

CS FOR SENATE BILL NO. 86(FIN) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Amended: 4/9/18

Offered: 3/28/18

Sponsor(s): SENATORS COGHILL, Hoffman, Stevens, von Imhof, Giessel, Bishop, Costello, Micciche

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the sale or other disposal, leasing, or encumbrance of Alaska**
2 **Railroad Corporation land; relating to the financing and bonding authority of the**
3 **Alaska Railroad Corporation; and providing for an effective date."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** AS 38.05.125(a) is amended to read:

6 (a) Each contract for the sale, lease, or grant of state land, and each deed to
7 state land, properties, or interest in state land, made under AS 38.05.045 - 38.05.120,
8 38.05.321, 38.05.810 - 38.05.825, AS 38.08, [OR] AS 38.50, **or AS 42.40.352,** except
9 as provided in AS 38.50.050, is subject to the following reservations: "The party of the
10 first part, Alaska, hereby expressly saves, excepts, and reserves out of the grant hereby
11 made, unto itself, its lessees, successors, and assigns forever, all oils, gases, coal, ores,
12 minerals, fissionable materials, geothermal resources, and fossils of every name, kind,
13 or description, and which may be in or upon said land above described, or any part
14 thereof, and the right to explore the same for such oils, gases, coal, ores, minerals,

1 fissionable materials, geothermal resources, and fossils, and it also hereby expressly
 2 saves and reserves out of the grant hereby made, unto itself, its lessees, successors,
 3 and assigns forever, the right to enter by itself, its or their agents, attorneys, and
 4 servants upon said land, or any part or parts thereof, at any and all times for the
 5 purpose of opening, developing, drilling, and working mines or wells on these or other
 6 land and taking out and removing therefrom all such oils, gases, coal, ores, minerals,
 7 fissionable materials, geothermal resources, and fossils, and to that end it further
 8 expressly reserves out of the grant hereby made, unto itself, its lessees, successors, and
 9 assigns forever, the right by its or their agents, servants, and attorneys at any and all
 10 times to erect, construct, maintain, and use all such buildings, machinery, roads,
 11 pipelines, powerlines, and railroads, sink such shafts, drill such wells, remove such
 12 soil, and to remain on said land or any part thereof for the foregoing purposes and to
 13 occupy as much of said land as may be necessary or convenient for such purposes
 14 hereby expressly reserving to itself, its lessees, successors, and assigns, as aforesaid,
 15 generally all rights and power in, to, and over said land, whether herein expressed or
 16 not, reasonably necessary or convenient to render beneficial and efficient the complete
 17 enjoyment of the property and rights hereby expressly reserved."

18 * **Sec. 2.** AS 38.05.125(a), as amended by sec. 1 of this Act, is amended to read:

19 (a) Each contract for the sale, lease, or grant of state land, and each deed to
 20 state land, properties, or interest in state land, made under AS 38.05.045 - 38.05.120,
 21 38.05.321, 38.05.810 - 38.05.825, AS 38.08, or AS 38.50, [OR AS 42.40.352,] except
 22 as provided in AS 38.50.050, is subject to the following reservations: "The party of the
 23 first part, Alaska, hereby expressly saves, excepts, and reserves out of the grant hereby
 24 made, unto itself, its lessees, successors, and assigns forever, all oils, gases, coal, ores,
 25 minerals, fissionable materials, geothermal resources, and fossils of every name, kind,
 26 or description, and which may be in or upon said land above described, or any part
 27 thereof, and the right to explore the same for such oils, gases, coal, ores, minerals,
 28 fissionable materials, geothermal resources, and fossils, and it also hereby expressly
 29 saves and reserves out of the grant hereby made, unto itself, its lessees, successors,
 30 and assigns forever, the right to enter by itself, its or their agents, attorneys, and
 31 servants upon said land, or any part or parts thereof, at any and all times for the

purpose of opening, developing, drilling, and working mines or wells on these or other land and taking out and removing therefrom all such oils, gases, coal, ores, minerals, fissionable materials, geothermal resources, and fossils, and to that end it further expressly reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, the right by its or their agents, servants, and attorneys at any and all times to erect, construct, maintain, and use all such buildings, machinery, roads, pipelines, powerlines, and railroads, sink such shafts, drill such wells, remove such soil, and to remain on said land or any part thereof for the foregoing purposes and to occupy as much of said land as may be necessary or convenient for such purposes hereby expressly reserving to itself, its lessees, successors, and assigns, as aforesaid, generally all rights and power in, to, and over said land, whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete enjoyment of the property and rights hereby expressly reserved."

* **Sec. 3.** AS 42.40.120(b) is amended to read:

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

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

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

(3) making routine changes in service levels;

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

(5) performing procurement activities.

