance with
26 AS 42.40.120. In managing the corporation the board shall

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

29 (2) operate the Alaska Railroad as a common carrier subject

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Chapter 153

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Chapter 153

1 to the jurisdiction of the United States Interstate Commerce Commis-
2 sion consistent with 45 U.S.C. 1207;

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

5 (4) apply to the legislature for an appropriation with the
6 concurrence of the governor to be used to provide a particular service
7 that is not otherwise self-sustaining if a subsidy is required to
8 maintain that service;

9 (5) provide for safe, efficient, and economical transporta-
10 tion to meet the overall needs of the state;

11 (6) raise needed capital by issuing bonds of the corpora-
12 tion upon approval by the legislature while ensuring that borrowing by
13 the corporation does not directly or indirectly endanger the state's
14 own borrowing capacity;

15 (7) review all state and other land disposal proposals to
16 aid in planning for future development or expansion of transportation
17 services;

18 (8) ensure that the procurement procedures of the corpora-
19 tion meet accepted railroad industry standards;

20 (9) ensure that the accounting procedures of the corpora-
21 tion meet generally accepted accounting principles consistent with
22 industry standards for comparable railroads.

23 Sec. 42.40.110. EXECUTIVE OFFICERS. (a) The board shall ap-
24 point the chief executive officer of the corporation who serves at the
25 pleasure of the board. The board shall fix compensation for the chief
26 executive officer.

27 (b) The chief executive officer of the corporation shall appoint
28 and fix the compensation for other executive officers. The compen-
29 sation for an executive officer appointed under this subsection is

SCS CSHB 512(Fin) am S

42.40.110

Chapter 153

subject to board approval.

42.40.120

Sec. 42.40.120. DELEGATION. (a) The board shall by rule delegate to the chief executive officer powers and duties necessary or appropriate for the management of the daily affairs and operations of the corporation. The board may by rule require the exercise of a delegated power or duty to be subject to board approval.

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

(1) leasing subject to AS 42.40.285 and 42.40.350(b) and (d), granting easements in, issuing permits for the use of, or conveying other interests in property that do not constitute a transfer of the corporation's entire interest in land;

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

(3) making routine changes in service levels;

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

(5) performing procurement activities.

(c) Notwithstanding (a) and (b) of this section, specific board approval is required for the following:

(1) issuing bonds upon approval by the legislature;

(2) mortgaging or pledging corporation assets;

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

(4) acting as a surety or guarantor;

(5) adopting a long-range capital improvement and program plan;

(6) adopting annual reports;

Chapter 153

Chapter 153

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42.40.350(b) and
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(7) effecting general, comprehensive increases and de-
creases in rates;

(8) expanding or reducing services in a major way;

(9) expanding the main or branch rail lines including spur,
industrial, team, switching or side tracks, other than performing
routine track alignment as necessary to maintain existing service
levels;

(10) selecting independent auditors and accountants;

(11) entering into collective bargaining agreements;

(12) adopting annual budgets;

(13) beginning a capital project with an estimated comple-
tion cost of more than \$500,000 or an estimated completion time of
more than one year;

(14) exchanging, donating, selling, or otherwise conveying
its entire interest in land subject to approval by the legislature;

(15) exercising the power of eminent domain.

ARTICLE 3. ADMINISTRATIVE PROVISIONS.

Sec. 42.40.150. MEETINGS OF THE BOARD. (a) The chairman of the
board shall call meetings of the board at least once every three
months. The chairman or a majority of the members of the board may
call other meetings of the board as necessary. The chairman shall
preside at meetings.

42.40.150

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

(c) The board shall keep minutes of each meeting.

Sec. 42.40.160. QUORUM AND VOTING. (a) Four voting members of
the board constitutes a quorum for the transaction of business.

42.40.160

(b) Four affirmative votes are required for board action. The

Chapter 153

1 board shall provide by rule for the manner of voting, except that the
2 board may not provide for voting by proxy. The rules may provide for
3 voting and conferring by telecommunication devices.

42.40.170

4 Sec. 42.40.170. EXECUTIVE SESSIONS. (a) The question of hold-
5 ing an executive session shall be determined in accordance with
6 AS 42.40.160. A subject may not be considered at an executive session
7 unless it is mentioned in the motion calling for the executive session
8 or is auxiliary to a subject mentioned. An action may not be taken at
9 an executive session.

10 (b) Only the following subjects may be discussed in an executive
11 session:

12 (1) matters, the immediate knowledge of which would clearly
13 have an adverse effect upon the finances of the corporation;

14 (2) unless the person has requested to have the subjects
15 discussed in public, subjects that tend to prejudice the reputation
16 and character of a person;

17 (3) matters that, by law or municipal charter or ordinance,
18 are permitted to be kept confidential from public disclosure;

19 (4) matters pertaining to personnel;

20 (5) matters pertaining to the corporation's legal position;

21 (6) land acquisition or disposal; and

22 (7) proprietary or other information of a type treated as
23 confidential under the standards and practices of the United States
24 Interstate Commerce Commission, including practices that protect
25 information associated with specific shippers, divisions, and contract
26 rate agreements.

42.40.180

27 Sec. 42.40.180. RULES. (a) The board shall adopt rules to
28 carry out its functions and the purposes of this chapter, including
29 rules to safeguard property owned, managed, or transported by the

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Chapter 153

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Chapter 153

1 corporation and to protect employees and persons using the corpora-
2 tion's property or services. At least 15 days before the adoption of
3 a rule, the board shall give public notice of the proposed action by
4 publishing a notice in at least three newspapers of general circula-
5 tion in the state and by mailing a copy of the notice to each person
6 who has requested notice of proposed changes to rules. The notice
7 must state the time, place, and nature of the proceedings and must
8 contain a summary of the subject of the proposed rule.

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

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

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

23 Sec. 42.40.190. EMERGENCY RULES. (a) The board shall establish
24 in the bylaws of the corporation a procedure for the adoption of a
25 rule on an emergency basis. An emergency rule may be adopted only
26 when necessary for the orderly operation of the corporation's facili-
27 ties or programs. The requirements of AS 42.40.180 do not apply to
28 actions taken under this section. However, within 10 days after the
29 adoption of a rule on an emergency basis the board shall give notice

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42.40.190

Chapter 153

1 or approves the participation. If the person whose participation is
 2 under consideration is a board member, that person may not vote under
 3 this subsection. For purposes of this subsection, "remote interest"
 4 means an interest that in good faith is defined as remote by rules
 5 adopted by the corporation.

6 (c) A board member or executive officer is not considered to be
 7 financially interested in a decision when the decision could not
 8 affect that person in a manner different from its effect on the pub-
 9 lic.

10 (d) Within 120 days of the first meeting of the board, the board
 11 shall adopt and may subsequently amend rules implementing this sec-
 12 tion, providing additional conflict of interest and ethical rules it
 13 considers appropriate.

14 (e) The board may recommend to the governor the removal of a
 15 board member or executive officer who intentionally violates this
 16 section or a rule adopted under this section.

17 (f) For purposes of this section

18 (1) "participate in a decision" includes all discussions,
 19 deliberations, preliminary negotiations, and votes;

20 (2) "immediate family" means

21 (A) spouse;

22 (B) dependent, parent, parent-in-law, child, son-in-
 23 law, daughter-in-law, sibling, uncle, aunt, niece, or nephew.

24 ARTICLE 4. POWERS AND DUTIES.

25 42.40.250 Sec. 42.40.250. GENERAL POWERS. In addition to the exercise of
 26 other powers authorized by law, the corporation may

27 (1) adopt a seal;

28 (2) adopt bylaws governing the business of the corporation;

29 (3) sue and be sued;

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Chapter 153

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Chapter 153

(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 interests 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, improve, lease, exchange, donate, convey, alienate, encumber, or otherwise grant a security interest in, or authorize use or dispose of, 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. 1203(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;

SCS CSHB 512(Fin) am S

Chapter 153

1 (12) maintain offices and facilities at places it designates;
2

3 (13) apply to the state, the United States, and foreign
4 countries or other proper agencies for the permits, licenses, rights-
5 of-way, or approvals necessary to construct, maintain, and operate
6 transportation and related services, and obtain, hold, and reuse the
7 licenses and permits in the same manner as other railroad operators;

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

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

13 (16) enter into contracts, leases, and other agreements
14 with connecting carriers, shippers, and other persons concerning the
15 services, activities, operations, property, and facilities of the
16 corporation, including agreements that contain provisions to preserve
17 and expand the railroad's traffic base;

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

22 (18) hire and discharge railroad personnel and determine
23 benefits and other terms and conditions of employment;

24 (19) assume all rights, liabilities, and obligations of the
25 Alaska Railroad in accordance with 45 U.S.C. 1201 - 1214 (Alaska
26 Railroad Transfer Act of 1982);

