

**ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672**

**8500 SENATE TRANSPORTATION**

**SB**

**148**

# Fairbanks Hotel & Motel Association

P.O. Box 60377  
Fairbanks, Alaska 99706

February 23, 1993

Mr. Robert Hatfield  
President & Chief Executive Officer  
Alaska Railroad Corporation  
P.O. Box 107500  
Anchorage, Alaska 99510-7500

Dear Mr. Hatfield,

I appreciate the time you and Mr. Burns have taken to familiarize the members of The Fairbanks Hotel & Motel Association (FHMA) with the Alaska Railroad Corporation's (ARRC) plan to develop real estate along the Chena River in Fairbanks. Our concerns about the Chena River project are a result from our review of ARRC's participation in the Ship Creek Redevelopment project and our knowledge of the Fairbanks hotel market. Upon investigation, we find many of your statements about the Ship Creek project to be contrary to the conclusions documented in the *Audit Report* provided by the Alaska State Legislature, Legislative Budget and Audit Committee, May 1, 1992, report number 08-4437-92.

At the January 28, 1993 meeting between ARRC and FHMA I asked you if ARRC had guaranteed the financing for the Comfort Inn. You answered this question with "no". In your letter of February 8, addressed to me, you state "Inn-Vestment Associates of Alaska (IAA) is a private Alaska partnership of which ARRC is a 40% owner. ARRC's standing in the eyes of the bank and law, is no greater or no less than any of the other partners." To learn the facts in their entirety, we have referenced Page 8 of the aforementioned *Audit Report*, which shows "the term of the partnership is 35 years and all partners have UNLIMITED LIABILITY TO THIRD PARTIES for the debts and obligations of the partnership." ARRC is 100% responsible for the debt, jointly and severally. The *Audit Report 'Summary of Auditor's Concerns'* states "ARRC accepted full financial risk for the hotel partnership without documenting the financial capacity of the other partners. This problem was amplified as ARRC was the only partner to initially put tangible assets into the partnership. The other investors were initially scheduled to contribute cash and development/construction services to the partnership in return for their 60% capital interest; however, a \$250,000 cash requirement was subsequently reduced to zero". The contribution, required of the final investor, was amended to include development/construction services only. Our conclusion is that ARRC did guarantee the loan on the Comfort Inn hotel.

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It is your position that ARRC will not need to determine the feasibility of any project proposed for your property. You state that feasibility will be determined by the project proposer as well as the lending institution. Mr. Hatfield, I am compelled to ask why is the feasibility even of concern to the proposer or the lending institution when neither are at risk as ARRC assumes 100% liability for debts and obligations of the partnership and is the only partner to initially invest tangible assets into the project?

Contradictions continue to exist between statements made by yourself and Mr. Burns at the January 28 meeting and the information provided in the *Audit Report* about the Request for Proposal (RFP) procedure followed by ARRC on the Ship Creek Project. You stated ARRC followed the usual competitive bid process; you review each proposal in order received and give fair and equal consideration to each proposal. The *Audit Report* finds the ARRC evaluation process rejected the "highest rated offerer, Intergroup Development Incorporated (IDI). ARRC rejected the IDI offer and directed IDI to submit a fee proposal rather than the master lease proposal initially requested. IDI followed this direction only to find their second proposal also rejected by ARRC. Soon after ARRC rejected the IDI master lease proposal and fee proposal, ARRC once again changed direction and accepted the master lease proposal submitted by LoPatin and Company. "The *Audit* continues; "IDI subsequently filed a lawsuit alleging, among other items, that ARRC violated its own procurement rules and did not fairly and honestly negotiate with IDI". It is my understanding that ARRC gave IDI a substantial amount of money to settle out of court on this issue.

The *Audit Report Summary of Auditor's Concerns* included the following observations;

- ARRC has difficulty complying with its own procurement rules.
- ARRC was unable to provide adequate documentation for its sole source agreement.
- ARRC does not maintain detailed procurement regulations.

During the January 28 meeting you stated The Comfort Inn project had experienced some problems reaching agreement with Labor Unions. You went on to assure our members the issue had been resolved to the satisfaction of the Building Trade in Anchorage. However, a telephone conversation between myself and Mr. Royce Rock, Carpenter Union - Anch. revealed an agreement has been reached on only future construction by ARRC but the Building Trade has filed a law suit against the IAA Comfort Inn project. The *Audit Report* documents the formal opinion from the State Attorney General, released during April, 1992; "due to their belief that the construction was being performed under contract for the State and that the involvement of the State in the project is significant, the project is subject to the provisions of AS 36.05 (Little Davis-Bacon Act). In fact, the labor issues pertaining to the Comfort Inn project were not resolved to the satisfaction of the Unions in Anchorage.

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In their conclusion the *Audit* committee had questions with the decisions made by and actions taken by ARRC on the Ship Creek project. In the Auditor's opinion, these decisions indicate "light regard for the responsibilities and accountability of a publicly owned corporation." The members of the Fairbanks Hotel & Motel Association share the Auditor's opinion and remain opposed to the Chena River Hotel.

Initially, ARRC worked cooperatively with the Municipality of Anchorage (MOA) and Anchorage Economic Development Corporation (AEDC) to conceive the Ship Creek Redevelopment project. The *Audit Report* reveals that in "April 1990 ARRC and AEDC entered into an agreement for AEDC to solicit a private group to act as master developer for 120 acres of Ship Creek land, with the goal being the creation of a tourist-oriented, mixed-use development." With this goal in mind, the RFP was developed and distributed to prospective developers. Pursuant to the distribution of the RFP, and without regard to the original agreement between ARRC and AEDC, ARRC created the partnership known as IAA and constructed the Comfort Inn hotel on the Ship Creek property. The removal of this portion of real estate, as well as the hotel project, effectively altered the original RFP and adversely effected the overall project. With the exception of the Comfort Inn, the Ship Creek real estate remains undeveloped.

On January 28 you stated you hold great respect for public opinion, much as a result of all you learned during the Ship Creek Redevelopment project. You stated you would take care to insure The Chena River Project was in the best interest of the Fairbanks community and Fairbanks would benefit from your experience with the Ship Creek project. If Fairbanks is to benefit from your experience at Ship Creek why have you failed to implement the Auditor's recommendations? Where is the RFP for the Chena River Project? How have you publicly solicited for capable developers for the entire scope of the project or is it your intention to again, complete only the hotel building.

There is no demand for additional hotel rooms in Fairbanks. On January 28, 1993 you stated the project was originally conceived by Princess Tours and presented to ARRC in 1989. Your presentation included a statement that Princess Tours estimated 30% increase in tourism but failed to state this estimated increase will effect only the summer season. Since 1989, Princess Tours has constructed The Fairbanks Princess Hotel; 200 additional rooms scheduled to open in May, 1993. The *Fairbanks Hotel Occupancy Survey*, completed February, 1993, shows that Fairbanks hotel room inventory will meet the need for rooms generated by the estimated summer season increase. The survey also shows Fairbanks hotels will experience decreased occupancy levels during summer seasons as well as a reduction in average annual occupancy. Currently, Fairbanks hotels remove over 450 rooms from available inventory during the winter months, September through May. The survey verifies this practice must continue.

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Although we remain opposed to the ARRC plan as presented January 28, we do support responsible development, by the private sector, of The ARRC Chena River property. This would include a master development plan, similar in nature, to the 'tourist oriented, mixed-use' theme conceived for the Ship Creek Redevelopment Project. An RFP should be designed and distributed fairly, to solicit a project developer. ARRC should offer the property for lease or sale at fair market value and should neither participate with financing nor acquire an equity position in the development. If no viable proposals for development are received by ARRC, it might be concluded that the time for this development has not arrived and it should be postponed to a future year when a comprehensive development plan, proposed by a capable developer, can be achieved.

I hope this letter clarifies our objection to the current ARRC plan to develop the Chena River property. I remain available to you if you have further comments. By phone: 479-3650, by fax: 479-7951, by mail: Sophie Station Hotel - 1717 University Avenue South - Fairbanks, Alaska 99709

Sincerely,



Catherine Schufft  
President Fairbanks Hotel & Motel Association

cc: Alaska Railroad Corporation Board Of Directors  
Interior Alaska Legislative Delegation  
Pamela Held: Greater Fairbanks Chamber of Commerce, Chair  
Margo Goodhue: Greater Fairbanks Chamber of Commerce, ED  
Ralph Nogel: Alaska Hotel & Motel Association, President  
Fairbanks Hotel & Motel Association Members  
Tim Comy: Fountainhead Development, Inc.

# Alaska State Legislature

STEVE FRANK

119 N. Cushman, Rm. 213  
Fairbanks, Alaska 99701  
(907) 452-3421



While in Juneau  
P.O. Box V  
Juneau, Alaska 99811  
(907) 465-3709  
Capitol Rm. 417

## Senate

### SPONSOR STATEMENT FOR SB 148

TO: Senator Bert Sharp, Chairman  
Senate Transportation Committee

FROM: Senator Steve Frank, Co-Chairman  
Senate Finance Committee

DATE: 8 March, 1993

Recent actions undertaken by the ARRC have led to widespread concern that this government-owned corporation has overstepped its authority and is competing unfairly with private interests. As a response, Senate Bill 148 is intended to limit the authority of the Alaska Railroad Corporation to actively participate in ventures that are not transportation related and that effectively compete with the private sector. In addition, this bill would increase both the public accountability and accessibility of the ARRC.

SB 148 would effect several changes to rectify this situation. First, the underlying value of land leased by the ARRC to private interests would be subject to municipal taxation; the result of this change would be to equalize costs (and thereby lease prices) among lessors of land. Second, the purpose of the ARRC would be explicitly defined as the provision of railroad and railroad related transportation services. Third, the ARRC would be required to obtain legislative approval in order to incur debt greater than \$1,000,000 (excluding short-term debt and debt incurred for the acquisition/maintenance of railroad rolling stock); this would allow future legislatures to determine if the ARRC was adhering to its defined purpose or not.

SB 148 would also increase the accountability and accessibility of the ARRC. First, the executive officers and board of directors would be subject to statutes requiring disclosure of financial and business interests. Second, in order to maintain impartiality, the two railroad experts/executives required by statute to serve on the ARRC board of directors would be prohibited from simultaneously serving as the board's chair, vice-chair, or chief executive officer of the corporation. Third, the ARRC would be included among those agencies that are subject to the public meetings statute.

The changes proposed by SB 148 would appear to be both timely and necessary, and I strongly urge your support.

## DIVISION OF LEGAL SERVICES

### LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

#### MEMORANDUM

March 10, 1993

**SUBJECT:** Sectional Summary; SB 148, An Act relating to the Alaska Railroad Corporation (Work Order No. 8-LS0583\K)

**TO:** Senator Steve Frank  
ATTN: David Skidmore

**FROM:** George Utermohle *GU*  
Legislative Counsel

You have requested a sectional summary of SB 148, "An Act relating to the Alaska Railroad Corporation; and providing for an effective date."

A sectional summary of a bill is not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 of the bill sets out the purpose of the bill.

Section 2 of the bill amends AS 29.45.030(a) to provide that real property of the Alaska Railroad Corporation that is leased for fair value to a municipal, state, or federal agency or to a person is subject to municipal property taxes. "Person" is defined in AS 01.10.060 to include a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person.

Section 3 of the bill amends AS 29.45.295 to conform to Section 2 of the bill. The amendment provides for the collection of delinquent taxes owed to a municipality by the Alaska Railroad Corporation.