* **Sec. 4.** AS 42.40.120(b), as amended by sec. 3 of this Act, is amended to read:

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

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

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

(3) making routine changes in service levels;

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

(5) performing procurement activities.

* **Sec. 5.** AS 42.40.120(c) is amended to read:

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

(1) issuing bonds upon approval by the legislature;

(2) mortgaging or pledging corporation assets;

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

(4) acting as a surety or guarantor;

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

(6) adopting annual reports;

(7) effecting general, comprehensive increases and decreases in rates;

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

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

(10) selecting independent auditors and accountants;

(11) entering into collective bargaining agreements;

(12) adopting annual budgets;

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

(14) exchanging, donating, selling, or otherwise conveying, disposing of, or encumbering its entire interest in land [SUBJECT TO APPROVAL BY THE

1 LEGISLATURE];

2 (15) exercising the power of eminent domain.

3 * **Sec. 6.** AS 42.40.120(c), as amended by sec. 5 of this Act, is amended to read:

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

6 (1) issuing bonds upon approval by the legislature;

7 (2) mortgaging or pledging corporation assets;

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

9 (4) acting as a surety or guarantor;

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

11 (6) adopting annual reports;

12 (7) effecting general, comprehensive increases and decreases in rates;

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

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

17 (10) selecting independent auditors and accountants;

18 (11) entering into collective bargaining agreements;

19 (12) adopting annual budgets;

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

22 (14) exchanging, donating, selling, or otherwise conveying [,
23 DISPOSING OF, OR ENCUMBERING] its entire interest in land **subject to**
24 **approval by the legislature**;

25 (15) exercising the power of eminent domain.

26 * **Sec. 7.** AS 42.40.285, as amended by sec. 21 of this Act, is amended to read:

27 **Sec. 42.40.285. Legislative approval required.** Unless the legislature
28 approves the action by law, the corporation may not

29 (1) [REPEALED

30 (2)] issue bonds;

31 **(2)** [(3)] extend railroad lines; this paragraph does not apply to a spur,

1 industrial, team, switching, or side track;

2 **(3)** [(4) REPEALED

3 (5)] apply for or accept a grant of federal land within a municipality;
4 before approving an action under this paragraph, the legislature must determine that
5 the federal land is required for essential railroad purposes; this paragraph does not
6 apply to the application for or acceptance of a grant of federal land associated with

7 (A) the Anchorage-Wasilla line change project on Elmendorf
8 Air Force Base and Fort Richardson;

9 (B) the Fairbanks intermodal rail yard expansion project;

10 (C) a conveyance of rail properties of the Alaska Railroad
11 under the original Alaska Railroad Transfer Act of 1982 as set out in Title VI,
12 P.L. 97-468; in this subparagraph, "rail properties of the Alaska Railroad" has
13 the meaning given in 45 U.S.C. 1202(10);

14 **(4) exchange, donate, sell, or otherwise convey its entire interest in**
15 **land;**

16 **(5) lease land for a period in excess of 95 years unless the**
17 **corporation reserves the right to terminate the lease if the land is needed for**
18 **railroad purposes.**

19 * **Sec. 8.** AS 42.40.350(b) is amended to read:

20 (b) Railroad utility corridors shall be of a width at least 100 feet on both sides
21 of the centerline of the extended main or branch line, unless the corporation does not
22 own or control sufficient land to allow a corridor of that width. Railroad utility
23 corridors may be surveyed by the metes and bounds method. The corporation may not
24 convey **or encumber** its entire interest in land within a utility corridor except as
25 provided in **AS 42.40.120(c)(14)** [AS 42.40.285], 42.40.370(d), and 42.40.400.
26 However, the corporation may lease, subject to [AS 42.40.285 AND] (d) of this
27 section, grant easements in or permits for, or otherwise authorize use of portions of a
28 utility corridor for transportation, communication, and transmission purposes and
29 support functions associated with those purposes, and for commercial and other uses
30 authorized under this chapter if the use does not restrict other parallel uses of the
31 utility corridor.

1 * **Sec. 9.** AS 42.40.350(b), as amended by sec. 8 of this Act, is amended to read:

2 (b) Railroad utility corridors shall be of a width at least 100 feet on both sides
3 of the centerline of the extended main or branch line, unless the corporation does not
4 own or control sufficient land to allow a corridor of that width. Railroad utility
5 corridors may be surveyed by the metes and bounds method. The corporation may not
6 convey [OR ENCUMBER] its entire interest in land within a utility corridor except as
7 provided in **AS 42.40.285** [AS 42.40.120(c)(14)], 42.40.370(d), and 42.40.400.
8 However, the corporation may lease, subject to **AS 42.40.285 and** (d) of this section,
9 grant easements in or permits for, or otherwise authorize use of portions of a utility
10 corridor for transportation, communication, and transmission purposes and support
11 functions associated with those purposes, and for commercial and other uses
12 authorized under this chapter if the use does not restrict other parallel uses of the
13 utility corridor.