27 (20) maintain a security force to enforce municipal ordi-
28 nances, state laws, and the corporation's rules with respect to viola-
29 tions that occur on or to property owned, managed or transported by

Chapter 153

Chapter 153

1 the corporation;

2 (21) issue its bonds upon approval of the legislature and
3 provide for and secure their payment, provide for the rights of their
4 holders and hold or dispose of them;

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

7 (23) cancel bonds of the corporation purchased by the corpo-
8 ration;

9 (24) secure the payment of its bonds by pledge, mortgage, or
10 other lien on its contracts, revenues, income, or property;

11 (25) consent to the modification of the rate of interest,
12 time of payment of an installment of principal or interest, or other
13 term of a loan, contract, or agreement to which the corporation is a
14 party;

15 (26) borrow money, including the amounts necessary to estab-
16 lish reasonable reserves, and pay financing charges and interest on
17 bonds for a reasonable period after which the corporation estimates
18 other money will be available to pay the interest, consultant, advi-
19 sory, and legal fees, and other expenses necessary or incident to
20 borrowing;

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

28 (28) undertake and provide for the acquisition, construc-
29 tion, maintenance, equipping, and operation of connecting, switching,

SCS CSHB 512(Fin) am S

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Chapter 153

1 terminal, or other railroads and railroad facilities;

2 (29) enter into agreements with a state agency or other
3 instrumentality of the state; and

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

42.40.260

8 Sec. 42.40.260. ANNUAL REPORT. (a) Within 90 days following
9 the end of the fiscal year of the Alaska Railroad the board shall
10 distribute to the governor and to the legislature a report describing
11 the operations and financial condition of the corporation during the
12 preceding fiscal year. The report may include suggestions for legis-
13 lation relating to the structure, powers or duties of the corporation
14 or to the operation or facilities of the corporation. Subject to
15 AS 42.40.220, the report shall itemize the cost of providing each
16 category of service offered by the railroad and the income generated
17 by each category.

18 (b) Every five years the annual report shall include an analysis
19 of potential sale arrangements whereby the corporation may be trans-
20 ferred into private ownership. The analysis shall include documenta-
21 tion of at least three offers to sell the corporation initiated by the
22 corporation during the last five years.

42.40.270

23 Sec. 42.40.270. AUDITS. (a) The board shall have the financial
24 records of the corporation audited annually by an independent certi-
25 fied public accountant experienced in railroad accounting. The board
26 shall have an annual performance audit conducted by a recognized
27 railroad management expert to assure that the railroad is being
28 managed and operated effectively and efficiently in accordance with
29 the requirements of this chapter and that each appropriation is used

SCS CSHB 512(Fin) am S

Chapter 153

Chapter 153

to directly support those services for which the appropriation was requested. Auditors shall use the standards required under AS 42.40.100(9) and determine whether appropriations received for a service that is not self-sustaining were calculated in accordance with United States Interstate Commerce Commission standards for determining rail service subsidies.

(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.

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

(1) expansion, reduction, or diversification of services provided by the railroad upon the date of transfer or as provided under this chapter that the board determines would represent a significant and permanent change in the level and nature of services provided; or

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

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

(1) its financial impact on the corporation;

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

(3) the reasons the action is necessary or desirable to achieve the purposes of this chapter;

(4) whether and when the undertaking or service is expected

SCS CSHB 512(Fin) am S

42.40.280

Chapter 153
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CSHB 512(Fin) am S

Chapter 153

1 co be self-sustaining financially; and

2 (5) if the undertaking requires an appropriation to be used
3 for providing a service that is not self-sustaining, that the amount
4 of the appropriation has been strictly calculated in accordance with
5 United States Interstate Commerce Commission standards for determining
6 rail service subsidies.

42.40.285

7 Sec. 42.40.285. LEGISLATIVE APPROVAL REQUIRED. Unless the
8 legislature approves the action by law, the corporation may not

9 (1) exchange, donate, sell, or otherwise convey its entire
10 interest in land;

11 (2) issue bonds;

12 (3) extend railroad lines; this paragraph does not apply to
13 a spur, industrial, team, switching or side track;

14 (4) lease land for a period in excess of 35 years unless
15 the corporation reserves the right to terminate the lease if the land
16 is needed for railroad purposes.

42.40.290

17 Sec. 42.40.290. LONG-RANGE CAPITAL IMPROVEMENT AND PROGRAM PLAN.

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

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

42.40.300

27 Sec. 42.40.300. USE OF CORPORATION ASSETS. The corporation
28 shall apply all money, property, other assets, and credit of the
29 corporation toward activities authorized by this chapter. The

Chapter 153

Chapter 153

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 SHB 512(Fin) am S

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, another asset, or credit of the corporation for a purpose not authorized by law by a person having the possession or control of it is prohibited.

Sec. 42.40.310. INDEMNIFICATION. (a) The corporation may defend and indemnify a current or former member of the board, employee, or agent of the corporation against all costs, expenses, judgments, and liabilities, including attorney's fees, incurred by or imposed upon that person in connection with a civil or criminal action in which the person is involved by affiliation with the corporation, if the person acted in good faith on behalf of the corporation and within the scope of official duties or powers.

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

ARTICLE 5. CORPORATION PROPERTY.

Sec. 42.40.350. LAND. (a) The corporation shall receive from the United States and, in its own name, take title to all rail property transferred under 45 U.S.C. 1201 - 1214 (Alaska Transfer Act of 1982). All land that is transferred or acquired by the corporation is designated as follows:

SCS CSHB 512(Fin) am S

42.40.310

42.40.350

Chapter 153

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(1) railroad rights-of-way are railroad utility corridors;

(2) land outside railroad utility corridors 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, unless the corporation does not own or control sufficient land to allow a corridor of that width. Railroad utility corridors may be surveyed by the metes and bounds method. The corporation may not convey its entire interest in land within a utility corridor except as provided in AS 42.40.285, 42.40.370(d) and 42.40.400. However, the corporation may lease, subject to AS 42.40.285 and (d) of this section, grant easements in or permits for, 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 commercial and other uses authorized under this chapter if the use does not restrict other parallel uses of the utility corridor.

(c) The corporation may lease, subject to AS 42.40.285 and (d) of this section, grant easements in or permits for, or otherwise authorize use of portions of rail land. However, the corporation may not convey its entire interest in rail land except as provided in AS 42.40.285, 42.40.370(d) and 42.40.400.

(d) A lease or disposal of land approved by the legislature under AS 42.40.285 by the corporation to a party other than the state shall be made at fair market value as determined by a qualified appraiser or by competitive bid.

42.40.355

Sec. 42.40.355. PROHIBITION. Notwithstanding any other provision in AS 42.40, the state-owned railroad as defined under 45.U.S.C. 1202(14) may not apply for a right-of-way across, or exercise eminent domain in, the western (Kobuk River) unit of the Gates of

Chapter 153

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 CS SHB 512(Fin) am S

Chapter 153

the Arctic National Preserve under 16 U.S.C. 410hh(4)(b)-(e).

Sec. 42.40.360. REQUEST FOR LAND. (a) The board may nominate federal land it determines may be useful for present or future railroad purposes for selection under the Alaska Statehood Act (P.L. 95 - 508, 72 Stat. 339), as amended, 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 contiguous with a railroad utility corridor or rail land. 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 defer 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.

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 the request in part and deny it in part and convey as appropriate.

(b) A conveyance of land under this section may be for less than

CS SHB 512(Fin) am S

42.40.360

42.40.370

Chapter 153

1 its appraised value as determined by the commissioner of natural
2 resources.

3 (c) In the absence of a reservation to the contrary, a convey-
4 ance of land under this section vests in the corporation ownership,
5 control of the surface, material and mineral estate, including the
6 right to extract or use timber and other construction materials, sand,
7 gravel, rock, and the right to tunnel, ditch, recontour, excavate, or
8 otherwise use the land for railroad, transportation, transmission,
9 communication, and related purposes.

10 (d) The corporation may reconvey to the state land received
11 under this section that the corporation and the commissioner of natu-
12 ral resources jointly identify as unnecessary or unsuitable for the
13 corporation's purposes.

42.40.380

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

42.40.385

23 Sec. 42.40.385. EMINENT DOMAIN. (a) The corporation may exer-
24 cise the power of eminent domain under AS 09.55.240 - 09.55.460 to
25 acquire land for railroad transportation purposes consistent with this
26 chapter. Notwithstanding AS 09.55.250, the corporation may acquire a
27 fee simple title whenever, in the judgment of the board, ownership of
28 a fee simple title is necessary to carry out the purposes of this
29 chapter.

Chapter 153

Chapter 153

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CSHB 512(Fin) am S

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

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

7 (d) The exercise of the power of eminent domain requires the
8 prior approval of the governor.