Section 4 of the bill amends AS 39.50.200(b) by adding the members of the board of directors, the chief executive officer, and vice-presidents of the Alaska Railroad Corporation to the list of persons subject to the conflict of interest law.

Section 5 of the bill amends AS 42.40.010 to state that the Alaska Railroad Corporation is established for the purpose of providing railroad and railroad related transportation services in the state.

Section 6 of the bill amends AS 42.40.020 to provide that the members of the board of directors of the Alaska Railroad Corporation are subject to AS 39.50 (Conflict of Interest).

Section 7 of the bill amends AS 42.40.060(a) to prohibit persons who are appointed to certain seats on the board of directors of the Alaska Railroad Corporation from serving as chair or vice-chair of the board.

Section 8 of the bill amends AS 42.40.110(a) to provide that persons who are appointed to certain seats on the board of directors of the Alaska Railroad Corporation may not serve as chief executive officer of the corporation. The amendment also provides that the chief executive officer of the corporation is subject to AS 39.50 (Conflict of Interest).

Section 9 of the bill amends AS 42.40.110 to provide that the persons appointed as vice-presidents of the Alaska Railroad Corporation are subject to AS 39.50 (Conflict of Interest).

Section 10 of the bill amends AS 42.40.250 to state that the Alaska Railroad Corporation may exercise its statutory powers for the purpose of providing railroad and railroad related transportation services in the state. AS 42.40.250 is also amended to provide that the power of the corporation to acquire personal and real property is subject to other provisions of AS 42.40.

Section 11 of the bill amends AS 42.40.285 to require that the Alaska Railroad Corporation receive legislative approval before either incurring debt, other than bonded debt approved by the legislature and debt for certain purposes, exceeding \$1,000,000 or acquiring real or personal property by lease, if the property is valued at more than \$1,000,000 or is to be leased for more than 10 years.

Section 12 of the bill amends AS 42.40.910(a) to provide that certain property of the Alaska Railroad Corporation is subject to taxation as provided in AS 29.45.030(a)(1). This amendment is necessary to conform with the changes made by Section 2 of the bill.

Section 13 of the bill amends AS 42.40.920(b) to provide that the Alaska Railroad Corporation is subject to certain provisions of the "open meetings law."

Section 14 of the bill amends AS 42.40.935 to provide that the Alaska Railroad Corporation shall comply with local building codes, including the obtaining of required permits.

Senator Steve Frank  
March 10, 1993  
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Section 15 of the bill amends AS 44.62.310(a) to include the Alaska Railroad Corporation among the entities that are subject to provisions of the "open meetings law."

Section 16 of the bill amends provisions of temporary law that set out the purposes for which AS 42.40 (Alaska Railroad Corporation Act) was enacted. The amendments to Sec. 1(b), ch. 153, SLA 1984 provide that the Alaska Railroad Corporation is established for the purpose of providing railroad and railroad related transportation services in the state.

Section 17 of the bill provides that those sections of the bill (Sections 2, 3, and 12) relating to the taxation of certain real property of the Alaska Railroad Corporation take effect January 1, 1994. The remaining sections of the bill take effect 90 days after the bill becomes law.

GU:pl  
93-173.plm

# ALASKA STATE AFL-CIO

2501 Commercial Drive · Anchorage, Alaska 99501 · 907-258-6284 · Fax 274-0570

MANO FREY  
Executive President



BRUCE LUDWIG  
Secretary / Treasurer

March 18, 1993

TO: THE HONORABLE MEMBERS OF THE SENATE TRANSPORTATION COMMITTEE

RE: SENATE BILL 148

Many people believe that the relationship between labor and management is always an adversarial one. I would like to tell you that this is not true. Labor does not exist without an employer. It is the employer who provides the jobs which often become organized into bargaining units. Often, the good sides of a relationship between employers and their employees are overshadowed by the turmoil they often find themselves in during negotiations. Labor often finds themselves standing up for its employer when the health of the employer is at risk.

A good example would be a squabble between family members. They may fight between themselves to a noteworthy degree, but woe to those outside the family who try to hurt one or the other. The Alaska Railroad's employees are truly a family.

The introduction of Senate Bill 148 has made the union employees defensive about the health of their employer. It should be obvious why. Anything that even looks like a threat to their employer would cause them to consider what will be the consequences of such action. Will there be layoffs? Will the employer find itself financially unable to live up to the terms of the current labor agreement? Will the employer ask for nothing but concessions during the upcoming negotiations? These questions, and the emotional feelings that go with, them are currently going through the minds of the Alaska Railroad employees union and non-union alike.

The Alaska State AFL-CIO opposed the railroad initiative which tried to restrict the railroad's activities a few years ago. The initiative was overwhelmingly voted down by the public. We oppose the current attempt to restrict the railroad via Senate Bill 148 which has the same tenor as the failed initiative. We believe the railroad is too important, not only to its employees, but also to the citizens of the state to hamper it with such restrictions.

The Alaska State AFL-CIO stands behind the employees of the Alaska Railroad. The railroad provides hundreds of jobs for Alaskan residents while providing necessary transportation services for the state. The railroad has truly been a success story for Alaska. The ability of the railroad to maintain a healthy financial status is extremely important. We encourage the members of the Senate Transportation Committee to listen to, and consider the concerns of, both sides (labor and management) of the railroad's employees.

If you have any questions, please do not hesitate to call me. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Mano".

Mano Frey  
Executive President

# ALASKA RAILROAD CORPORATION



P.O. Box 107500 • Anchorage, Alaska 99510-7500

March 19, 1993

The Honorable Bert M. Sharp  
Chairman, Senate Transportation Committee  
Alaska State Senate  
State Capitol, Room 514  
Juneau, Alaska 99801

Dear Senator Sharp:

Senate Bill 148, which is presently pending in your committee, raises several concerns relating to the future viability of the Alaska Railroad Corporation (ARRC). This is also the case with the companion House Bill, HB-202. Based on several Juneau trips and in-depth discussions with the Bills' sponsors, concern about the ARRC's decision to assume a 40% equity position in the Comfort Inn Hotel in Anchorage is apparently a major reason underlying the legislation.

An additional factor lending some urgency to this proposal is a perception that ARRC is planning to participate in a similar hotel deal in Fairbanks. Although there are parties expressing interest in locating a hotel on railroad property in Fairbanks, ARRC has no plans to assume an equity position as occurred in Anchorage.

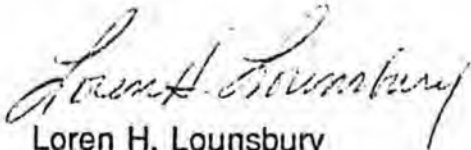
On the basis of my most recent Juneau visit, I have decided to propose a new policy at the next regular Board meeting on April 15, 1993 that would prevent ARRC from assuming an equity position in non-transportation activities in the future. Non-transportation activities will be defined to include hotel projects. While the ARRC Board believes that its action relative to the Comfort Inn was appropriate and consistent with ARRC's enabling legislation, we recognize and wish to be sensitive to the concerns about risk and the perception of unfair competition.

Based on initial discussions with other Board members, I believe there will be sufficient support to enact this policy. If there is interest, we would be happy to circulate the draft proposal for review and comment by interested legislators. It is my hope that the Bills' sponsors will agree that there will be no necessity for this Bill.

The Honorable Bert M. Sharp  
March 19, 1993  
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If there are questions by any members, please do not hesitate to contact me at 277-4334, or Bob Hatfield, ARRC President and CEO, at 265-2403.

Sincerely,



Loren H. Lounsbury  
Chairman of the Board  
Alaska Railroad Corporation

cc: The Honorable Walter J. Hickel, Governor  
The Honorable Drue Pearce, Alaska State Senate  
The Honorable Steve Frank, Alaska State Senate  
The Honorable Jeannette James, Alaska State House  
ARRC Board Members

2652625 HOUSE PASS SECTION 005 P.02 APR 11 1985

Chairman Sharp and Members of the Transportation committee,

My name is Jack Burton, I'm President of The American Federation Of Government Employees, local 183. We are the largest union at the Alaska Railroad, Representing both Blue and White Collar workers.

The employees at the Alaska Railroad are very upset by the unsettling nature of Senate Bill 148.

It was only a few short years back, 1985, that a lot of these employees had to make a decision. This was at the time of the Alaska Railroad Transfer from federal to state ownership. The decision was whether to transfer with the railroad or to continue their federal service career with another agency.

Most of the employees chose to transfer with the railroad only after looking at the state law that set up the state entity that was to operate the railroad.

The law makers at the time, knew that the structure being established had to be attractive to those employees, in order to keep enough experience personnel with the railroad to avoid interrupting the service the railroad was providing to Alaska.

The law also contained a corporate structure designed to allow the railroad to operate and utilize it's thirty six thousand acres of real-estate to maintain it independent from the state treasury.

The Federal Government transferred the lands to the state over a lot of objections. Had it not been for the hard lobbying efforts of the national Federation of this union, the outcome would have certainly been different.

We believed that the present legislature is being very unfair to those people that transferred. Senate Bill 148 is designed to remove the security provided by the railroad's large land holdings, there by undermining the very structure that lured those experience employee to transfer in the first place.

The Alaska Railroad transfer would never have taken place if not for the support of this union. We believed as most of Alaska did at the time, that the railroad could become the single most valuable asset in developing the state's hard mineral resources.

The railroad is in your hands, you may choose among you, to squander the states chances of diversifying it's economy through international exporting or to let the railroad continue to operate without interference, until those markets come on line.

You and I both know The State Legislature is having to strain to justify the spending programs now in existence. How could you ever hope to gain access to money to bail out a failing railroad if it was your action that caused its failure in the first place.

I not sure that what I'm saying to this committee will make a lot of difference. Maybe your agenda is the failure of the railroad. This I can tell you, if the actions of this body result in the failure of The Alaska Railroad, it will overshadow your greatest accomplishments, even your children's children, will never forgive you.

Thank you.

# ALASKA RAILROAD CORPORATION



P.O. Box 107500 • Anchorage, Alaska 99510-7500

March 26, 1993

The Honorable Bert M. Sharp  
Chairman, Senate Transportation Committee  
Alaska State Senate  
State Capitol, Room 514  
Juneau, Alaska 99801

Dear Senator Sharp:

The following provides a line-by-line set of proposed amendments from the Alaska Railroad Corporation (ARRC) in response to the requests made during this week's hearing on Senate Bill 148. This information should be reviewed in concert with the railroad's position paper and Chairman Lounsbury's recent letter relating to taking an equity position in non-transportation activities in the future. Both documents are enclosed for easy reference by committee members.

These suggestions are provided in the interest of responding to the requests from the bill's sponsors and members of your committee. However, even if the proposed changes are made, legislators should bear in mind that the ARRC continues to question the necessity for legislation and will not be in a position to support bill passage.

## SB 148 Amendments

### 1. Section 1:

- \* Page 1, line 5-14 and page 2, lines 1-2:

Delete subsections (1), (2) and (3), and renumber remaining sections accordingly.

- \* Page 2, lines 3-4:

Delete the "," after "board of directors", and delete "chief executive officer, and vice-presidents".

- \* Page 2, lines 5-6:

Delete subsection (5) and renumber accordingly.

These changes to the "Purpose" section conform to the proposed amendments presented below.

2. Sections 2 & 3:

- \* Page 2, lines 11-31, and page 3, lines 1-28:

Delete Sections 2 and 3 in their entirety.

Section 12:

- \* Page 8, lines 8-14:

Delete Section 12 in its entirety.