14 * **Sec. 10.** AS 42.40.350(c) is amended to read:

15 (c) The corporation may lease, subject to [AS 42.40.285 AND] (d) of this
16 section, grant easements in or permits for, or otherwise authorize use of portions of
17 rail land. **The** [HOWEVER, THE] corporation may [NOT] convey **or encumber** its
18 entire interest in rail land [EXCEPT] as provided in **AS 42.40.120(c)(14),**
19 **42.40.285(2)** [AS 42.40.285, 42.40.352], 42.40.370(d), and 42.40.400.

20 * **Sec. 11.** AS 42.40.350(c), as amended by sec. 10 of this Act, is amended to read:

21 (c) The corporation may lease, subject to **AS 42.40.285 and** (d) of this section,
22 grant easements in or permits for, or otherwise authorize use of portions of rail land.
23 **However, the** [THE] corporation may **not** convey [OR ENCUMBER] its entire
24 interest in rail land **except** as provided in **AS 42.40.285, 42.40.352**
25 [AS 42.40.120(c)(14), 42.40.285(2)], 42.40.370(d), and 42.40.400.

26 * **Sec. 12.** AS 42.40.350(d) is amended to read:

27 (d) A lease, [OR] disposal, **or encumbrance** of land approved by the **board**
28 [LEGISLATURE] under **AS 42.40.120(c)(14)** [AS 42.40.285] by the corporation to a
29 party other than the state shall be made at fair market value as determined by a
30 qualified appraiser or by competitive bid.

31 * **Sec. 13.** AS 42.40.350(d), as amended by sec. 12 of this Act, is amended to read:

(d) A lease or [,] disposal [, OR ENCUMBRANCE] of land approved by the legislature [BOARD] under AS 42.40.285 [AS 42.40.120(c)(14)] by the corporation to a party other than the state shall be made at fair market value as determined by a qualified appraiser or by competitive bid.

* **Sec. 14.** AS 42.40.352 is repealed and reenacted to read:

Sec. 42.40.352. Sale or other disposal or encumbrance of land not necessary for railroad purposes. (a) The corporation may exchange, donate, sell, or otherwise convey, dispose of, or encumber the corporation's entire interest in land under AS 42.40.120(c)(14), reserving to the state the interests required by AS 38.05.125, if the board finds the

(1) interest in the land is not necessary for railroad purposes; and

(2) exchange, donation, sale, or other conveyance, disposal, or encumbrance of the entire interest in the land is in the best interests of the state.

(b) At least 60 days before exchanging, donating, selling, or otherwise conveying, disposing of, or encumbering the corporation's entire interest in land under this section, the corporation shall

(1) publish public notice of the proposed action, including a summary of the board's findings under (a) of this section;

(2) notify adjacent landowners of the proposed action by registered mail; and

(3) provide notice, including a summary of the board's findings under (a) of this section, and an opportunity to comment on the proposed action to the Department of Natural Resources, the Department of Transportation and Public Facilities, and the governing body of each municipality in which the land is located.

(c) Before selling the corporation's entire interest in land under this section, the corporation shall provide notice to persons having a leasehold interest in the land proposed to be sold and offer the leaseholders the right of first refusal. A leaseholder shall exercise a right of first refusal within 90 days after receiving the offer. The right of first refusal is extinguished if rejected by the leaseholder in writing.

(d) The corporation shall separately account for the proceeds from the exchange, donation, sale, or other conveyance or disposal of the corporation's entire

1 interest in land and shall report the earnings and balance in the account in the annual
 2 report required by AS 42.40.260. Money in the account may be appropriated in
 3 accordance with 45 U.S.C. 1207(a) (Alaska Railroad Transfer Act of 1982).

4 * **Sec. 15.** AS 42.40.352, as repealed and reenacted by sec. 14 of this Act, is repealed and
 5 reenacted to read:

6 **Sec. 42.40.352. Sale of land not necessary for railroad purposes.** (a) The
 7 corporation may sell land if the board finds (1) the land is not necessary for railroad
 8 purposes, and (2) the sale of the land is in the best interest of the state. The sale of land
 9 is subject to the terms and conditions of AS 42.40.285, 42.40.350(d), and this section.

10 (b) Before offering land for sale under this section, the corporation shall

11 (1) publish public notice of the proposed sale that includes the finding
 12 by the board that the land is not necessary for railroad purposes and that the sale is in
 13 the best interest of the state;

14 (2) provide notice to persons having a leasehold interest in the land
 15 proposed to be sold and offer the leaseholders the right of first refusal; and

16 (3) receive legislative approval under AS 42.40.285.