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

16 Sec. 42.40.400. VACATION OF EASEMENTS. The corporation may
17 vacate an easement acquired under this chapter by executing and filing
18 a deed in the appropriate recording district. If the easement was
19 acquired by the corporation under 45 U.S.C. 1201 - 1214 (Alaska Rail-
20 road Transfer Act of 1982), the state shall acquire the easement for
21 use in conformity with those laws.

22 Sec. 42.40.410. FEDERAL LAND. The corporation may submit appli-
23 cations on its own behalf as an instrumentality of the state for
24 acquisition of federal land available under federal law that will
25 enhance the operations of the corporation if it is available under a
26 federal law other than the Alaska Statehood Act of 1958 (P.L. 85 -
27 508, 72 Stat 339), as amended. The corporation may receive in its own
28 name conveyances of all interests in federal land.

29 Sec. 42.40.420. PUBLIC USE OF RAILROAD LAND. Upon request of a

SCS CSHB 512(Fin) am S

42.40.390

42.40.400

42.40.410

42.40.420

Chapter 153

1 municipality or the state, the corporation may authorize use of rail-
 2 road land for public purposes. Subject to AS 42.40.350(b), the corpo-
 3 ration shall authorize a walkway or a trail if the board first finds
 4 in writing that the proposed walkway or trail will not create a safety
 5 hazard and will not unreasonably interfere with continued or expanded
 6 operations in the utility corridor. Before authorizing a use under
 7 this section, the board shall require the municipality or state to
 8 execute an agreement in a form approved by the board to

9 (1) agree to restrictions, limitations, and conditions on
 10 the proposed use required by the corporation and reasonably calculated
 11 to reduce the risk of a safety hazard or interference with authorized
 12 uses in the utility corridor;

13 (2) hold the corporation harmless from and indemnify the
 14 corporation for liability and claims arising from any use authorized
 15 under this section including

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

18 (B) indemnifying the corporation for the amount of a
 19 judgment, including prejudgment and postjudgment interest,
 20 rendered against the corporation, and for all costs and
 21 attorney's fees incurred by the corporation in settling or
 22 defending the claim; and

23 (3) stop the use upon request of the corporation if the use
 24 interferes with expansion or replacement of railroad facilities,
 25 creates a safety hazard, or interferes with railroad operations.

26 Sec. 42.40.430. ACQUISITION OF GOVERNMENT PROPERTY. The corpora-
 27 tion, as an instrumentality of the state, may acquire in its own name
 28 from the United States under 50 App U.S.C. 1622 - 1622c (Surplus
 29 Property Act of 1944), 40 U.S.C. 471 et seq. (Federal Property and
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Chapter 153

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CSHB 512(Fin) am S

Chapter 153

Administrative Services Act of 1949), or other law, property under the
control of a federal department or agency that is useful for the
corporation's purposes. The corporation may acquire from the Depart-
ment of Administration property of the state made available under
AS 44.71.010 - 44.71.040.

Sec. 42.40.435. EXCHANGE OF LAND. The corporation may exchange
land subject to AS 42.40.285. The corporation is an instrumentality
and agency of the state for purposes of exchanging land with the
United States, municipalities, corporations including corporations
formed under 43 U.S.C. 1601 - 1628 (Alaska Native Claims Settlement
Act), and individuals.

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.

Sec. 42.40.450. ADVERSE POSSESSION. No prescription or statute
of limitations runs against the title or interest of the corporation
to or in land owned by the corporation or under its jurisdiction.
Title to or interest in land owned by the corporation or under its
jurisdiction may not be acquired by adverse possession or prescrip-
tion, or in any other manner except by conveyance from or for
vacation by the corporation.

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 liabil-
ity of the corporation.

SCS CSHB 512(Fin) am S

42.40.435

42.40.440

42.40.450

42.40.500

Chapter 153

42.40.510

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

42.40.520

6 Sec. 42.40.520. INSURANCE. Except as provided in AS 42.40.510
7 (b), the corporation shall protect its assets, services, and employees
8 by purchasing insurance or providing for certain self-insurance re-
9 tentions. The corporation shall also maintain casualty, property,
10 business interruption, marine, boiler and machinery, pollution liability,
11 and other insurance in amounts reasonably calculated to cover
12 potential claims against the corporation or state for bodily injury,
13 death or disability and property damage that may arise from or be
14 related to corporation operations and activities.

42.40.530

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

42.40.540

19 Sec. 42.40.540. APPROPRIATIONS. The corporation may request,
20 with the concurrence of the governor, a direct appropriation or grant
21 from the legislature to assist in carrying out the provisions of this
22 chapter.

ARTICLE 7. BONDS.

42.40.600

24 Sec. 42.40.600. GENERAL PROVISIONS. (a) Upon receiving legis-
25 lative approval under AS 42.40.285 the corporation may issue bonds by
26 resolution to provide money to carry out its purposes.

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

29 (1) be dated;

Chapter 153

corporation shall obtain a board for board members accounts and finances. A surety in office of the

provided in AS 42.40.310- services, and employees obtain self-insurance re- in casualty, property, liability, pollution liability calculated to cover rate for bodily injury, which may arise from or be

used by or appropriated used by the corporation in accordance with 45 U.S.C. 1207-

corporation may request, appropriation or grant in accordance with the provisions of this

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CS SHB 512(Fin) am S

Chapter 153

(2) bear fixed or variable interest at a specified rate or rates per year or within a maximum rate;

(3) be in a specified denomination;

(4) be in a coupon or registered form;

(5) carry conversion or registration provisions;

(6) have a specified rank or priority;

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

(8) be payable as specified 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 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. Except for bond anticipation notes, notes, or other obligations, bonds shall mature at the time, not exceeding 50 years from their date, determined by the board.

Sec. 42.40.610. NEGOTIABLE INSTRUMENTS. Bonds issued under this chapter and interest coupons attached to them are negotiable instruments under the laws of this state, subject only to applicable provisions for registration.

Sec. 42.40.620. BONDS ELIGIBLE FOR INVESTMENT. Bonds issued under this chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These bonds may be deposited with a

CS SHB 512(Fin) am S

42.40.610

42.40.620

Chapter 153

1 state or municipal officer of an agency or political subdivision of
2 the state for any purpose for which the deposit of bonds of the state
3 is authorized by law.

42.40.630

4 Sec. 42.40.630. PAYMENT OF BONDS. The principal and interest on
5 bonds of the corporation is payable from corporation money or assets.
6 Bonds may be additionally secured by a pledge of a grant or contribu-
7 tion from the federal or state government, a municipality, a corpo-
8 ration, an association, an institution or a person, or a pledge of
9 money, income, or revenue of the corporation from any source.

42.40.640

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

16 (1) make and enter into any and all the covenants and
17 agreements with the trustees or the holders of the bonds that the
18 corporation may determine to be necessary or desirable, including
19 covenants, provisions, limitations and agreements as to

20 (A) the application, investment, deposit, use and
21 disposition of the proceeds of bonds of the corporation or of
22 money or other property of the corporation or in which it has an
23 interest;

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

28 (C) the fixing and collection of tariffs, fees,
29 charges or other consideration for the use or service of the

Chapter 153

Chapter 153

Political subdivision of
of bonds of the state

Principal and interest on
of money or assets.
a grant or contribu-
municipality, a corpo-
person, or a pledge of
any source.

At the discretion of the
trust indenture, which
ing association, with
the state, or by a
resolution giving
the corporation may

the covenants and
the bonds that the
restrictable, including
as to

deposit, use and
the corporation or of
in which it has an

rentals, charges,
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of any of the

of tariffs, fees,
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CSHB 512(Fin) am S

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,
assets, or property 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.

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

42.40.650

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

42.40.660

Sec. 42.40.670. VALIDITY OF PLEDGE. (a) The pledge of assets
or revenue of the corporation to the payment of the principal or
interest on bonds of the corporation is valid and binding from the
time the pledge is made and the assets or revenue are immediately
subject to the lien of the pledge without physical delivery or further
act. The lien of a pledge is valid and binding against all parties
having claims of any kind against the corporation, irrespective of

42.40.670

SCS CSHB 512(Fin) am S

Chapter 153

1 whether those parties have notice of the lien of the pledge.

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

42.40.675

6 Sec. 42.40.675. PLEDGE OF THE STATE. The state pledges to and
7 agrees with the holders of bonds issued under this chapter and with
8 the federal agency that loans or contributes funds in respect to a
9 project, that the state will not limit or alter the rights and powers
10 vested in the corporation by this chapter to fulfill the terms of a
11 contract made by the corporation with the holders or federal agency,
12 or in any way impair the rights and remedies of the holders until the
13 bonds together with the interest on them with interest on unpaid
14 installments of interest, and all costs and expenses in connection
15 with an action or proceeding by or on behalf of the holders, are fully
16 met and discharged. The corporation is authorized to include this
17 pledge and agreement of the state, insofar as it refers to holders of
18 bonds of the corporation, in a contract with the holders and insofar
19 as it relates to a federal agency, in a contract with the federal
20 agency.