This amendment removes all sections implementing the proposed increase in taxation exposure for real property of the railroad. In addition to the fiscal concerns described in the enclosed position paper, adoption of these provisions of Senate Bill 148 (which attempts to treat railroad lands as private property) is inconsistent with the other sections of Senate Bill 148 intended to limit and encumber the purposes for which railroad land can be used.

3. Section 4:

- \* Page 3, lines 30-31:

Delete the "," after "board of directors" and delete "the chief executive officer and vice-presidents".

Section 9:

- \* Page 4, lines 23-25:

Delete Section 9 in its entirety.

These changes limit the application of the State's conflict of interest statute (AS 39.50) to the board of directors, who are political appointments of the governor. The existing Alaska Railroad Corporation Act (ARCA) already requires a conflict of interest disclosure mechanism. While the ARRC fails to see a reason to implement any change in this area since it is in large part duplicative of existing law, we believe there is little justification to extend its coverage to the chief executive officer and vice-presidents of the corporation.

4. Section 5:

\* Page 4, lines 1-9:

Delete Section 5 in its entirety.

Section 10:

\* Page 4, lines 26-31, page 5, lines 1-31, page 6, lines 1-31, and page 7, lines 1-17:

Delete Section 10 in its entirety.

Section 11:

\* Page 7, lines 18-31, and page 8, lines 1-7:

Delete Section 11 in its entirety.

Section 16:

\* Page 9, lines 22-31, and page 10, lines 1-23:

Delete Section 16 in its entirety.

It is our understanding that these sections are intended to work together to prevent the ARRC from taking an equity position in a partnership involving non-transportation activities without prior legislative approval, such as occurred recently with the Comfort Inn Hotel in Anchorage. We believe our decision to pursue a board policy to implement this proposal (which is discussed in the enclosed letter from Loren Lounsbury) negates the need for these sections.

Further, it can be argued that the language as presently structured fails to effect the desired change, while concurrently creating a number of disturbing, and apparently unintended impacts on the railroad's transportation activities. The enclosed position paper describes these concerns in greater detail.

If members remain concerned that the Legislature needs to be on record regarding this matter, it might be advisable to add a letter of intent to this legislation that could read as follows:

It is the intent of the Legislature that the ARRC is not to use its real property to obtain an equity position in non-transportation activities without the prior approval of the governor.

This arrangement will avoid a flat prohibition if there is a proposed development that has strong political support, with an appropriate level of government oversight. We suggest the "governor's approval" language because of the necessity for quick response to market opportunities, especially when the Legislature is not in session.

5. Section 7 & 8:

\* Page 4, lines 12-22:

Delete Sections 7 and 8 in their entirety.

The ARRC believes the question of which members should serve as chair and vice-chair should continue to be handled as a board matter, and does not warrant legislative attention. Although the question of whether the chief executive officer (CEO) can fulfill the railroad related experience requirements of ARCA is primarily one for the Administration to address, the ARRC fails to see the need to limit the membership of the board. It is traditional to see the CEO as a member of railroad boards, and is particularly appropriate since a representative of ARRC labor presently sits on the board.

The change eliminating the last sentence of Section 8 is consistent with the proposed amendment under amendment #3 above, limiting the application of the State's conflict of interest law to board members only.

6. Section 17:

\* Page 10, line 24:

Delete this section in its entirety.

This amendment removes the January 1, 1994 effective date, which applies to the proposed taxation provisions. This arrangement is no longer needed if the operative sections are deleted, consistent with our recommendation under amendment #2 above.

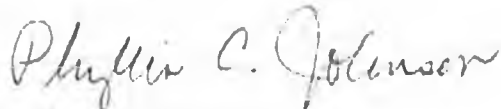
7. Remaining sections should be renumbered accordingly.

The remaining sections if these amendments are adopted would be Section 1 (amended), Section 4 (amended), Section 6, Section 13, Section 14, and Section 15. This would leave the sections implementing the conflict of interest provision, the application of AS 44.62.310(a) of the State's Open Meetings Act, and the section placing all new facilities constructed by the ARRC under local building codes. While we fail to see a need to take these actions given existing arrangement under ARCA, retention of these sections should not present significant problems.

Because of the drafting emphasis that will accompany the upcoming work session, I have asked Ms. Phyllis Johnson, ARRC's General Counsel, and Mr. Mark Hickey, ARRC's legislative representative, to attend that session on ARRC's behalf. They will also be in attendance at the next committee meeting to answer questions and provide additional information. I trust these arrangements will be satisfactory for the committee's needs.

Thank you for your consideration of these proposals. Please let me or my representatives know if additional information is needed.

Sincerely,



for Robert S. Hatfield, Jr.  
President & CEO  
Alaska Railroad Corporation

Enclosure

The Honorable Bert M. Sharp

-6-

March 26, 1993

cc. The Honorable Walter J. Hickel, Governor  
The Honorable Drue Pearce, Alaska State Senate  
The Honorable Steve Frank, Alaska State Senate  
The Honorable Jeannette James, Alaska State House  
Senate Transportation Committee Members  
ARRC Board Members



# Fairbanks Industrial Development Corporation

To: Senator Steve Frank, Co-Chair, Senate Finance Committee, Sponsor SB148  
Jeanette James, Sponsor HB202  
Bert Sharp, Chair, Senate Transportation Committee

cc: Interior Delegation

From: Ronald L. Ricketts *RLR*

Subject: SB148/HB202 Amending Powers of the Alaska Railroad Corporation

Date: March 29, 1992

As some of you are aware, I have not been a great friend of the Alaska Railroad. Our disagreement has been in the area of their freight rate structure, which I believe has been one of the inhibitors of Interior timber resource development.

Nonetheless, I feel compelled to comment on the above-referenced legislation because I see it as a classic case of "throwing the baby out with the bath water".

I understand that this legislation was precipitated, at least in major part, by public concern over the railroad leasing property for hotel purposes and taking an equity interest in the development. Clearly this would unfairly compete with private hotel operations. Had the legislation been limited to this issue, I would have no problem with it.

However, the proposed legislation goes much further. It proposes limiting corporate powers to those which would be "for the purpose of providing railroad and railroad related transportation services in the State". Arguably, this could be interpreted to mean that the railroad could no longer lease its property for any number of business purposes, thus eliminating a source of income now available to it. If such limitation is not intended by the legislation, then the legislation should be amended accordingly.

The other area in which I have a major problem, is with the one million dollar debt limit. This seems to be an arbitrary number which, based upon my understanding of the activities and funding requirements of the railroad, would severely impact its ability to do business. I guess my first question would be: What abuses is this proposal designed to remedy? I am not aware of any.

Lastly, it seems to me that the provision of the legislation which would preclude a person sitting as a board member and as CEO at the same time is aimed strictly at Mr. Hatfield's position. As you all know, the CFO of a corporation is typically also a member of its board. Therefore, I am wondering what abuse or perceived abuse has triggered this provision.

Please consider the foregoing comments as you review this legislation.

Chugiak-Eagle River  
Chamber of Commerce  
(907) 694-4702

P.O. Box 770353  
Eagle River, Alaska 99577

CHUGIAK-EAGLE RIVER  
CHAMBER OF COMMERCE  
BOARD OF DIRECTORS  
RESOLUTION 93-009

12110 Business Blvd.  
Eagle River, Alaska 99577

OPPOSITION TO HB 202 & SB 148

WHEREAS the Chugiak-Eagle River Chamber of Commerce exists to promote the establishment of conditions that enhance economic development potential in the state of Alaska;

WHEREAS the State of Alaska purchased the Alaska Railroad, and established it as a for profit public corporation, whose mission is to effectively manage Alaska Railroad properties and resources and provide a transportation network within the state of Alaska;

WHEREAS Chugiak-Eagle River is a railbelt community and interested in the ability of the Railroad to expand its passenger services;

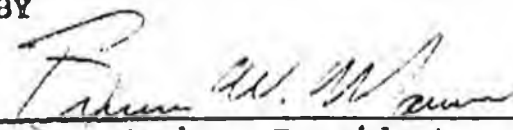
WHEREAS The Chugiak-Eagle River Chamber of Commerce is actively pursuing the relocation of the rail yards to this community;

WHEREAS members of the Alaska Legislature have introduced House Bill 202 and companion Senate Bill 148 for the purpose of substantially limiting normal business activities that the Railroad currently pursues;

NOW THEREFORE BE IT RESOLVED that the Chugiak-Eagle River Chamber of Commerce opposes HB 202 and SB 148 as it is constructed. The Railroad's ability to provide transportation services depends on its ability to freely engage in a variety of activities which create a profitable environment. This pending legislation will severely restrict the Railroad's ability to continue to operate as a viable business in Alaska.

APPROVED by the Chugiak-Eagle River Chamber of Commerce Board of Directors this Friday, 26 day  
of March

BY

  
Bruce Marion, President



**TESTIMONY TO THE SENATE TRANSPORTATION COMMITTEE ON SB148,  
AN ACT RELATING TO THE ALASKA RAILROAD  
MARCH 30, 1993**

My name is Pat Pourchot. I am the Executive Director of Commonwealth North, a non-profit, bi-partisan forum which addresses state and national long-term public policy issues. It involves nearly 400 of Alaska's leaders and concerned citizens representing business, labor, education, public service and the Alaska Native community.

The Board of Commonwealth North would like to voice its strong concern with the intent and many of the provisions contained in SB148. Our organization has undertaken three separate studies of the Alaska Railroad over the past 12 years. The first was initiated in 1981 and addressed the proposed transfer of the Railroad to the State. The second examined the terms of the sale and potential state management of the Railroad in 1984. The latest study, published in 1988, reviewed the Railroad's operations and the desirability of a sale to a private entity.

Common to all these studies was the principal conclusion that the Railroad, though state-owned, or operated like a private business and be allowed to compete fully in the marketplace without artificial restraints. In this way it was believed that the Railroad could be self-sufficient, not require government subsidy and retain its value as a state asset that might be sold someday.

The studies were consistent in their findings that while the Railroad Corporation is a public entity, its operation and management ought to be insulated to the greatest extent possible from special interest and political influences. In general, special restrictions have and can only increase costs, making self-sufficiency more difficult.

Several findings relate specifically to SB148. Stringent limitations on debt, like those contained in the bill, have been opposed by Commonwealth North. The 1984 study concluded "Under a legislative mandate to operate in a self-sufficient manner, all decisions related to such potentially political issues as level and purpose of capital expenditures and the level of debt are the direct function of revenue and the ability to pay."

*Founding Co-Chairmen Governor Walter J. Hickel and the late Governor William A. Egan  
Richard F. Barnes, President • Judith M. Brady, Vice President • Dr. Lee Gorsuch, Vice President  
Perry Fulton, Vice President • Susan Haidy, Secretary • Michael E. Stone, Treasurer • Bill Allen • Jane Angvik  
Robert B. Atwood • Skip Hillartz • William Bittner • Janina Brattum • Julian Darley • Robert Hatfield • Joe L. Hayes  
James Hermillier • Archbishop Francis Hurley • Marc Langland • Logan H. Lounsbury • Stephen McAlpine  
William McHugh • Governor William Sheffield • William J. Tobin • Dr. F. Thomas Trotter*

The Board also opposes the language to limit the Railroad's authority to "railroad related transportation services." In the CWN studies, as well as in the debate surrounding the federal and state transfer laws, it was readily acknowledged that real estate assets, while not directly related to railroad services, were vital to the Railroad. The 1984 Act carried forward all the previous tax exemptions granted the federal railroad, and allowed the new State Corporation to establish a comprehensive, fair and profitable real estate management system. It is no secret that lease revenues have allowed the Railroad to operate consistently in the black. This ability must be preserved to ensure the overall purposes of the Railroad.