17 (c) The corporation shall separately account for the proceeds from the sale of
 18 land under this section and shall report the earnings and balance in the account in the
 19 annual report required by AS 42.40.260. Money in the account may be appropriated in
 20 accordance with 45 U.S.C. 1207(a)(5) (Alaska Railroad Transfer Act of 1982).

21 * **Sec. 16.** AS 42.40.410 is amended to read:

22 **Sec. 42.40.410. Federal land.** Except as provided in AS 42.40.285(3)
 23 [AS 42.40.285(5)], the corporation may submit applications on its own behalf as an
 24 instrumentality of the state for acquisition of federal land available under federal law
 25 that will enhance the operations of the corporation if it is available under a federal law
 26 other than the Alaska Statehood Act of 1958 (P.L. 85 - 508, 72 Stat. 339), as amended.
 27 The corporation may receive in its own name conveyances of all interests in federal
 28 land.

29 * **Sec. 17.** AS 42.40.435 is amended to read:

30 **Sec. 42.40.435. Exchange of land.** The corporation may exchange land subject
 31 to AS 42.40.352 [AS 42.40.285]. The corporation is an instrumentality and agency of

1 the state for purposes of exchanging land with the United States, municipalities,
 2 corporations including corporations formed under 43 U.S.C. 1601 - 1628 (Alaska
 3 Native Claims Settlement Act), and individuals.

4 * **Sec. 18.** AS 42.40.435, as amended by sec. 17 of this Act, is amended to read:

5 **Sec. 42.40.435. Exchange of land.** The corporation may exchange land subject
 6 to AS 42.40.285 [AS 42.40.352]. The corporation is an instrumentality and agency of
 7 the state for purposes of exchanging land with the United States, municipalities,
 8 corporations including corporations formed under 43 U.S.C. 1601 - 1628 (Alaska
 9 Native Claims Settlement Act), and individuals.

10 * **Sec. 19.** AS 42.40.550 is amended to read:

11 **Sec. 42.40.550. Extension of railroad to Fort Greely.** The corporation may
 12 acquire a transportation corridor between the existing railroad corridor and Fort
 13 Greely, Alaska, and construct a rail line within the corridor to provide rail service to
 14 the Fort Greely area and points between. The transportation corridor may be
 15 designated for a use identified under AS 42.40.350(b) and other transportation and
 16 utility uses. The corporation may also acquire land along the corridor for use as rail
 17 land that can be developed for terminal, station, and maintenance facilities, switching
 18 yards, and any other purposes associated with the railroad utility corridor. [THE
 19 CORPORATION MAY PROVIDE FINANCING FOR THE ACQUISITION,
 20 CONSTRUCTION, IMPROVEMENT, MAINTENANCE, EQUIPPING, AND
 21 OPERATION OF THE RAIL LINE AND RELATED FACILITIES BETWEEN THE
 22 EXISTING RAILROAD CORRIDOR AND FORT GREELY, ALASKA.]

23 * **Sec. 20.** AS 42.40.695 is amended to read:

24 **Sec. 42.40.695. Public purpose of bonds.** Bonds [OF THE CORPORATION
 25 ISSUED TO FINANCE FACILITIES DESCRIBED IN AS 42.40.550 AND
 26 42.40.560 AND BONDS] of the corporation issued to finance the acquisition,
 27 construction, improvement, maintenance, equipping, and operation of real and
 28 personal property, including facilities and equipment, described in AS 42.40.570 are
 29 issued by a public corporation and an instrumentality of the state for an essential
 30 public and governmental purpose.

31 * **Sec. 21.** AS 42.40.285(1), 42.40.285(4), 42.40.560, and 42.40.630(b) are repealed.

1 * **Sec. 22.** Sections 1 and 4, ch. 77, SLA 1994, secs. 1 and 5, ch. 71, SLA 2003, and sec. 3,
2 ch. 46, SLA 2004, are repealed.

3 * **Sec. 23.** The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 REPORTING REQUIREMENT. Annually, beginning in 2019 and ending in 2021, not
6 later than March 1 of each regular legislative session, the Alaska Railroad Corporation shall
7 present to the Resources Committees of the legislature and the Finance Committees of the
8 legislature a report on its activities under this Act. The Alaska Railroad Corporation may
9 satisfy the reporting requirement under this section by appearing in person before the
10 Resources Committees of the legislature and the Finance Committees of the legislature.

11 * **Sec. 24.** Sections 1, 3, 5, 8, 10, 12, 14, 16, 17, 19, 20, 21, and 22 of this Act take effect
12 immediately under AS 01.10.070(c).

13 * **Sec. 25.** Sections 2, 4, 6, 7, 9, 11, 13, 15, and 18 of this Act take effect three years after
14 the effective date of secs. 1, 3, 5, 8, 10, 12, 14, 17, and 21 of this Act.