42.40.680

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

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

29 (2) compel the performance of all duties of the corporation

SCS CSHB 512(Fin)

Chapter 153

Chapter 153

required by this chapter or by the trust agreement or resolution.

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

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

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

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

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

(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.

Sec. 42.40.700. LIMITATION ON PERSONAL LIABILITY. A board member or employee of the corporation is not subject to personal liability or accountability because of the execution or issuance of bonds.

ARTICLE 8. PERSONNEL AND LABOR RELATIONS.

Sec. 42.40.705. POLITICAL ACTIVITIES. (a) Money, assets, or property of the corporation may not be used for political activities. However, board members and employees may communicate with and appear before committees of Congress, the state legislature, and municipal governing bodies in connection with matters directly affecting the corporation.

(b) A board member or employee who violates the provisions of

SCS CSHB 512(Fin) am S

42.40.690

42.40.700

42.40.705

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CSHB 512(Fin) am S

Chapter 153

1 this section is personally subject to a civil penalty assessed by a
2 judge of the superior court in an amount not to exceed \$5,000. An
3 action to enforce this section may be brought by any person.

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

42.40.720 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 col-
11 lective bargaining through representatives of their own choosing and
12 engage in concerted activities for the purpose of collective bargain-
13 ing or other mutual aid or protection.

42.40.730 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.

42.40.740 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

SCS CSMB 512(Fin) am S

Chapter 153

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AGENCY. (a) There is
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Chapter 153

1 history of collective bargaining, and the desires of the employees.
2 Bargaining units shall be as large as is reasonable, and unnecessary
3 financing 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 railroad labor relations
7 agency by

8 (1) an employee or group of employees or an organization
9 acting in their behalf alleging that 10 percent of the employees of a
10 proposed bargaining unit

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

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

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

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

SCS CSHB 512(Fin) am S

42.40.750

Chapter 153

1 relations agency or an election in a bargaining unit agreed upon by
2 the parties.

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

15 (d) Nothing in this chapter prohibits recognition of an orga-
16 nization as the exclusive representative by the corporation by mutual
17 consent.

18 (e) An election may not be directed by the railroad labor rela-
19 tions agency in a bargaining unit in which there is in force a valid
20 collective bargaining agreement, except during a 90-day period preced-
21 ing the expiration date. However, a collective bargaining agreement
22 may not bar an election upon petition of employees in the bargaining
23 unit if

- 24 (1) the petitioners are not parties to the agreement; and
25 (2) more than three years have elapsed since the execution
26 of the agreement or its last timely renewal, whichever was later.

42.40.760

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

- 29 (1) interfere, restrain, or coerce an employee in the

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Chapter 153

Chapter 153

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The corporation or

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1 exercise of the rights guaranteed in AS 42.40.720;

2 (2) dominate or interfere with the formation, existence, or
 3 administration of an organization;

4 (3) discriminate in regard to hire or tenure or employment
 5 or a term or condition of employment to encourage or discourage mem-
 6 bership in an organization;

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

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

14 (b) Nothing in AS 42.40.710 - 42.40.890 prohibits the corpo-
 15 ration from making an agreement with an organization to require as a
 16 condition of employment

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

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

23 (c) An organization or its agents may not

24 (1) restrain or coerce

25 (A) an employee in the exercise of the rights guaran-
 26 teed in AS 42.40.720; or

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

30 SCS CSNB 512(Fin) am S

Chapter 153

- 42.40.820 1 Sec. 42.40.820. REGULATIONS. The railroad labor relations
2 agency shall adopt regulations under the Administrative Procedure Act
3 (AS 44.62) to carry out AS 42.40.710 - 42.40.890.
- 42.40.830 4 Sec. 42.40.830. PENALTY FOR VIOLATION OF ORDER OR DECISION. A
5 person who violates a provision of an order or decision of the rail-
6 road labor relations agency is guilty of a misdemeanor and is punish-
7 able by a fine of not more than \$500.
- 42.40.840 8 Sec. 42.40.840. MEDIATION. (a) If, after a reasonable period
9 of negotiation over the terms of a collective bargaining agreement, an
10 impasse as determined by the railroad labor relations agency exists
11 between the corporation and an organization, the railroad labor re-
12 lations agency shall appoint a person mutually agreeable to the
13 parties from a list of seven qualified mediators or arbitrators knowl-
14 edgeable in railway labor agreements to act as mediator in the dis-
15 pute.
- 16 (b) Before the determination of an impasse under this section,
17 the parties may also select a mediator by mutual consent.
- 18 (c) It shall be the function of the mediator to bring the
19 parties together to effectuate a settlement of the dispute, but nei-
20 ther the mediator nor the railroad labor relations agency has any
21 power of compulsion in mediation proceedings.
- 42.40.850 22 Sec. 42.40.850. STRIKES. (a) Following a decision by the
23 mediator to end the mediation proceedings, employees of a collective
24 bargaining unit may engage in a strike for a limited time if a major-
25 ity of the employees in that collective bargaining unit vote by secret
26 ballot to do so. The limit of the strike is determined by the interest
27 of the health, safety or welfare of the public.
- 28 (b) The corporation may apply to the superior court in the
29 judicial district in which the strike is occurring for an order

Chapter 153

road labor relations
Administrative Procedure Act

ORDER OR DECISION. A
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Chapter 153

1 enjoining the strike. A strike may not be enjoined unless it can be
2 shown that it has begun to threaten, or is about to threaten, the
3 health, safety, or welfare of the public. A court, in deciding wheth-
4 er to enjoin the strike, shall consider the total equities in the
5 particular case, including the impact of a strike on the public and
6 the extent to which an employee organization and the corporation have
7 met their statutory obligations.

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

13 (d) Notwithstanding (a) - (c) of this section, an organization
14 and the corporation may mutually agree to submit a dispute to binding
15 arbitration at any time.

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

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

SCS CSRB 512(Fin) am S

42.40.860

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

42.40.870

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

42.40.880

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

42.40.885

Sec. 42.40.885. PROHIBITED ACTS. (a) The corporation or an employee may not directly or indirectly

(1) require or coerce an employee to participate in any way

Chapter 153

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 HB 512(Fin) am S

Chapter 153

1 in any activity or undertaking unless the activity or undertaking is
 2 related to the performance of official duties;

3 (2) require or coerce an employee to make any report con-
 4 cerning an activity or undertaking of the employee unless the activity
 5 or undertaking is related to the performance of official duties;

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

10 (A) a personal relationship with a person connected
 11 with the employee by blood or marriage;

12 (B) the employee's religious beliefs or practices;

13 (C) sexual matters;

14 (D) the employee's political affiliation or philoso-
 15 phy;

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

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

22 (b) The provisions of (a) of this section do not diminish the
 23 authority of an authorized law enforcement agency to conduct criminal
 24 investigations of employees suspected of being involved in criminal
 25 activity or to investigate other activity directly related to official
 26 railroad business.

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

42.40.890

28 (1) "election" means a proceeding conducted by the labor
 29 relations agency in which the employees in a collective bargaining

SCS CSHB 512(Fin) am S

Chapter 153

1 unit cast a secret ballot for collective bargaining representatives,
2 or for any other purpose specified in AS 42.40.710 - 42.40.890;

3 (2) "organization" means a labor or employee organization
4 of any kind in which employees participate and that exists for the
5 primary purpose of dealing with the corporation concerning grievances,
6 labor disputes, wages, rates of pay, hours of employment and condi-
7 tions of employment.

ARTICLE 9. GENERAL PROVISIONS.

42.40.900

8
9 Sec. 42.40.900. CLAIMS. (a) All claims and lawsuits involving
10 activities of the railroad, including suits in contract, quasi-con-
11 tract, or tort, shall be brought against the corporation and not
12 against the state.

13 (b) For the purposes of actionable claims, undertakings, pay-
14 ments of judgments, execution, interest, punitive damages, statutes of
15 limitations, bonds, costs, and similar matters related to the pres-
16 entation and prosecution of claims by and against the corporation, the
17 corporation and its board members and employees enjoy the same rights,
18 privileges, and immunities as the state and state officers.

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

21 (d) The corporation is not subject to the provisions of AS 44.-
22 80.010, regarding the state as a party to an action.

42.40.905

23 Sec. 42.40.905. NOTICE OF LEGAL ACTIONS. (a) The corporation
24 shall notify the Department of Law within 30 days before initiating
25 legal action unless special circumstances exist that require immediate
26 legal action to protect the corporation assets or to continue existing
27 service.