Commonwealth North recognizes the need for state oversight of the Railroad Corporation. It also recognizes the need for public protections such as afforded by the conflict-of-interest, open meetings and procurement laws. However, the Board feels these are already adequately addressed in current statute and the policies of the Corporation.

To paraphrase our 1988 report we feel the best way to ensure that the Railroad operates with the independence envisioned in the 1984 Act is to allow the Board and managers to run the Railroad with a positive bottom line. The Alaskan people are fortunate to have the Railroad operating as a viable, profit-making entity. The public must ensure that Alaska's elected officials insulate the Corporation's operations from political meddling.

SENATOR, PLEASE SEE THAT THE MEMBERS OF THE TRANSPORTATION  
COMMITTEE RECEIVES THESE LETTERS CONCERNING SB148, BEING  
HEARD THIS AFTERNOON. Thank you.

*Packet # 2*

MARK E. ROSEVEIR  
P.O. Box 5447  
WASILLA, AK... 99654

MARCH 9, 1993

THE ALASKA STATE SENATE  
C/O THE SENATE ~~FINANCE~~ COMMITTEE  
JUNEAU, AK  
TRANSP.

DEAR CHAIRPERSON,  
IT WOULD BE SILLY TO EVEN CONSIDER  
SENATE BILL SB-148. I URGE YOU,  
PLEASE VOTE NO.

THANK YOU,

mark Roseveir

---

Dear Committee Chairman,

I have just recently become aware of SB148, an act relating to the Alaska Railroad Corporation. The Railroad has been in business in this state since 1924, hauling freight, leasing its real estate, and developing the assets under its control. During this time the Railroad was responsible for the existence of what is now the states largest city, Anchorage. The Railroad has never been in a position of unfair competition, truly the businesses that developed alongside the then Federal Railroad knew of its existence before establishing their enterprise. The special interests who now call foul should re-read their history rather than attempt to rewrite it. Vote against SB148.

Sincerely,

*F. Thomas A. Adams*

DEAR CHAIRMAN:

THE PROPOSED SB 148 IS UNDEFINABLE. PLEASE VOTE NO.  
IT WOULD TAKE ALL THE CONSTITUTIONAL RIGHTS FROM THE PEOPLE  
PLEASE FOR THE PEOPLE AND THE POLICE... PLEASE VOTE NO.  
I AM SURE YOU WILL VOTE NO.

Harold T. Larson

HAROLD T. LARSON

P.O. Box 547

TALKEETNA AK. 99676

MARCH 8, 93

AK. STATE SENATE

C/O THE SENATE ~~SENATE~~ COMMITTEE  
TRANSP,

JUNEAU AK.

WE ALL READ THIS SENATE BILL 148.

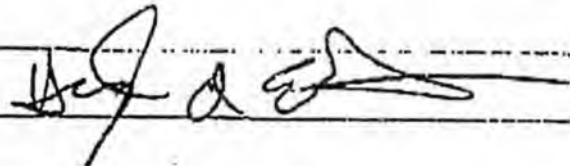
I CANT BELIEVE THE STUFF YOU

TRYING TO PASS WITH IT, I VOTE NO.

Hugh A. EVANS

P.O. BOX 255

TALKEETA AK. 99676



DAVID ROBERTS  
P.O. BOX 872112  
WASILLA, AK 99687

MARCH 8, 1993

THE ALASKA STATE SENATE  
c/o THE SENATE ~~TRANSITATION~~ COMMITTEE  
JUNEAU, AK

DEAR SIRs,

I STRONGLY OPPOSE ANY SUPPORT  
OF THE PROPOSED SENATE BILL SB 148.  
I REQUEST YOU VOTE "NO"

SINCERLY

David Roberts

Edward Thompson

po. box . HC-89. box 414

Willow, AK. 99688-9705

March, 9, 1993

Alaska State Senate

c/o The Senate Finance Committee

Juneau, AK.

Dear Sirs,

Having a chance to read over Senate Bill 148 I believe that this would impact the communities railbelt wide. I would like to see a vote of no.

Edward W Thompson

William Bernath JR

3315 Eide St #4

Anch. AK 99503.

MARCH 8, 1993

Dear Committee Chairman,

I'm Appalled to see Special Interest's  
at work. Once again, Senate bill SB 148  
a prime example. As a VOTING member  
of ALASKA I ASK You to VOTE no!

William Bernath JR

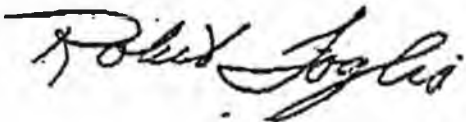
3-9-93

Dear Committee Chairman,

I understand that your Committee will be hearing SB148 this Thursday March 11. I urge you and all committee members to vote against this poorly conceived idea of restructuring the Railroad Act. It should be no surprise to the Legislature of the success of the State owned Railroad to operate without appropriations from the already strained State Treasury. Do we really want to hamstring the Railroad until it is forced to become an extension of the heavily subsidized (\$30 million) State Marine Highway system? I don't believe the Legislature really wants to do that. Please do not support the passage of this bill out of your Committee.

Thank You,

Robert Foglia



3-9-93

The Alaska Railroad provides me and my family with the income necessary to live in this State. If the Railroad is tied up in Legislative chains and can't make a profit it is my job and the men and women I work with that will pay the price. I am told there are over 500 year around jobs supported by the Railroads payroll directly and of course a lot more are affected in the communities along the railbelt. We have worked hard and have already sacrificed a lot to keep our jobs. Don't pass this bill and take away my income and home.

Thank you,

David Coatney

*David Coatney*

Dear Committee Chairman,

I have just recently become aware of SB148, an act relating to the Alaska Railroad Corporation. The Railroad has been in business in this state since 1924, hauling freight, leasing its real estate, and developing the assets under its control. During this time the Railroad was responsible for the existence of what is now the states largest city, Anchorage. The Railroad has never been in a position of unfair competition, truly the businesses that developed alongside the then Federal Railroad knew of its existence before establishing their enterprise. The special interests who now call foul should re-read their history rather than attempt to rewrite it. Vote against SB148.

Sincerely,

Doroteo D. Bumanglag



5-8-93

March 9th, 1993

Dear Committee Member,

Senator Frank (R-Fairbanks) has sponsored Senate Bill 148 which will limit the economics of the Alaska Railroad. The Alaska Railroad is a for profit company, limiting the manner in which the ARRC does business will only cripple the company. As a citizen of the State of Alaska and an employee of the Alaska Railroad, I am opposed to SB 148

*John H. Mouchel*

Wayne L. Thompson  
P.O. Box 220129  
Anchorage, Ak. 9952-0129

March 10, 1993

The Alaska State Senate  
C/O Senate ~~Finance~~ *Transportation*  
Juneau, Ak.

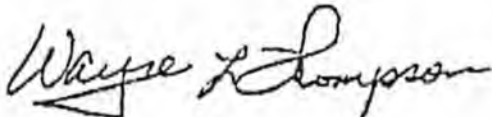
Dear Committee Members,

I just received information today, that a bill had been introduced by Senator Frank of Fairbanks, which if passed, would result in damage to the railroad's ability to be competitive. This is very difficult for me to understand, why would anybody want to destroy a transportation system network that moves goods more economically to the area where he and his family lives.

I can't believe Mr. Frank understand the harm that would be caused should his bill become law. Please do not support this bill.

Thank You,

Wayne L. Thompson



3-10-93

We the undersigned are opposed to the passage of SB 148 and strongly urge the members of the Legislature to defeat this proposal.

Jim Moore Box 140224 Anch AK

Joseph Jones 7800 DEBARRE RD #302 ANCH, AK 99504

Julie Stan PO Box 878624 Wasilla 99687

Don Colwell

9010 Honeysuckle DR ANCH, AK

99592

Robert J. Norman P.O. Box 670376 CHugiAK AK 99567

James E. Roland P O Box 141587 ANCH AK 99501

RICHARD G. COO 24418 PARK DR. CHUGI AK 99567

David J. Quinn HC 83 Box 2406 Eagle Rm. AK 99547

JOHN D. LOBSTRON } 920 LIGHTHOUSE CT ANCH AK 99515  
John B. Fisher }

Dennis Smith

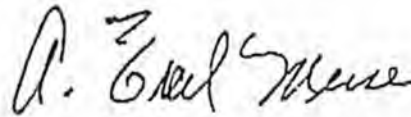
DENNIS W SMITH

HCO 2 BOX 2644

PALMER AK 99645

We the undersigned employees of the Alaska Railroad are opposed to the passage of SB148 and strongly urge the members of the Legislature to defeat this proposal.

A. Earl Mene  
3135 Tenworth Creek  
Anchorage, Ak 99504



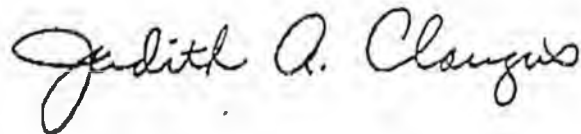
Michael D. Callahan  
1601 E. Tudor #11  
Anchorage AK 99507



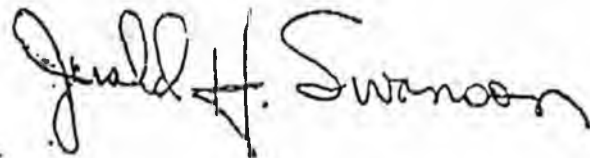
KENNETH M JONES  
HC 83 Box 1758  
Eagle River AK 99577



JUDY CLAUGUS  
P O BOX 771971  
Eagle River, AK 99577

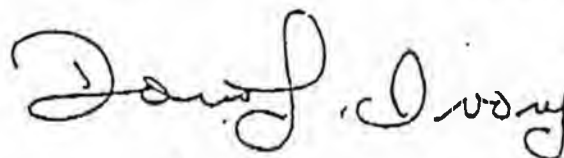


GERALD H. SWANSON  
P.O. BOX 874027  
WASILLA, AK. 99687-4027

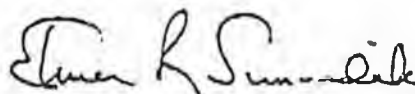


We the undersigned employees of the Alaska Railroad are opposed to the passage of SB148 and strongly urge the members of the Legislature to defeat this proposal.

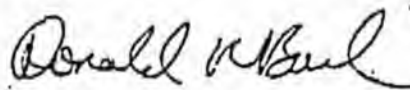
DORIS IVORY  
12220 CRESTED BUTTE  
EAGLE RIVER, AK 99577



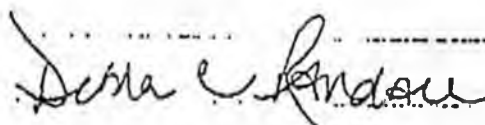
Elmer R. Simurdak  
8130 Bearberry ST  
Anchorage, AK 99502



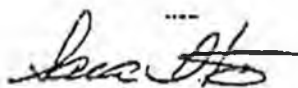
DONALD K BARKER  
901 W KLATT RD  
ANCHORAGE, AK 99502



DEBRA C. RANDALL  
2900 Boniface Hwy, Suite 210 Bx  
Anchorage, AK 408



SARA ITO  
6414 BARCLAY CT  
ANCHORAGE AK 99504



We the undersigned employees of the Alaska Railroad are opposed to the passage of SB148 and strongly urge the members of the Legislature to defeat this proposal.

- Margie L. Wheeler P.O. Box 871230 Wasilla AK 99687
- Doris M. Wilbanks 3305 Cassius Ct. Anch. AK 99508
- Zornia G. Bailey PO Box 770695 Eagle River AK 99577
- Sharon deMico 3204 Lee St. Anch. AK 99504
- Carol Fortier 9212 Elgin Cr. Anch. AK 99515
- Althea Shereck Althea Shereck 312 E 15th Terrace 99501
- ~~Roberto~~ Roberto Gonzalez 7700 Lakes Circle 99518
- Kathy Lewis Kathy Lewis 3938 Cope #9 Anch. AK 99503
- Jackie Faco 3023 Kingshew Anch 99515

We the undersigned employees of the Alaska Railroad are opposed to the passage of SB148 and strongly urge the members of the Legislature to defeat this proposal.

CAESAR W. LAWRENCE  
18855 Citation Road  
EAGLE RIVER, AK 99577

Caesar W. Lawrence

KAREN M. HILLS  
6973 Cutty Sark  
Anchorage AK 99502  
Karen M. Hills

Phil Shibe  
2840 W. 80th  
Anchorage, AK 99502  
Phil Shibe

Don Wright  
HC 31 Box 5079-D  
Wasilla, AK 99654  
Don Wright

Rick L. Rapuzzi  
10320 Chondalar St  
Eagle River, AK 99577  
Rick L. Rapuzzi


Leonard Wallner  
P.O. Box 339  
Palmer AK 99645

We the undersigned employees of the Alaska Railroad are opposed to the passage of SE148 and strongly urge the members of the Legislature to defeat this proposal.

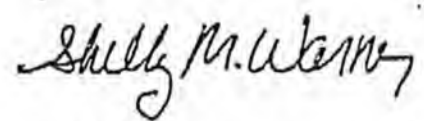
Ronald W. Saker  
H201 Box 6169 B  
PALMER, AK 99645



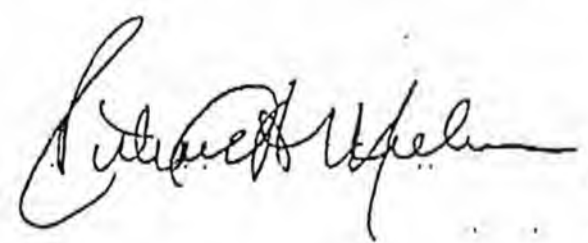
S. Ray Sanderford  
4217 London Circle  
Anchorage, Alaska 99504



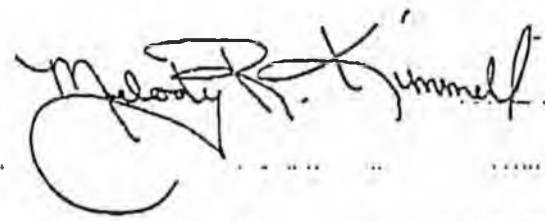
Shelly M. Warner  
8741 Pluto  
Anchorage, AK 99507



Richard H. Weber  
7750 Canal St.  
Anchorage, AK 99502



Melody R. Kimmell  
P.O. Box 100844  
Anchorage, AK 99510-0844



We the undersigned employees of the Alaska Railroad are opposed to the passage of SB148 and strongly urge the members of the Legislature to defeat this proposal.

Established \_\_\_\_\_  
Ron E. Choek  
1340 Cross RD  
Creech AK 99515  
*Ron E. Choek*

Edward A. Strencha E.D.  
2821 Ascot St.  
Anch AK 99502  
*Edward A. Strencha*

1. \_\_\_\_\_

We the undersigned employees of the Alaska Railroad are opposed to the passage of SB148 and strongly urge the members of the Legislature to defeat this proposal.

DARLENE CUDIA  
317 STATE STREET  
ANCHORAGE, AK 99504

*Darlene Cudia*

THOMAS BURKWIST  
18052 TEKLANIKA DR.  
EAGLE RIVER, ALASKA 99577

*Thomas E. Burkist*

Kelley Rechacek  
5703 LADD LANE  
ANCHORAGE AK 99504

*Kelley Rechacek*

Elizabeth S. Lowery  
6008 WINDING WAY  
ANCHORAGE AK 99504

*Elizabeth S. Lowery*

We the undersigned employees of the Alaska Railroad are opposed to the passage of SB148 and strongly urge the members of the Legislature to defeat this proposal.

Ed Rivera  
P.O. Box 670208 Ed Rivera  
CHUGIAK AK 99567

Rick Leggett  
3924 Roundtop Circle Rick A. Leggett  
Anchorage AK 99504

AL FYFE JR Al Fyfe Jr  
11828 Rainbow Ave  
Anchorage, AK 99516

Bill Henderson William Henderson  
P.O. Box 1623  
Palmer AK 99645

Michael Tilling Michael Tilling  
1530 Jensen St.  
Anchorage, Ak 99501

We the undersigned employees of the Alaska Railroad are opposed to  
the passage of SB148 and strongly urge the members of the Legislature  
to defeat this proposal.

John K. Brown      John K. Brown  
19126 1st  
Eagle River AK. 99577

Ken B. Smith  
300 East Cook      K. B. Smith  
Anchorage, AK 99501

LAVEL A. Schulerberg  
11906 WILDFRASES DR      Lavel A. Schulerberg  
Anch. AK. 99576

We the undersigned employees of the Alaska Railroad are opposed to the passage of SB148 and strongly urge the members of the Legislature to defeat this proposal.

C. W. White

2603 Junction  
Anch AK 99508

C. W. White

Ray Kiser

24569 Park Dr.  
Chugiak, AK 99507

Ray Kiser

Rocky Munkill

1340 Peck St. Wasilla AK 99654

Rocky Munkill

Tom Brooks

1704 BANWISTER  
ANCHORAGE AK 99508

Tom Brooks

GEORGE NOLAN

3515 SPINNAKER DR.  
ANCH. AK 99516

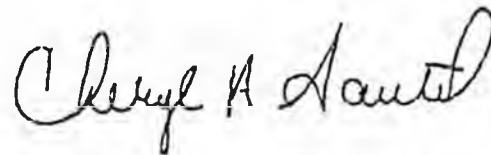
George Nolan

We the undersigned employees are opposed to the passage of SB148 and strongly urge you to not support this Bill.

Steven H. Clapp  
P.O. Box 104571  
Anchorage, AK 99510



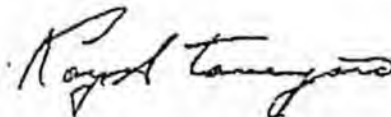
Cheryl A. Sautel  
8531 Rosalind  
Anchorage, AK 99507



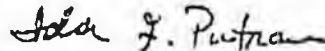
Andy Siebert  
521 Mellow Pl  
Anch AK 99502



Roy STAVENJORD  
7724 BRENTWOOD DR  
ANCH AK 99502



IDA F. PUTNAM  
12239 WINTER PARK  
EAGLE RIVER, ALASKA 99577



*Added from page #1*

We the undersigned employees of the Alaska Railroad are opposed to the passage of SB148 and strongly urge the members of the Legislature to defeat this proposal.

*Donna Adelfien*  
2600 Loop Barrow Dr.  
Anchorage AK 99517  
*Donna Adelfien*

*Lynn Reitz*  
3701 AKUIA DRIVE  
ANCH AK 99516  
*Lynn Reitz*

*KEVIN KERR*  
P.O. BOX 107500  
ANCH AK 99510  
*Kevin Kerr*

*Clinton W Gray*  
1901 ARCTIC BLVD  
ANCHORAGE AK 99503  
*Clinton W Gray*

*Scott Banks*  
4234 Kingston Dr  
Anchorage, AK 99514  
*Scott Banks*

*P C Shuler*  
201 East Newaul  
Anch AK 99501  
*P C Shuler*

*Debbie Davis*  
7321 Buler Dr.  
Anch, AK 99507

*D. Katherine Adams*  
D. KATHERINE ADAMS  
2615 INGRA  
ANCHORAGE, AK 99508  
(PASSENGER SERVICES)

*Fron Coletta*  
1618 Marsh St.  
Fairbanks, AK 99704

*Jennifer Sandell*  
3204 Lee St  
Anchorage AK 99504

We the undersigned employees of the Alaska Railroad are opposed to the passage of SB148 and strongly urge the members of the Legislature to defeat this proposal.

Randy Ferris  
339 MAUSEL  
E.R. AK 99577  
Randy Ferris

Gary Lund  
3220 Rosella St  
Anchorage, Alaska 99504  
Gary Lund

W. ANTON ABBOTT  
2645 Independence St  
Anchorage AK 99507  
W. Anton Abbott

Charles E Norris  
240 S Bunn St  
Anch. AK. 99508  
Charles E Norris

Patrick E. Lowe  
8017 Lloyd Dr  
Anchorage, Alaska 99502  
Patrick E. Lowe

Michael Steinmetz  
4610 MARS DRIVE  
Anchorage, AK 99507  
Michael Steinmetz

Robert L. Smith Jr  
804 N. Hoyt  
Anchorage, Alaska 99508  
Robert L. Smith Jr

Chris Brooks  
15888 Birchwood  
Chugiak, AK. 99567

Josy Swanson  
17534 MONTE RD.  
EAGLE RIVER AK. 99577  
Josy Swanson

DON FREESTONE  
13408 KARBO ST  
ANCH AK 99515  
Don Freestone

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO



John N. Sturdivant  
National President

Bobby L. Harnage  
National Secretary-Treasurer

Joan C. Welsh  
Director, Women's Department  
1/Alaska Railroad

March 11, 1993

The Honorable Randy Phillips  
Alaska State Senate  
Transportation Committee

Dear Senator Phillips:

I am writing to you concerning S.B. 148 and the negative impact it will have upon the employees of the Alaska Railroad.

We understand that your concern in this area is focused on the abusive style of management, in particularly as it may have been directed toward dismissed management employees. However, reading of the bill indicates that the legislation goes well beyond your concerns and would unduly hamper the ability of the railroad to operate and ultimately will be the cause of significant negative impact upon the railroad employees represented by the American Federation of Government Employees and other AFL-CIO affiliated unions.

We believe that there are better ways to address your concerns than through the proposed legislation. We ask you not to support this legislation.

Sincerely,

John N. Sturdivant  
National President

cc: NVP Angin  
LP Burton/via NVP

SENATOR, PLEASE SEE THAT THE MEMBERS OF THE TRANSPORTATION  
COMMITTEE RECEIVES THESE LETTERS CONCERNING SB143, BEING  
HEARD THIS AFTERNOON. Thank you.

from page #1

We the undersigned employees of the Alaska Railroad are opposed to the passage of SB148 and strongly urge the members of the Legislature to defeat this proposal.

SIGN UP SHEET FOR NO. VOTE ON BILL SB 148.