28 (b) If notice of legal action is not given under (a) of this
29 section, within seven days of taking action the board shall notify the

Chapter 153

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Chapter 153

Department of Law of the action taken and of the special circumstances that exempted the action from the requirements of (a) of this section.

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

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

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

Sec. 42.40.920. APPLICATION OF EXISTING LAWS. (a) The corporation is not subject to the jurisdiction of the Alaska Transportation Commission.

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

- (1) AS 19;
- (2) AS 30.15;

SCS CSHB 512(Fin) am S

42.40.910

42.40.920

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

42.40.930

10 Sec. 42.40.930. CONFLICTING LAWS INAPPLICABLE. If provisions of
 11 AS 42.40 conflict with the provisions of other state law, the pro-
 12 visions of AS 42.40 prevail. Provisions of AS 42.40 shall be con-
 13 strued so that they do not conflict with 45 U.S.C. 1201 - 1214 (Alaska
 14 Railroad Transfer Act of 1982).

42.40.935

15 Sec. 42.40.935. RAILROAD FACILITIES CODE COMPLIANCE. (a) Not
 16 later than two years after the date of transfer the corporation in
 17 consultation with the Department of Labor shall develop and adopt a
 18 plan to achieve compliance with AS 18.60. The plan shall be imple-
 19 mented and compliance achieved within five years after it is adopted.

20 (b) No later than two years after the date of transfer, the
 21 corporation in consultation with the Department of Public Safety and
 22 appropriate municipal officials, shall develop and adopt a plan to
 23 achieve compliance with building and related safety codes applicable
 24 to facilities of the corporation. The plan shall be implemented and
 25 compliance achieved within five years after it is adopted. In the
 26 sole determination of the commissioner of public safety, any existing
 27 building owned or controlled by the corporation that does not present
 28 a serious safety hazard and for which compliance would be uneconomical
 29 in consideration of its remaining useful life shall be exempted from

SCS CSHB 512(Fin) am S

Chapter 153

Chapter 153

1 compliance with state or municipal safety codes.

2 Sec. 42.40.940. SALE OR LEASE OF THE RAILROAD. (a) The gover- 42.40.940
3 nor may provide for the sale or lease of the Alaska Railroad and
4 dissolve the corporation if

5 (1) it can be assured that the railroad will continue to
6 operate after the sale or lease; and

7 (2) under the terms of the sale or lease, the state will
8 receive the amount of money it has spent in connection with the Alaska
9 Railroad.

10 (b) A sale under this section is subject to approval by law.

11 Sec. 42.40.950. REVERSION OF ASSETS. Except as provided in 42.40.950
12 AS 42.40.940, if the corporation ceases to exist its assets revert to
13 the state.

14 Sec. 42.40.980. DEFINITIONS. In this chapter unless the context 42.40.980
15 otherwise requires,

16 (1) "board" means the board of directors of the Alaska
17 Railroad Corporation;

18 (2) "bonds" means bonds, bond anticipation notes, notes,
19 refunding bonds, or other obligations;

20 (3) "collective bargaining" means the performance of the
21 mutual obligation of the corporation or its designated representatives
22 and the representatives of the employees to meet at reasonable times,
23 including meetings in advance of the budget making process, and nego-
24 tiating in good faith with respect to wages, hours, and other terms
25 and conditions of employment, or the negotiation of an agreement, or
26 negotiation of a question arising under an agreement and the execution
27 of a written contract incorporating an agreement reached if requested
28 by either party, but these obligations do not compel either party to
29 agree to a proposal or require the making of a concession;

SCS CSHB 512(Fin) am S

3. If provisions of
state law, the pro-
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1201 - 1214 (Alaska

PLIANCE. (a) Not
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Chapter 153

1 (4) "corporation" means the Alaska Railroad Corporation;

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

5 (6) "employees" means all persons employed by the corpo-
6 ration including executive officers;

7 (7) "executive officer" means the corporation's chief
8 executive officer, assistant chief executive officer, assistant to the
9 chief executive officer, chief of administration, superintendent of
10 transportation, manager of marketing and sales, chief engineer, chief
11 mechanical officer, manager of industrial development and real estate,
12 manager of budget and accounting, manager of planning, manager of
13 personnel, manager of supply and procurement, chief of security,
14 manager of operating rules, manager of data processing, manager of
15 strategy, manager of operations planning, manager of supply, manager
16 of procurement, manager of safety, manager of administrative proce-
17 dure, chief counsel, or, if so designated by the board, any employee
18 who fulfills these management functions under a different title or who
19 exercises a similar or comparable level of responsibility or super-
20 vision;

21 (8) "land" means any interest in real property, including
22 tide and submerged land, and any right appurtenant to the interest;

23 (9) "rule" means a standard of general application or the
24 amendment, supplement, revision, or repeal of a standard adopted by
25 the corporation to implement, interpret, or make specific the law
26 enforced or administered by it or to govern its procedure;

27 (10) "terms and conditions of employment" means the hours of
28 employment, the compensation and fringe benefits, and the employer's
29 personnel policies affecting the working conditions of the employees.

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Chapter 153

Chapter 153

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 HB 512(Fin) am S

but does not mean the general policies describing the function and purposes of an employer.

Sec. 2.40.990. SHORT TITLE. This chapter may be referred to as the Alaska Railroad Corporation Act.

* Sec. 3. SPECIAL REPORTS. (a) The governor shall contract with a private consultant for the preparation of a report on the long-term operations of the Alaska Railroad that are in the best interest of the state. The report shall be submitted to the governor and the legislature by February 1, 1987. It shall contain specific recommendations on operational alternatives and the transfer of all or part of the railroad operation to the private sector.

(b) The corporation shall study any problems created by vibrations due to operating the railroad from Birchwood through Inlet View to the Turnagain Area and extending to Potter's Marsh. The study shall include consideration of any potential for problems that may be created by hauling coal and larger quantities of gravel along that portion of the rail line. By February 1, 1986, the corporation shall present a report to the legislature on the study containing recommendations for correcting any problems identified.

* Sec. 4. APPOINTMENT OF FIRST BOARD OF DIRECTORS OF ALASKA RAILROAD CORPORATION. Notwithstanding AS 42.40.020 enacted in sec. 1 of this Act, the terms of the appointed members of the first board of directors of the Alaska Railroad Corporation are as follows:

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

* Sec. 10. COLLECTIVE BARGAINING AGREEMENTS. (a) As soon as practicable before transfer of the Alaska Railroad to the state, the Alaska SCS CSHB 512(Fin) am S

42.40.990

[now § 5]

Chapter 153

1 Railroad Corporation and its employees shall adopt collective bargaining
 2 agreements that continue the provisions of the agreements in effect between
 3 the Alaska Railroad and its employees on the date of transfer of the rail-
 4 road. The collective bargaining agreements adopted under this section
 5 between the corporation and its employees shall remain in effect to the
 6 extent required under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act
 7 of 1982).

8 (b) The board of directors of the Alaska Railroad Corporation shall
 9 on or before the date of transfer of the Alaska Railroad to the state adopt
 10 personnel rules necessary to prevent an interruption of services of the
 11 railroad.

12 (c) Subject to 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of
 13 1982), within 180 days after the first meeting of the board of directors of
 14 the Alaska Railroad Corporation, the board and representatives of employee
 15 bargaining units shall establish procedures for the renegotiation of bar-
 16 gaining agreements adopted under (a) of this section. The board shall
 17 renegotiate all agreements adopted under (a) of this section within two
 18 years after the date of transfer of the Alaska Railroad to the state unless
 19 the parties agree to the contrary.

[now § 6]

Eff. 7/6/84

20 * Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-
 21 070(c).

Alaska State Legislature

House of Representatives

Committee on Transportation



Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

MEMORANDUM

Date: 19 April 1985

To: Representative Katie Hurley, Chairman
The House State Affairs Committee

From: Steve Soenksen, *SS*
Legislative Monitor of the Alaska Railroad Corporation

Re: Emergency Rule Number 85-6

Dear Representative Hurley:

At the request of Frank Turpin, President of the Alaska Railroad Corporation, I am transmitting this draft of Procurement Rules for the Corporation. The Corporation adopted, in concept, these Emergency Rules to take the place of the previous procurement policy in effect under federal ownership.

Emergency Rules are in effect for 120 days pending final approval by the Board and now is the time period for public comment. I will be working with the corporation to refine these rules and I have expressed the committee's interest and concern as requested during the hearing of HB 346 on April 12, 1985.

If you or other members of the House would like a briefing on the Alaska Railroad Corporation meeting, Emergency Rule 85-6, or other railroad issues, please contact me through Representative Cato's office at 465-4858.

cc: House Speaker Ben Grussendorf
Representative John Sund
Representative Robin Taylor

Emergency Rule No. 85-6:

Adopting Procurement Rules for the Corporation

A. Purpose:

Pursuant to Emergency Rule No. 85-2, the Board of the Alaska Railroad Corporation hereby finds that public necessity requires a procedure for procurement and purchasing of materials, supplies and services for the Corporation and that the adoption of this rule is required to continue the orderly operation of the Alaska Railroad Corporation.

B. Action:

The Board hereby adopts the attached rule marked as Appendix A which shall constitute the rules governing the procurement procedures of the Corporation. This rule supersedes any and all previously continued or adopted rules relating to this subject matter. Rules previously adopted or continued which are found to be in conflict with this rule are of no further force or effect.

PROCUREMENT RULES

1100.0 GENERAL PROVISIONS

- 1101.0 **AUTHORITY.** These rules are adopted under the authority of AS 42.40.010, et seq., and P. L. 97-468, the Alaska Railroad Transfer Act, 45 U.S.C. Sections 1201-1214 ("ARTA"). These rules shall be read in a manner consistent with applicable law.
- 1102.0 **REVISIONS.** The President and Chief Executive Officer (CEO) or his designee may amend these rules, adopt other rules, or delegate authority to amend these rules or adopt other rules as is deemed appropriate, consistent with AS 42.40.010 et seq.
- 1103.0 **APPLICATION.** These rules shall apply to all employees of the Alaska Railroad Corporation (ARRC).
- 1104.0 **DELEGATION.** The CEO may delegate the authority and responsibilities necessary for the implementation of these rules as he may deem appropriate.
- 1105.0 **PROCEDURES.** The CEO may establish such procedures as are necessary to implement these rules.
- 1106.0 **CONFLICT WITH EXISTING RULES.** These rules supersede the rules continued in effect by Emergency Rule No. 85-2. These rules shall control in the event of a conflict between these rules and any other rules of the ARRC existing as of the date of adoption of these rules.
- 1107.0 **TERMINOLOGY.** The use of any gender in these rules shall be deemed to include the other gender, wherever appropriate. The use of the singular in these rules shall be deemed to include the plural and vice versa, wherever appropriate.

1200.0 PURCHASING

- 1200.1 The Manager of the Procurement Division will procure all goods and services, provide the services for procurement or direct others delegated the authority to perform such services.
- 1200.2 Only those persons to whom authority has been delegated by the CEO are authorized to commit the ARRC to the purchase of materials, equipment, supplies, and services.
- 1200.3 The Procurement Division will obligate the ARRC and make the final determination of sources of supply, quantities purchased, delivery schedule and price negotiations, except where others are authorized. These decisions will be made in conjunction with other departments, as appropriate.
- 1200.4 The Procurement Division will initiate and maintain effective and professional relationships with suppliers, actual and potential.
- 1200.5 All responses to questions regarding prices and products shall be provided by the Procurement Division only. The Procurement Division will conduct all correspondence with suppliers involving prices or quotations. In cases where technical details are necessary, the using department may correspond with suppliers. In such cases, the Procurement Division shall be provided with copies of all such correspondence. Close communication and coordination between the Procurement Division and the using departments shall be maintained at all times.
- 1200.6 All negotiations are to be conducted by the appropriate Procurement personnel within their delegated authority.
- 1200.7 When supplier sales representatives make personal sales calls, they are to be directed to call on the appropriate Procurement personnel.

- 1200.8 All employees involved in procurement activities will work to maintain and enhance the ARRC's image by their personal conduct and methods of doing business.
- 1200.9 All employees engaged in procurement activities will behave courteously and recognize and practice good public relations.
- 1200.10 Vendor selection and products purchased shall meet the basic policies and standard practices of the ARRC.
- 1200.11 Procurement personnel shall seek to obtain and purchase all goods at the lowest possible total end-use cost, considering the guidelines of price, service, quality and delivery.
- 1200.12 The Manager of the Procurement Division shall examine the quality and kind of material requested, to ensure that the best interests of the ARRC may be served.
- 1200.13 Procurement personnel shall inform ordering departments whenever the quantity or specifications of materials ordered are inconsistent with sound purchasing practices or market conditions.
- 1200.14 Procurement personnel will work to establish and encourage punctual delivery of specified goods and services in correct quantities.
- 1200.15 Procurement personnel will negotiate the return of rejected equipment or supplies to suppliers.
- 1200.16 The Manager of the Procurement Division shall advise management of economic conditions and changes significant to the ARRC's long and short-term interests.

1300.0 BIDS

- 1300.1 This rule applies to any material and/or service transactions with an estimated unit price of \$25,000.00 or more and/or are the subject of a written contractual agreement. For oral material and/or service transactions with an estimated unit price under \$25,000.00, see Rule 2400.0, Quotations.
- 1300.2 The Manager of the Procurement Division shall maintain a uniform set of bidding procedures and forms. Mechanisms for vendor notification, bid analysis and summary, bid bonds, bidder mailing list applications, competitive invitations, instructions to bidders, policy statement of bid award, power-of-attorney forms and sealed bid envelopes should be included in the procedures and forms established.
- 1300.3 Procurement personnel are responsible for obtaining bids on all material and/or services for estimating purposes and purchases.
- 1300.4 The following factors will be considered in reviewing bids and awarding contracts:

Prices.

Bidder's previous record of performance.

Ability of bidder to render satisfactory service in this instance.

Availability of bidder's representative to call upon and consult with using departments.

Quality and conformance to specifications.

Requirements of law with respect to Alaskan preference and female and minority business enterprises.

The ARRC reserves the right to reject any and all bids, waive informalities and to contract as the best interests of the ARRC may require.

- 1300.5 Bid requests should be typed by Procurement personnel in consultation with the user department using a standard form whenever possible. Complete information should be provided including, but not limited to, quantity, description, delivery requirement, special conditions, drawing specifications, date information required, etc. If replies are to conform to certain format, this should be spelled out. Procurement personnel must be thorough and attempt to remove all known variables.
- 1300.6 Bids will be solicited competitively from qualified sources. Generally, not less than three sources will be solicited. In the case of proprietary items where more than one price is not possible, one supplier is acceptable and the situation should be so noted on the requisition.
- 1300.7 Procurement personnel, when obtaining bids, should keep in mind other segments of the ARRC that may be able to provide the desired material or services. The Manager of the Procurement Division shall be responsible for making the decision whether to procure the materials and/or services from within the ARRC or from an outside supplier.
- 1300.8 Bids will be solicited only from vendors who Procurement personnel know are qualified or can be qualified to meet all requirements. Maintenance of an Approved Vendor List is desirable but not mandatory. Examination of the financial condition of a company, its ability to perform, and its facilities should be part of the criteria used to determine their acceptability.
- 1300.9 Answers to technical questions arising during the bidding process should be provided by the requisitioner. Procurement personnel must coordinate the reply and ensure that all potential suppliers are provided the same information.

1300.10 After all bids have been received and examined for completeness, a summary sheet shall be prepared noting all the pertinent data and discrepancies. Determination of the low bidder and award of the order will be made by the Procurement Division in consultation with the using department only after all aspects including preference of the requisitioner have been considered. The information gathered will be kept with the purchase order as backup documentation. In cases of bids for estimating purposes, a copy of each bid response is to be sent to the requisitioner along with the bid summary sheet. Results of the bid process shall not be disclosed to anyone other than authorized ARRC personnel.

1300.11 In order to ensure that vendors contacted have responded to a bid request, Procurement personnel will identify on the requisition all vendors solicited, and responses.

1300.12 Internal Rule 900, Conflict of Interest, is applicable to all Procurement personnel and Procurement Division activities.

1300.13 When circumstances make the solicitation of competitive bids inappropriate, Procurement personnel shall document the facts on the reverse side of the purchase requisition and obtain the specific approval of the Director of Administration.

1300.14 Interpretation of this rule is the responsibility of the Manager of the Procurement Division.

1400.0 PURCHASE ORDERS

1400.1 The purchase order is available for use only by authorized personnel. Use of purchase orders is recommended but not mandatory.

1400.2 The purchase order must contain a precise and clear description of the elements in the order, the terms of the purchase, the time, manner and place of delivery.

1500.0 ORAL AGREEMENT TO PURCHASE

- 1500.1 If the value of the order is \$500.00 or more, there must be some written notation recording the order and its terms, normally a completed purchase order. Oral agreements to purchase in an amount in excess of \$500.00 are prohibited.

1600.0 CONTRACT NEGOTIATIONS

- 1600.1 The Manager of the Procurement Division is responsible for ensuring that all contract negotiations conducted on behalf of the ARRC by any of its employees are consistent and within the rules and any guidelines issued pursuant to the rules.
- 1600.2 As part of his responsibility, the Manager of the Procurement Division will develop appropriate guidelines to serve participants in the negotiation process. Guideline topics may include but are not limited to basis for award, blanket purchase orders, contracts and agreements, import purchasing, negotiations, specifications, prospective vendors, terms and conditions, and using department requirements.