Signature	Address
<i>[Signature]</i>	4109 Lynd Dr. #217 Anchorage AK 99508
<i>[Signature]</i>	531 Nebula Way Fair AK 99709
<i>[Signature]</i>	1136 SOLITUDE FAIRBANKS AK 99709
MICHAEL E. PARKER	916 JOYCE DR FAIRBANKS AK 99701
Wade F. Procter	1100 Willow Grove Rd Fairbanks AK 99712
Austin H. Hill	8501 Upper Hoffman Anch, AK 99516
Thomas W. Cuning	1354 China Ridge Rd Fairbanks AK 99709
Richard Leedy	3117 Storey North Pole AK 99705
Conrad Garrison	350A Carlton Fairbanks AK 99701
Bill Bailey	1109 Miller Hill Ext. Fairbanks Alaska 99708
John A. Brown	Box 82571 Fairbanks 99708
Robert Hazelton	345 McKinzie St. Fairbanks AK 99705
Gale H. Wicklund	496 McKinley View Dr Fairbanks AK 99717

SIGN UP SHEET FOR NO VOTE ON BILL SB 148

Signature \_\_\_\_\_ Address \_\_\_\_\_

Kirby B. Rauter 525 Longspur, Fairbanks, AK 99709

John D. Darnell 1122 Matthew Cir. No Pole, AK, 99705

Wayne D. Swenson 288 Roubidoux Ln. Fairb. AK 99706

Robert D. Cozzie P.O. Box 57451, Fairb., AK 99711

John R. [unclear] P.O. Box 75332 Fairbanks AK 99707

M. J. Hill 1199 Bridge water, Fairb., AK 99706

Kathy [unclear] 1016 27th Ave. Fairb. AK 99701

[unclear] P.O. Box 10341 Fairbanks AK 99710

[unclear] Box 82132 Fairbanks AK 99708

Chris [unclear] P.O. Box 90770 Fairbanks AK 99708

Earl [unclear] 418 Fenwick Ave. Fairbanks AK 99701

Doug [unclear] 4041 Fairbank Fairb. AK 99709

Paul [unclear] 2008 Central Fairb. AK 99709

Dindy [unclear] 1216 Central Way Fairb. AK 99712

Ernie [unclear] P.O. Box 25072, Ester, AK 99725

Jerry W. [unclear] P.O. Box 22502, Fairbanks, AK 99707

SIGN UP SHEET FOR NO VOTE ON BILL SB 142.

*Signature*

*Address*

*Mark E. Whittaker*

2192 Danders Rd. Fort Smith, AR 72901

*Wayne D. Fleming*

P.O. Box 10249 Fort Smith, AR 72901

*George J. Leonard*

225 N. 95th St. Fort Smith, AR 72901

*Thomas S. Stewart*

2167 Olden Dr. Fort Smith, AR 72905

Series of horizontal dashed lines for additional sign-up entries.

SIGN UP SHEET FOR NO VOTE ON BILL SB 160.

Signature	Address
Steve Perkins	PO Box 52747 Anchorage AK 99505
Lynn Coe	PO Box 55420 Anchorage AK 99505
Dennis Hill	PO Box 16116 Fairbanks AK 99716
K.M.H.	PO Box 792 Fairbanks AK 99707

SIGN UP SHEET FOR NO VOTE ON BILL SB 148.

<i>[Signature]</i>	<i>[Signature]</i>
<i>[Signature]</i>	4554 Tere Ave, Fairbank
<i>[Signature]</i>	4530 Stevens St. P.O. Box
<i>[Signature]</i>	1244 Cordis Ave W. Fairbank
<i>[Signature]</i>	2031 Otter Drive, Fairbank
<i>[Signature]</i>	312 Wedge Wood Dr. Apt D-5, F.B.K.S.
<i>[Signature]</i>	P.O. Box 1988, Fairbank 99701

SIGN UP SHEET FOR NO VOTE ON BILL SB 148.

Signature	Address
Daniel Barr	PO Box 25124 Ester AK 99725
Sally VanderStake	1422 7th Ave FAI AK 99701
Jay Smith	733 RIDGE LOOP NORTH POLE AK 99705
Jim Keeler	95 10th AVE #132 FAI AK 99701
CAROLINE Healer	152 Peperdine Way FBKS AK 99706
Brandon Johnson	P.O. Box 85012 Fairbanks AK 99708
Amy Guilmore	101 Cedar Creek Way FBKS AK 99712
Jeff Smith	1240 Citadel Circle FBKS AK 99709
Tom Guilmore	1261 CEDAR CREEK WAY Fairbanks Alaska 99712
John Healer	152 PEPPERDINE TRKS 99709
Ted Hunter	6000 Bristol Dr Anchorage AK 99516
Dee F. J.	P.O. Box 113194 Anchorage AK 99511-3194
Maria Whittell	P.O. Box 71905 Fairbanks, AK 99707

Thomas Connelly  
1036 Nelchina  
Anchorage, Ak. 99501

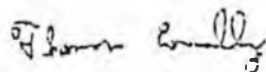
March 9, 1993

The Alaska State Senate  
C/O the ~~Senate Finance~~ Committee  
Juneau, Ak

Dear Senators,

Please don't destroy our railroad with Special Interest politics. I work for the railroad and my family needs my support. I sincerely ask you to vote no on SB 148.

sincerely yours



Thomas C. Connelly

DEAR COMMITTEE CHAIR,

I urge you to oppose the passage of SB 148. This Bill does nothing to improve the performance of the Alaska Railroad nor its responsiveness to the citizens along the railbelt. It is a thinly disguised attack upon a successful state sponsored operation.

Thank you,

Harold L. Fries

Michael J. O'Neil  
P.O. Box 27,  
Moose Pass, Ak 99631

March 10, 1993

The Alaska State Senate  
C/O The Senate ~~Public~~ Committee  
Juneau, Ak. *27th Senatorial*

Dear Senators,

I am opposed to Senate Bill 143. This bill will cause harm to the Alaska Railroad.

The railroad is vital to the community of Moose Pass and I urge you to please vote no on this bill.

Sincerely,

Michael J. O'Neil

*Michael J O'Neil*

3/9/93

Dear Senator Susan Little,

I'm writing this letter in regards to the Senate Finance Committee's proposed Bill (SB148).

I feel the legislative restrictions proposed would only hurt the Alaska Railroad's ability to compete in free enterprise and eventually cause it to run into the red and become a burden to taxpayers. The Alaska Railroad can be a viable corporation if left as is.

Sincerely yours,  
Fellow Democrat,

Box 41  
Moose Pass AK.  
99631

David E. Shafer  
David E. Shafer

Steve Y. Hayes  
2611 west 31 Ave.  
Anchorage, Ak. 99517

March 9, 1993

Alaska State Senate ~~Finance~~ <sup>TRANSP.</sup> Committee  
C/O The Senate ~~Finance~~ Committee  
Juneau, Alaska

Dear Mr. Chairman and Committee Members,

In January 1985, the Alaska Railroad was transferred to the state, I transferred with it as a worker.

In 1985, the legislature set up a corporate structure designed to operate the rail system out side the political reach of the legislature to keep competitors from running to that body in search of relief from the competitive nature of the railroad.

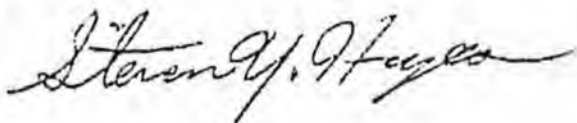
The wisdom of the legislature at the time was, that if every lawmaking body that came after them was allowed to screw around with the railroad corporate structure, the railroad would become like the state ferry system, eating up the state treasury.

The railroad has stayed via-able under this system, proving that the designers were correct in their thinking. However, now, a new legislature wishes to change that to please a special interest.

I urge you not to give into the special interest and ask that you let this Senate Bill 148 die in this committee. Please vote no on SB 148.

Sincerely,

Steven Y. Hayes



3-10-93

Dear Chairman,

I hear that Steve Frank of Fairbanks has introduced a bill to change the way the Alaska Railroad does business by forcing them to go to the Legislature to get approval of loans and leases. This just doesn't make any sense. The Railroad is a business and was intended to operate like one when we citizens bought it from the Federal Government. Now because a couple of people think they might possibly face some small competition in the Hotel business they want to cripple the Railroad. Well you may not be aware that the Railroad has been in the hotel business off and on for a long long time. The Railroad has had at least three operating hotels. They were located at Portage (abandoned after the 1964 earthquake), Curry (destroyed by fire) which was a complete resort with all amenities including a ski hill, and Healy (sold to private individual and operated as a Hotel today). It is unbelievable the Hotel people can holler about fair competition and then attempt through legislation to eliminate it. I urge you to not pass this bill out of Committee. It does a disservice to the people of this State and the employees of the Railroad.

Sincerely,

Brian Schuwlt

Brian Schuwlt

Larry E. Burton  
10145 Salix Circle  
Anchorage, Ak. 99507

March 9, 1993

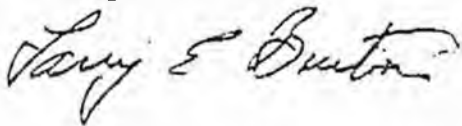
The Alaska State Senate  
C/O The Senate Finance Committee  
Juneau, Ak. *7/4/51*

Dear Committee Members,

I am not at all pleased by the introduction of SB 148. Is it just  
me or does something stink like Special Interest politics?

Shouldn't you be protecting the people's property ? Come on, vote  
this bill down.

Larry Burton



Crickiet O'Neil  
P.O. Box 27,  
Moose Pass, Ak. 99631

March 10, 1993

The Alaska State Senate  
C/O Senate ~~Finance~~ Committee  
Juneau, Alaska *TRANS,*

Dear Committee Members,

I do not favor SB 148. This Bill is bad for the people of the state. I would sincerely urge you not to support this bill.

Say no to SPECIAL INTEREST, vote no.

Sincerely,

Crickiet O'Neil

*Crickiet O'Neil*

June 9, 1993

TO: SENATOR SUSAN LITTLE;

DEAR SENATOR,

I WOULD LIKE TO ASK YOU NOT TO SUPPORT THE S.B. 148. THE ALASKA RAILROAD HAS ACTED VERY RESPONSIBLE OVER THE PAST SIX YEARS AS ITS OWN ENTITY! I BELIEVE THIS BILL #S.B. 148 WILL ONLY DAMAGE THE RAILROADS ABILITY TO OPERATE AS A PRIVATE CARRIER.

Yours Truly, Democrat

MELVIN OLSON  
Melvin Olson  
SEWARD ALASKA.

Dear Committee Chairperson,

Do you people remember ballot measure number 1 in 1990? The citizens of this state approve overwhelmingly of the way the Railroad operates --- it follows the law set out in the Railroad Corporation Act. Surely you have more important issues to deal with. I am requesting that you ~~oppose~~ passage of SB 148 from your committee.

Sincerely,

Robert Hamilton

MARCH 9, 1993

DEAR SENATOR SUSAN LITTLE;

I WOULD LIKE TO ASK YOU TO  
OPPOSE THE S.B. #148. THE  
ALASKA RAILROAD HAS BEEN OPERATING  
VERY WELL SINCE THE TRANSFER  
THE CURRENT SYSTEM IN PLACE  
NOW HAS BEEN RESPONSIBLE TO ALL  
THE TRANSFER ACT. ~~THE~~ THE BOARD  
OF DIRECTORS HAVE SEEN TO THE OPERATION  
OF THIS RAILROAD IN A VERY PROFESSIONAL  
MANNER. "WE DON'T NEED A LEGISLATIVE  
APPROVAL". THE SYSTEM IS WORKING FINE  
AND THE S.B. #148 IS NOT A FINE TUNNING  
TO THE RAILROAD BUT A "DERAILMENT"  
TO IT."

Thank You.

J. B. Gaul / JOHN B. GAUL.  
P.O. Box 62  
MOOSE PASS AK 99631

3-9-93

SENATE ~~FINANCE~~ <sup>TRANS.</sup> COMMITTEE;

I WOULD LIKE TO EXPRESS MY  
CONCERNS OVER THE S.B. 148.

THE ALASKA RAILROAD WAS CREATED  
WITH THE INTENTIONS OF OPERATING  
WITH AS LITTLE LEGISLATIVE INVOLVEMENT  
AS POSSIBLE. THE R.R. HAS PROVEN  
IT CAN OPERATE UNDER THE DIRECTION  
OF THE BOARD OF DIRECTORS AND  
WITHIN THE CURRENT TRANSFER ACT.  
S.B. #148 WILL DESTROY THE RAILROAD CORP!  
VOTE NO S.B. 148

Thank you.