1700.1 INSPECTIONS AND DEFECTS

- 1700.1 Inspection of goods received is not the responsibility of the Procurement Division. The Procurement Division must be informed of any negative results of inspection so that appropriate action can be taken with the vendor.
- 1700.2 Procurement personnel are responsible for ensuring that specifications are sufficiently clear to allow the using department to inspect goods upon receipt.
- 1700.3 Shortage and/or damage to goods must be called to the attention of the supplier or the carrier in writing at the earliest opportunity.

1800.0 MAKE OR BUY

1800.1 Where products required for company operations can be produced by the ARRC's operating departments or can be acquired from vendors, ARRC departments should be considered in the same manner as any other vendor in deciding whether to make or buy the product. Prices should be solicited from the appropriate department at the same time prices are obtained from outside vendors. Awards should be made according to standard ARRC practices. Any variance from standard practice in making such an award requires the prior written approval of the CEO.

1900.0 RETURNS TO VENDORS

1900.1 Procurement personnel will negotiate all returns to vendors. Any restocking charges or other damages due the vendor will be charged to the work order or account number and profit center originally cited.

1900.2 If a negotiated return can be made, the Supply Division will be provided appropriate instructions by the Procurement Division. Procurement personnel will coordinate with the user department to determine where to account for any costs incurred in the return.

2000.0 MEMBERSHIP IN PROFESSIONAL ORGANIZATIONS

2000.1 Procurement Personnel should take an active part in general business, professional and community organization. Payment of professional society memberships and dues will be governed by the policy contained in Internal Rule 1000, Employee Business Expenditures.

2100.0 FEMALE AND MINORITY OWNED VENDORS

2100.1 It is the policy of the ARRC to encourage meaningful participation of minority owned vendor sources to provide useful and acceptable quality services or materials at competitive prices. Procurement personnel are responsible for making all practical efforts to locate and solicit minority vendor bids for products or services. The Manager of the Procurement Division is responsible for the effective implementation of this rule in all ARRC procurement activities and shall issue appropriate procedural guidelines.

2200.0 PRODUCT ENDORSEMENTS

2200.1 Requests for approval of a news release or advertisement stating that the ARRC, or any of its operating units or personnel, uses a product made or service offered by another firm shall be referred to the CEO. Such a request may be approved by the CEO provided no endorsement is implied, suggested or stated, and further provided that the release or advertisement does not state or imply that the product or service is used on a company-wide basis, or at any other location not specifically part of the release or advertisement.

2300.0 PURCHASES BY EMPLOYEES

2300.1 Employees may not purchase through the ARRC any materials purchased or used by the ARRC.

2400.0 QUOTATIONS

2400.1 This rule applies to transactions on materials and/or services with an estimated unit price of under \$25,000.00 and not covered by a contractual agreement. For transactions with an estimated cost in excess of \$25,000.00 and/or covered by a contractual agreement, see Rule 1300.0, Bids.

2400.2 Procurement personnel are responsible for obtaining quotations on material and/or services that are expected to exceed \$500.00 for both estimating and purchasing purposes.

2500.0 STANDARDIZATION OF MATERIAL PURCHASES

2500.2 In order to maximize purchasing power, standardization of all supplies, materials and equipment is to be achieved wherever possible. The Procurement Division will be responsible for the establishment and maintenance of a list of standard equipment, materials and supplies. Requisitions for item(s) that are different from substantially similar items on the standard list must be accompanied by a written justification for the purchase of the nonstandard item(s). The Manager of the Procurement Division must approve purchases of such nonstandard items.

2600.0 USE OF ARRC NAME

2600.0 The designing or ordering of material that includes the use of the ARRC name or symbols must be approved by the Director of Administration.

2700.0 VENDOR RELATIONS

2700.1 Procurement personnel shall maintain and practice the highest possible standards of business ethics, professional courtesy and competence in all ARRC dealings. Applicable laws shall be scrupulously observed at all times.

2800.0 VENDOR SELECTION

2800.1 Procurement personnel are responsible for selection of vendors. In selecting a vendor, Procurement personnel will coordinate closely with the user department to obtain adequate and reasonable specifications.

2800.2 Procurement personnel shall endeavor to place orders with regard to the dependability and service record of the vendor, the nature of the guaranty and warranty of the produce, its prices, and quality.

2900.0 COMPLIANCE WITH LAW

2900.1 The Procurement Division is responsible for ensuring that the Corporation is in compliance with the provisions of AS 36.05 et seq. in all of its procurement and purchasing activities.

APR 23 1985

STATUS REPORT

ALASKA RAILROAD CORPORATION

BOARD OF DIRECTORS MEETING

MARCH 21, 1985

AND

RELATED TOPICS

PREPARED BY STEVEN SOENKSEN UNDER CONTRACT TO
ALASKA STATE LEGISLATURE,
HOUSE OF REPRESENTATIVES

ISSUES ANALYSIS :

March 21, 1985 Board of Directors Meeting

At the Board of Directors meeting in Anchorage, the Corporation discussed several issues vital to railroad operations. Native Claims to lands in the Eklutna Region are approaching settlement. It appears that meetings between the Railroad Corporation President and Eklutna Corp. may bring about a solution beneficial to both parties. The federal transfer legislation authorized parties involved in native claims to railroad land, a specific time period to settle claims, beyond which the federal Bureau of Land Management (BLM), would adjudicate a decision. (This decision based on the 3-E determination.)

At issue is the fact that a 3-E adjudication would use an "actual use" test to determine railroad activity on the rail property in the period 1971-1974. Of particular interest is the gravel and hard rock reserves for railroad track ballast in the Eklutina area. The railroad had, at that time opened that portion of the pit that would be used for the next 10 year period. In 1985, those reserves had been depleted and BLM would determine that no land outside the original area disturbed 10-14 years ago was in actual use. The railroad stands to loose access to other rock and gravel in this area unless an agreement can be negotiated. The railroad feels

that loosing access would be very costly in terms of increased cost for gravel and ballast for track maintenance.

Cook Inlet Region Inc., (CIRI), President Roy Hundorf and Attorneys George Christy and Steven Hillard made a presentation regarding the rights of CIRI in negotiations with the village corporation. There is some uncertainty in the interpretation of the Alaska Native Claims Settlement Act on the rights of CIRI to participate in such a discussion. The Alaska Native Claims Settlement Act could be interpreted to say that the rights of a regional corporation do not vest until land is conveyed to the village corporation. This has been the State's position. CIRI feels that they should be a part of the negotiations possibly in recognition of the potential revenue that as sub-surface landholder they may derive from the railroad's need for gravel and hard rock for construction materials.

This issue was discussed in executive session by the board and more information will be made available as it is made public.

RATE INCREASES- GENERAL AND WHITTIER SHUTTLE

GENERAL

The railroad will effect a general rate increase on interline

freight. This will affect items moved under tariff authority and/or contract rate agreements, approximately 20% of traffic.

WHITTIER

The railroad will effect a new rate structure for Whittier and a detailed explanation of the rate is attached to this report as attachment 1.

RAILROAD REVOLVING FUND.

The Alaska Railroad had a revolving fund under the federal government. Appropriations from Congress were applied to the revolving fund for use by the railroad. The balance in the revolving fund after transfer would revert to the federal government in accordance with the federal transfer legislation. Receivables to the federal government are being collected by the railroad. There is a \$2 million balance in the revolving fund that was scheduled to the capital spending plan for 1984 under federal ownership that should be available for completion this construction season.

FREIGHT HOUSE OPERATIONS

The railroad has been concerned regarding the cost of operation in the freighthouse. Other railroads contract their freighthouse operations and reduce operations expense. Employee organizations that testified supported the action. The CEO of the corporation will solicit interested parties to

contract the operation, but shipments at "whistle stop" drops will continue to be handled by railroad employees.

THREE YEAR PLAN

The board was presented with a three year financial plan that included revenue and expense plans for capital and operational budgets. Copies of slides prepared by the railroad are included as attachment 2 to this report.

RAIL CROSSING PLAN

Management of the Alaska Railroad has provided details of a new policy on road/railroad intersections. Of first priority is the grade separated crossing where highway traffic and railroad operate over trestles, eliminating intersections. The railroad has a total of 98 crossings. In the three year plan, work is scheduled to upgrade existing crossings and require signals with gates to be installed. This policy would also require new permits to cross the railroad issued only to public agency with road construction and maintenance authority. A detailed outline of the new policy is in attachment 3.

In other Action by the board, Emergency rule 85-3 was adopted and is included in this report as attachment 4 dealing with defining a conflict of interest for board members as required

in A.S. 42.40.. Emergency rule 85-4 was adopted and is included as attachment 5 relates to hiring practices by the corporation.