Joseph L. Hall  
Joseph L. Hall

## **Senate Bill 148: An Act Relating to the Alaska Railroad Corporation**

### **I. Introduction.**

Senate Bill 148, introduced by the Senate Finance Committee, proposes numerous and substantial changes to the Alaska Railroad Corporation Act, AS 42.40.010 et seq. ("ARCA"). The issues raised by the bill fall into seven categories, each of which has been the subject of recent scrutiny by various interest groups throughout the Railbelt.

If enacted, this bill would accomplish the first major revision of ARCA since 1984 when the law was enacted. The following discussion explains the sweeping limitations suggested by this bill to the Alaska Railroad Corporation's ("ARRC's") original State charter. The Legislature has previously directed that ARRC operate as a self-sustaining business and has blended substantial financial and operational independence with public accountability requirements. Many of SB 148's abrupt and significant changes threaten to destroy those dynamic characteristics which give ARRC the flexibility it needs to survive economically in today's volatile freight markets. In short, the changes may significantly impair ARRC's ability to maintain its economic self-sufficiency, thereby causing ARRC to become yet another applicant for increasingly limited state budget funds.

ARRC strongly opposes most of the provisions of SB 148 and respectfully recommends that ARCA remain unchanged. The following discussion will summarize the potential impact of various sections of the bill, beginning with those that will most fundamentally alter the Legislature's original philosophy for the state-owned railroad.

### **II. Impact of the Bill.**

A. Limitation to Railroad and Railroad-Related Transportation Services. As originally enacted, ARCA envisioned a quasi-public corporation with broad powers to act in a manner similar to private business corporations. Controls were built into the statutory scheme by requiring legislative approval for certain actions that were deemed to be of public concern (AS

42.40.285) and by requiring an oversight report before the corporation could undertake significant expansion or reduction of services (AS 42.40.280). A further control mechanism was imposed by requiring Board of Directors approval of certain actions (AS 42.40.120(c)), with the Board composed of political appointees and government officials presumably sensitive to public policy concerns.

The current bill would inject a limitation on these corporate powers by adding the following qualification in several sections of ARCA: "for the purpose of providing railroad and railroad related transportation services in the state." This language raises serious interpretive questions and may, in its most restrictive light, limit ARRC's ability to engage in activities that have traditionally supported its core business of transportation.

Use of ARRC real estate is one area that may be seriously impacted. For example, it could be argued that the bill's language would prohibit pipelines or fiber optic cables within the right-of-way. Taken most literally, it could even inhibit straightforward commercial leasing as practiced historically by the Alaska Railroad, by prohibiting leases to tenants who are not also freight customers of the railroad. Marketing activity could also be limited by this proposal, which could be construed to prohibit ARRC's current marketing office in Seattle or the one that existed in Houston, Texas, at transfer in 1985. Arguably, the language could also restrict ARRC's ability to perform consolidation or drayage services either within Alaska or Outside, however desirable that service might be to railroad customers.

All these activities, real estate, marketing and enhanced transportation services, are relied upon by Outside railroads to remain competitive and to make an otherwise marginal business profitable. The restriction expressed by this proposal would arguably violate the Alaska Railroad Transfer Act ("ARTA"), 45 U.S.C. 1207(2), which mandates that ARRC is entitled to engage in "all business opportunities available to comparable railroads." Indeed, ARTA obligated the State of Alaska to accept and operate the Alaska Railroad with all its rights and obligations intact. See 45 U.S.C. 1203(d)(2)(A). From its original establishment in 1914, the Alaska Railroad had the right to engage in all these activities that may now be threatened by the proposed legislation.

B. \$1 Million Debt Limit. The bill requires legislative approval for the corporation to incur debt exceeding a total of

\$1 million. Bonds approved by the Legislature, acquisition and maintenance of rolling stock, and short-term (less than one year) lines of credit are excluded. "Debt" is not defined, and the bill leaves it unclear whether the \$1 million applies on a cumulative annual basis, or whether it applies to separate and discrete events of debt arising. ARRC currently has approximately \$20 million of long-term debt, \$9.8 million of which would not have fallen within the stated exceptions. For example, ARRC financed its 1990 summer work program, consisting of rails, ties and ballast replacement, amounting to approximately \$3.4 million. The recent mainframe computer acquisition of \$1.2 million would also have fallen within this bill's prohibition. And, because locomotives are not within the definition of "rolling stock", another \$5.6 million of that total long-term debt would have required legislative approval.

The bill will have negative impact even for smaller acquisitions that do not themselves reach the \$1 million threshold. ARRC often obtains a more advantageous loan package by consolidating various items into one loan (for example, computers, software, vehicles and rolling stock). If enacted, this bill would eliminate this practice and subject the corporation to less favorable financial terms. Equally important, it will cause uncertainty in the eyes of the financial markets and may create a significant disincentive for lenders to deal with the corporation. Certainly it will create a new host of legal certifications and opinion letters that banks will require before loaning money to ARRC.

Finally, this provision would impede ARRC's reaction in the event of an emergency. ARRC is self-insured for up to \$10 million for property damage, and for \$5 million in general liability. A catastrophic event such as a fire or earthquake would create an immediate need to borrow in excess of the \$1 million limit. An environmental accident could have the same effect and ARRC's ability to mitigate the damage could be seriously delayed by the necessity for legislative approval. For example, the Dunbar derailment near Fairbanks in May, 1990, cost ARRC approximately \$6 million. ARRC's lines of credit are available to be tapped in such events, but permanent arrangements must be made quickly to meet the corporation's ongoing risk management commitments and operational needs. As Dunbar illustrates, this scenario can easily arise outside the legislative session.

Thus, while the likely object of this provision is building projects, it will have far ranging, costly and unforeseeable effects. ARRC will be unable to build or repair docks, bridges,

maintenance buildings or shops when the cost is over \$1 million without legislative approval, nor could the railroad again finance its summer work program which consists of rails, ties and ballast. On the freight side of the operation, such a restriction would make it very difficult for ARRC to respond to market opportunities, where equipment must be purchased or capital otherwise committed quickly or the freight customer will simply find another mode of transportation. For example, an expansion in gravel or coal opportunities would likely require additional locomotives, and under this bill, ARRC would need legislative approval for such a purchase (unless it paid with cash or utilized short-term debt). The same approval would be required if a significant freight opportunity arose that required construction of a warehouse costing over \$1 million. Even if such opportunities arise during the 4-month legislative session, it is unusual for a law to pass so quickly. Outside the session, the ability to react to such a market opportunity would simply not exist.<sup>1</sup>

C. Municipal Taxation. The bill eliminates the existing statutory exemption from municipal taxation for ARRC real property that is leased to third parties for "fair value."<sup>2</sup> It also provides municipalities a mechanism to enforce taxation by authorizing suit in superior court for tax bills unpaid for six months. Ironically, municipalities would become empowered to tax the railroad's fee simple interest in land at the same time as the use of that land becomes seriously encumbered under the proposals just discussed.

Authorizing municipalities to assess property taxes on ARRC property leased for fair value will impose a significant financial and administrative burden on the corporation. The burden is unfair from two perspectives. First, it is a burden that state property does not normally bear, except in the case of property acquired through foreclosure and retained as an investment. ARRC property is treated as state property for many

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<sup>1</sup>The bill also requires legislative approval for leases of real or personal property valued at more than \$1 million or for longer than ten years. This may be intended to prevent ARRC from circumventing the debt limit by leasing rather than buying such property. However, without the minimal protection provided by the "rolling stock" exemption contained in the debt limit language, this section would present even greater difficulties.

<sup>2</sup> Presumably, "fair value" has the same meaning as "fair market value" used elsewhere in ARCA.

purposes; for example, public notice of disposal is given as required by the State constitution. This is a process that truly private property owners need not address.

On the other hand, while private landowners are subject to such taxes, most ground lessors pass taxes and other charges through to the ground lessees. Indeed, the ground lease form in use by ARRC since 1986 includes such "triple net" language, and lessees under that form will find themselves surcharged for any municipal levy. The effect on Anchorage lessees, for example, will range from \$215 to \$36,000 in additional annual charges for representative lessees.

The net effect on ARRC itself is no less striking. ARRC has approximately 233 active leases, of which some 107 are governed by an old lease form inherited from the period of federal ownership of the railroad. Those leases do not commonly provide for recoument of taxes from the lessee, and ARRC is bound by those provisions until each individual term expires. At current appraised value and applying the mill rate in effect for the Ship Creek area of Anchorage, approximately \$426,000 may be assessed Railbelt-wide in property taxes that ARRC cannot recoup from the lessees. While the situation will gradually correct itself over time as those leases expire, in the interim ARRC will be at an unwarranted disadvantage vis-a-vis private land lessors who pass such charges on to their lessees. Moreover, ARRC will face a significant administrative burden in manually reviewing each of the 233 leases to confirm whether the taxes may be charged to the lessees.

The proposed change is troubling from a philosophical standpoint as well as the more obvious financial one. As enacted in 1984, ARCA provided that railroad land was exempt from local property taxes just as other state land. As one balancing factor, the Legislature also authorized the corporation to lease its land to the state and its political subdivisions for less than fair market value. The corporation has taken advantage of this authority to adopt (and apply) its Public Entity Lease Policy, which specifies procedures to obtain such leases, and to issue nominal fee permits such as the Anchorage Coastal Trail. Indeed, ARRC has a considerable number of leases and permits to municipalities at little or no charge. Revoking the municipal tax exemption upsets this delicate balance and calls into question the railroad's financial ability to continue offering leases and permits to public entities at nominal cost.

Finally, it must be noted that municipalities already have the power to tax leasehold interests in ARRC property, as well as

the buildings and other improvements owned by the lessees. Municipalities have different techniques for assessing the value of such interests, some of which fail to recognize the full value of an exclusive right to possess ARRC property for up to 35 years. Some municipalities fail to tax leasehold interests at all. There is therefore an existing mechanism for increasing municipal revenues without making such a fundamental change to ARCA.

D. Conflict of Interest Law. The bill would subject ARRC's Board of Directors, chief executive officer and vice presidents to the state conflict of interest statute, AS 39.50, requiring them to file annual conflict of interest statements with the Alaska Public Offices Commission. These statements must include, among other things, all sources of income in excess of \$100, all business interests, and all creditors for over \$500. ARCA already requires a conflict of interest disclosure mechanism which has been amplified by adoption of Board Rule 14.<sup>3</sup> This disclosure requirement extends to individuals far beyond those required by AS 39.50, to directors and all non-union railroad employees. This is the case even though those same employees are not "state employees" (AS 42.40.710) and would not otherwise be subject to such a requirement. ARRC's disclosure statements for Board members, the CEO and vice presidents are public records and accessible to any legislator or member of the public.

The proposal is in large part duplicative of existing law, and we believe there is little justification to extend its coverage to vice presidents of the corporation. A review of the other boards, commissions and the like which are made subject to the law in AS 39.50.200(b) indicates that it typically covers board members and executive directors, generally appointments most subject to the political process. Examples include the board and executive director of the Alaska Aerospace Development Corporation, the public members of the Alaska Energy Authority board, and the board of the Alaska Housing Finance Corporation. The Alaska State Housing Authority appears to be excluded from the law entirely.

ARRC believes that this provision is unnecessary and redundant to provisions already contained in ARCA. Moreover, to subject vice presidents of the corporation to the more detailed public disclosure requirements would be inconsistent with the

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<sup>3</sup>ARRC Board Rules that affect the public are analogous to state agency regulations and must, under AS 42.40.180-.205, be adopted with public notice and opportunity for public comment.

treatment of employees of other state entities. This level of public disclosure should be reserved for political appointees rather than professional, merit-based employees.

E. Exclusion of "Railroad-Experienced" Director from Serving as Board Chair or as CEO. ARCA specifies seven directors for the corporation. Two are incumbent state commissioners; one seat is reserved for a union employee of the corporation; and the other four seats must fulfill five independent qualifications (one from each judicial district served by ARRC, one with five years' experience as a business owner or manager, one with ten years' railroad management experience, and one who is/has been an executive official of another U.S. railroad). Clearly, one individual may fill one or more of these qualifications. Currently, the CEO is the Board member meeting the last two requirements (railroad experience). This bill would prohibit the current situation and require the CEO to resign from one of his positions. As the paragraph caption indicates, it would also prohibit the "railroad experienced" member from acting as chairperson (or vice-chair) of the Board.

While this issue is primarily one for the Administration to address (in light of its constitutionally based power to appoint officials within the Executive Branch), ARRC believes that there is no reason to so limit the membership of the Board of Directors. It is traditional to find CEOs on railroad boards of directors as well as those of private corporations. It is particularly appropriate for a labor representative to sit on the Board of the state-owned railroad, as is provided by ARCA. Management representation on the same body therefore seems appropriate as well, and is not expressly prohibited by ARCA. Accordingly, we believe this proposal to be unnecessary.

F. Open Meetings Act. ARRC is presently exempt from that portion of AS 44.62 that contains the Open Meetings Act ("OMA"). This bill would add ARRC to the list of entities covered by that statute and make conforming changes to ARCA to carry out that intent. It would seemingly add nothing to ARCA's present scheme, since AS 42.40.150 requires the Board of Directors to meet and take action publicly, with certain exceptions for executive session (AS 42.40.170) that are similar to those contained in the OMA.

ARRC has always evidenced a desire to make its decision-making process meaningfully accessible to the public. It has made a practice of holding open, public Board meetings each year in Seward and Fairbanks as well as at corporate headquarters in Anchorage. Additionally, ARRC has established several citizen

participation groups on specific topics in order to afford the public the ability to express concerns. For example, the Community Briefing Council is composed of mayors of Railbelt municipalities and generally meets quarterly to discuss issues of mutual concern. An Integrated Vegetation Management ("IVM") Advisory Committee was established in 1989 to air concerns regarding the railroad's IVM program.

With the public very much involved in the Board's decision-making process, it seems particularly unnecessary to create yet another body of law within the Alaska Statutes that must be consulted when ARRC is involved. ARCA was envisioned as a completely self-contained document. Scattering clarifications throughout other statutes creates interpretive difficulties.

G. Local Building Codes. The bill would add a provision stating that any new facility construction by ARRC is subject to local building codes, including the necessity of obtaining permits. Legislative concern on this subject is unwarranted; ARRC already adheres to this standard, following local codes and obtaining building permits for numerous projects in the past several years. For example, the current Americans with Disabilities Act restroom remodeling in the Anchorage Passenger Depot and construction of the Fairbanks Operations Center were both done under local permitting procedures. Accordingly, we fail to see the need for this portion of the proposed legislation.

### III. Summary.

This bill presents a radical departure from a legislative philosophy that has withstood the test of over eight years of operation without seeking a legislative subsidy. The state's own analysts projected a continuing deficit for the railroad for at least 4-5 years after transfer, and legislative appropriations were fully expected to be necessary. However, the 12th and 13th Legislatures took great care in drafting ARCA, working for four years in a very public forum to craft a corporation with the latitude and flexibility to respond to market conditions, subject to certain public oversight. Their foresight has borne fruit over the years. Not only has ARRC never sought a legislative appropriation, but it has produced a profit in every year but one since transfer. A better example of prudently directed state investment can hardly be found.


This track record makes SB 148 particularly troubling with its intended restrictions on ARRC's ability to respond to market opportunities. While some of its provisions will work no practical change at ARRC, as discussed above, the major proposals will create a significant impediment to ARRC's continued operations, at least on the same self-sufficient level as before. If this bill is enacted as proposed, ARRC will be forced to reconsider certain aspects of its operations that are not currently profitable. This could lead to elimination or state subsidy of marginal local passenger services (e.g., Hurricane Turn, Whittier Shuttle). Interpreted strictly, it is clear that this legislation could render the railroad unprofitable, and relegate ARRC to seeking appropriations on an annual basis. The corporation could also be forced increase revenues, either by raising rates or lowering some to attract increased overall volume.

In addition to the financial implications for both ARRC and the state, this legislation raises future interpretive issues that no amount of current drafting skill can completely eliminate. It is simply impossible to foresee every avenue of business opportunity that might someday present itself to ARRC and be argued to fall within the restrictions imposed by this bill. Apart from creating an employment bonanza for attorneys, these uncertainties could needlessly subject the corporation to political manipulation based on those interpretive issues.

All these potential consequences could tip the careful balance achieved by the original corporation act, which allowed ARRC to mature into a financially independent entity able to react in private markets with public accountability. We urge the 18th Legislature to carefully consider the ramifications of these changes during the course of its deliberations on SB 148.

Dated:

3/19/93

  
\_\_\_\_\_  
Robert S. Hatfield Jr.  
President & CEO  
Alaska Railroad Corporation

# ALASKA RAILROAD CORPORATION



P.O. Box 107500 • Anchorage, Alaska 99510-7500

March 19, 1993

The Honorable Bert M. Sharp  
Chairman, Senate Transportation Committee  
Alaska State Senate  
State Capitol, Room 514  
Juneau, Alaska 99801

Dear Senator Sharp:

Senate Bill 148, which is presently pending in your committee, raises several concerns relating to the future viability of the Alaska Railroad Corporation (ARRC). This is also the case with the companion House Bill, HB-202. Based on several Juneau trips and in-depth discussions with the Bills' sponsors, concern about the ARRC's decision to assume a 40% equity position in the Comfort Inn Hotel in Anchorage is apparently a major reason underlying the legislation.

An additional factor lending some urgency to this proposal is a perception that ARRC is planning to participate in a similar hotel deal in Fairbanks. Although there are parties expressing interest in locating a hotel on railroad property in Fairbanks, ARRC has no plans to assume an equity position as occurred in Anchorage.

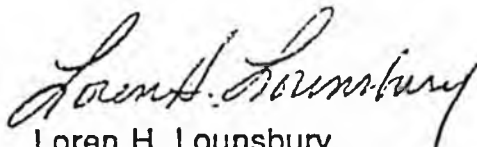
On the basis of my most recent Juneau visit, I have decided to propose a new policy at the next regular Board meeting on April 15, 1993 that would prevent ARRC from assuming an equity position in non-transportation activities in the future. Non-transportation activities will be defined to include hotel projects. While the ARRC Board believes that its action relative to the Comfort Inn was appropriate and consistent with ARRC's enabling legislation, we recognize and wish to be sensitive to the concerns about risk and the perception of unfair competition.

Based on initial discussions with other Board members, I believe there will be sufficient support to enact this policy. If there is interest, we would be happy to circulate the draft proposal for review and comment by interested legislators. It is my hope that the Bills' sponsors will agree that there will be no necessity for this Bill.

The Honorable Bert M. Sharp  
March 19, 1993  
Page Two

If there are questions by any members, please do not hesitate to contact me at 277-4334, or Bob Hatfield, ARRC President and CEO, at 265-2403.

Sincerely,



Loren H. Lounsbury  
Chairman of the Board  
Alaska Railroad Corporation

cc: The Honorable Walter J. Hickel, Governor  
The Honorable Drue Pearce, Alaska State Senate  
The Honorable Steve Frank, Alaska State Senate  
The Honorable Jeannette James, Alaska State House  
ARRC Board Members

**DIVISION OF LEGAL SERVICES**

**LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA**

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130 Seward Street, Suite 109  
Juneau, Alaska 99801-2105

**MEMORANDUM**

April 1, 1993

**SUBJECT:** CSSB 148(TRA); Legislative approval of Alaska Railroad Corporation involvement in a proposed solid waste facility (Work Order No. 8-LS0583\R)

**TO:** Senator Bert Sharp  
ATTN: Cam Toohey

**FROM:** George Utermohle *GU*  
Legislative Counsel

You have asked whether the Alaska Railroad Corporation's involvement with a proposed solid waste facility near Nenana would be subject to legislative approval under AS 42.40.285, as amended by CSSB 148(TRA) (version R, dated March 31, 1993).

AS 42.40.285, as amended by CSSB 148(TRA), requires that the Alaska Railroad Corporation obtain legislative approval prior to acquiring an equity position in a nontransportation activity, except under certain circumstances.<sup>1/</sup>

If the Alaska Railroad Corporation merely leases land to the developer/operator of the proposed solid waste facility at Nenana and transports waste to the facility, without obtaining an equity position in the facility, legislative approval of the corporation's involvement with the facility would not be required.

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<sup>1/</sup> For purposes of this memorandum it is assumed that the corporation's involvement in the proposed facility would not invoke legislative approval based on other provisions of AS 42.40.285. Thus, it is assumed that in connection with the proposed facility the corporation will not

- one, convey its entire interest in any land;
- two, issue bonds;
- three, incur any excessive debt, not related to acquisition and maintenance of railroad equipment and railroad related physical plant;
- four, extend railroad lines, other than spurs and other auxiliary track; or
- five, lease land for a period in excess of 35 years, without retaining a right to terminate the lease under certain conditions.

· Senator Bert Sharp  
April 1, 1993  
Page 2

However, should the Alaska Railroad Corporation intend to acquire an equity position in the proposed facility, the corporation will probably have to obtain the appropriate legislative approval. Under AS 42.40.285(6), as amended by CSSB 148(TRA), the corporation may not acquire an equity position in a nontransportation activity, such as a solid waste facility without the approval of the legislature. The provisions exempting investments by the corporation's pension funds and grandfathering existing nontransportation activities of the corporation from the application of AS 42.40.285(6) would presumably be inapplicable, because the corporation's pension funds would not invest in the facility and because the corporation's involvement in the facility would not pre-date the effective date of AS 42.40.285(6)<sup>2/</sup>.

If I may be of further assistance, please advise.

GU:gc  
93-295.glc

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<sup>2/</sup> Whether a particular nontransportation activity is "grandfathered" under the proposed AS 42.40.285(6)(A)(ii) will ultimately depend on when the corporation became engaged in the activity and when AS 42.40.285(6)(A)(ii) takes effect.

# ALASKA STATE LEGISLATURE

## LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P. O. Box W  
Juneau, AK 99811-3300  
(907) 465-3830  
FAX (907) 465-2347

June 12, 1992

Members of the Legislative Budget  
and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF COMMERCE AND  
ECONOMIC DEVELOPMENT  
ALASKA RAILROAD CORPORATION  
SHIP CREEK REDEVELOPMENT

May 1, 1992

Audit Control Number

08-4437-92

As stated in the Objectives, Scope, and Methodology section of this report, the audit involved a review of various aspects of the Alaska Railroad Corporation's (ARRC) Ship Creek Redevelopment project. We determined whether ARRC exercised sound business judgement, complied with applicable statutes and legislative intent language, and acted in good faith regarding specific facets of the redevelopment process.

The audit was conducted in accordance with generally accepted government auditing standards. Audit scope and methodology are discussed in the Objectives, Scope, and Methodology section of this report. Audit results can be found in the Report Conclusions section.

A handwritten signature in cursive script, appearing to read "Randy S. Welker".

Randy S. Welker, CPA  
Legislative Auditor