OTHER ISSUES

PROCUREMENT BY THE RAILROAD

The issue of procurement by the railroad has been raised through bid procedures in a contract for railroad ties. The railroad is operating under the corporation emergency rule 85-2 which essentially contains provisions from the federal procurement regulations the railroad had been operating under.

However, these regulations did not provide specifically for "Alaskan bidder preference". Through the bid process, information critical to the bidders did not reach all of them. A firm in Wrangell bid on supplying the ties but did not receive complete information and was not allowed the Alaskan bidder preference as required under A.S. 36.05. The railroad bid was for 14,000 ties 50% hardwood and 50% softwood. As it turned out, the Wrangell firm was able to provide 7,000 of the ties and utilizing their "old growth hemlock" on a trial basis to test the suitability for future uses.

The railroad plans to adopt permanent procurement policies in the near future to address the issues raised over this contract. More information will be available at the next corporation meeting.

If members of the House of Representatives need more information on these or other issues relating to the Alaska Railroad, please contact Steven Soenksen through Representative Cato's office at 465-4858.

PRINCIPAL FEATURES OF 1985 ANCHORAGE-WHITTIER
SHUTTLE TRAIN RATE ADJUSTMENTS

The Alaska Railroad Corporation's "Anchorage-Portage-Whittier Shuttle" train service, which carries passengers and motor vehicles to and from the port of Whittier, will begin its summer schedule with revised fares.

The fare structure, designed to relieve part of the financial burden on frequent users of the Shuttle and to update the types of fares for the first time in several years, will be effective about May 1st.

Principal features of the new Rate Schedule are:

1. The multiple-ride ticket, good for 12 one way trips on the Shuttle between Portage and Whittier, will remain at its 1984 price - \$247.25 for non commercial small vehicles, and \$50.50 for adult passengers.
2. A new Children's fare (ages 5 through 11) will be established for the first time between Portage and Whittier - \$3.00 one way. Formerly children paid adult fares. (Children under the age of five have always been carried free of charge.)
3. A multiple-ride ticket, good for 12 one way passenger rides between Anchorage and Whittier has been established at a rate of \$110.50, which is a cost of \$9.21. The single ride fare will be \$11.50.
4. The method of calculating fares for vehicles with trailers has been completely revised for combinations under 40 foot in total length. Formerly each unit was charged a separate fare. Under the new rate total length is the method of charging, which will result in lower cost to vehicle+trailer combinations. (Example: under 24 feet total will be \$11 lower than same two-unit fare in 1984.)
5. A new fee has been instituted for Kayaks and Canoes - one way \$5.00
6. A special trailer rate for small motorcycle trailers had been set at \$5.00 one way. Previously the mini-trailers were charged full automobile rates.
7. The single person one way adult fare from Portage to Whittier will be raised from \$5.25 to \$6.00. Frequent users will be able to purchase the multiple-ride ticket books which reduces the cost of a one way ride to \$4.21.
8. Commercial truck and bus rates have been raised across-the-board.

The Corporation also handles "bush" local train services on the main line north of Anchorage, primarily between Talkeetna and Hurricane. The cost of this service, by distance-fare-per mile, was analyzed.

Table I
 Rural Passenger Service Costs

<u>Talkeetna to: (one way)</u>	<u>Distance</u>	<u>Fare</u>	<u>Per Mile (¢)</u>
Chase	9.5 (miles)	\$7.50	.79
Curry	21.8	7.50	.34
Sherman	31.0	8.25	.27
Chulitna	47	12.00	.26
 <u>Anchorage to: (one way)</u>			
Whittier	62.0	10.75	.17
Whittier (after May 1st)	62.0	11.50	.19
 <u>Portage to: (one way)</u>			
Whittier	12.4	5.25	.42
Whittier (after May 1st)	12.4	6.00	.48
Whittier (multi-ride)	12.4	4.21	.34

(Note: No round-trip discounts are offered on any corporation trains.)

A special tariff applies to Talkeetna-Curry and points between, with a single cost of \$40.00 per ten one-way rides. This tariff has not been revised since 1980. It has been used sparingly, only 24 books were sold in 1984!

Applying the 10-ride rate of \$4.00 -

Talkeetna to:

Chase	9.5	4.00	.42
Curry	21.8	4.00	.18

ANALYSIS OF FARE STRUCTURE - WHITTIER SHUTTLE

The Alaska Railroad Corporation operates two types of scheduled passenger service - the Anchorage to Fairbanks trains, and the Anchorage to Whittier "Shuttle".

The Corporation has a minimum fare of \$7.50 on trains north of Anchorage regardless of distance traveled. This type of minimum fare has been in effect historically on the railroad. The present fare on the Whittier Shuttle (Portage to Whittier, 12 miles) is at a rate of 42¢ per mile, or 34¢ per mile using the 12-ride discount ticket book.

Riding a comparable distance on the main line north of Anchorage would cost 62¢ per mile (77% greater than on the shuttle line).

Riding a longer distance on the main line, from Anchorage to Wasilla, is roughly comparable to riding Anchorage to Whittier on the shuttle train. The present fare to Wasilla is \$11.75 or 26¢ per mile; the present fare to Whittier is \$10.75 or 17.3¢ per mile. At a per mile rate, riding to Whittier is substantially less costly than riding to Wasilla.

Three principal cost factors are used in railroading as well as all other forms of transportation -- distance traveled, time required, and traffic density. As the distance traveled lengthens the fare per mile traveled is lower. This structure is followed in Alaska. Costs per mile of short-frequent commuter style service (i.e. the Portage to Whittier schedule) are distinctly higher than long distance runs (i.e. Anchorage to Fairbanks), therefore short distance fares must be higher to offset higher fixed and operating costs to the railroad.

High density Amtrak routes and their fare structures were also examined. The current Washington, D.C. to Baltimore, MD Amtrak fares (40 miles one way) by coach is \$13.80, or 35¢ per mile. This line handles well over a million riders annually. From New York City to Trenton, NJ, 57 miles, the fare is \$21.50 or 38¢ per mile.

Alaska Railroad shuttle rates are roughly comparable, even without the accepted Alaska increased-costs differential of 25%.

As an Interstate Commerce Commission regulated carrier, the Corporation cannot discriminate, i.e. charge one set of fares for tourists and one set for Whittier residents, as has been suggested. The multiple-ride ticket, a legal mechanism, is offered to reduce the cost for frequent riders.

THE ALASKA RAILROAD CORPORATION

1985

THREE YEAR PLAN

03-14-85

THE ALASKA RAILROAD CORPORATION

1985 Three Year Plan

Table of Contents

	<u>PAGE</u>
I. SUMMARY	1
II. METHODOLOGY AND FORMAT	2
III. BASIC PLANNING ASSUMPTIONS	3
IV. BASELINE OPERATIONS	6
V. CAPITAL SPENDING PLAN	14

I. SUMMARY

Summary Spending Plan

Millions of Dollars

	Latest Estimate <u>1985</u>	<u>Three Year Plan</u>			<u>Total</u>
		<u>1986</u>	<u>1987</u>	<u>1988</u>	
Operations:					
Revenue	71.3	78.3	88.0	96.0	262.3
Expense*	<u>58.0</u>	<u>63.3</u>	<u>66.4</u>	<u>73.0</u>	<u>202.7</u>
Surplus (Deficit)	<u>13.3</u>	<u>15.0</u>	<u>21.6</u>	<u>23.0</u>	<u>59.6</u>
Capital Spending	<u>14.2</u>	<u>23.1</u>	<u>21.7</u>	<u>23.4</u>	<u>68.2</u>
Cash Reserve	<u>10.0</u>	<u>1.9</u>	<u>1.8</u>	<u>1.4</u>	<u>1.4</u>

*Excludes Depreciation

II. METHODOLOGY AND FORMAT

Introduction

In order to provide the most useful financial planning information, the division between Baseline Operations and Capital has been identified.

Baseline Operations

Baseline encompasses those activities necessary to maintain operation of the Railroad as detailed in the assumptions. Those activities include revenue, basic maintenance and operations activities known to be required for efficient operation.

Capital Spending

Capital Spending includes those projects necessary to maintain the integrity of the physical plant as well as replacement and upgrading of equipment to improve operating efficiency. Capital Spending is segregated into four categories as follows:

- Caretaker
- Operations Improvement
- Environmental/Compliance/Safety
- Other

Other Considerations

All costs in the plan are shown in inflated dollars. Revenues were increased based on projected changes in the Association of American Railroad Cost Recovery Index. Expenses were projected to rise similarly with efficiencies of 2-4% considered in various operational departments. General and administrative overheads were held essentially constant throughout the plan with slight decreases in number of per. 01.

III. BASIC PLANNING ASSUMPTIONS

Basic assumptions for the 1985 3-Year Plan are divided into the following categories:

- Physical Plant
- Revenue
- Personnel
- General