

Annotated

KEY

- New provisions in Amendment #2
- Powers KABATA already has
- Powers granted to KABATA
- Under HB 23

28-LS0141\O.30
Martin
4/10/13

AMENDMENT #2

OFFERED IN THE HOUSE

TO: CSHB 23(FIN)

1 Page 1, lines 1 - 4:

2 Delete all material and insert:

3 **""An Act creating the Knik Crossing Development Corporation as a subsidiary**
 4 **corporation of the Alaska Housing Finance Corporation and relating to bonds of the**
 5 **Knik Crossing Development Corporation.""**

Title change

6

7 Page 1, line 6, through page through 5, line 30:

8 Delete all material and insert:

9 **** Section 1. AS 18.56.086 is amended by adding a new subsection to read:**

10 (b) The corporation shall create the Knik Crossing Development Corporation
 11 as a subsidiary corporation. The board shall be the board of directors of the Knik
 12 Crossing Development Corporation.

*Establishes
KCDC*

13 *** Sec. 2. AS 18.56 is amended by adding new sections to read:**

14 **Article 2A. Knik Crossing Development Corporation.**

15 **Sec. 18.56.605. Purpose. (a) The purpose of the Knik Crossing Development**
 16 **Corporation is to develop, stimulate, and advance the economic welfare of the state**
 17 **and further the development of public transportation systems in the vicinity of the**
 18 **Upper Cook Inlet with construction of a bridge to span Knik Arm and connect the**
 19 **Municipality of Anchorage and the Matanuska-Susitna Borough.**

AS 19.75.011

20 (b) The Knik Crossing Development Corporation may not be terminated as
 21 long as it has bonds, notes, or other obligations outstanding. Upon termination of the
 22 Knik Crossing Development Corporation, its rights and property pass to the state.

*AS 19.75.021
(6)*

23 **Sec. 18.56.610. Powers and duties. (a) In addition to powers granted to the**

1 Knik Crossing Development Corporation by the corporation under to AS 18.56.086(a),
2 the Knik Crossing Development Corporation may

3 (1) fix and collect fees, rents, tolls, rates, or other charges for the use of
4 the Knik Arm bridge and appurtenant facilities, or for a service developed, operated,
5 or provided by the Knik Crossing Development Corporation; notwithstanding
6 AS 37.10.050(a), fees, rents, tolls, rates, and other charges fixed and collected under
7 this paragraph may exceed the actual operating cost of the use of the bridge, facility,
8 or service;

AS 19.75.111
(a)(10)

9 (2) pledge, encumber, transfer, or otherwise obligate revenue derived
10 by the Knik Crossing Development Corporation from the ownership, use, or operation
11 of toll facilities, including fees, rents, tolls, rates, charges, or other revenue of the Knik
12 Crossing Development Corporation or money that the legislature may appropriate,
13 except a state tax or license, as security for bonds or other indebtedness or agreements
14 of the Knik Crossing Development Corporation;

AS 19.75.111
(a)(12)

15 (3) perform reconnaissance studies and engineering, survey, and
16 design studies with respect to the Knik Arm bridge and its appurtenant facilities;

AS 19.75.111
(a)(17)

17 (4) exercise powers of eminent domain or file a declaration of taking
18 as necessary for the Knik Arm bridge and appurtenant facilities under AS 09.55.240 -
19 09.55.460 to acquire land or an interest in land; the Knik Crossing Development
20 Corporation's exercise of powers under this paragraph may not exceed the permissible
21 exercise of those powers by the state;

AS 19.75.111
(a)(18)

22 (5) confer with municipal and other governments, metropolitan
23 planning organizations, and the Department of Transportation and Public Facilities,
24 concerning the Knik Arm bridge.

AS 19.75.111
(a)(19)

25 (b) The Knik Crossing Development Corporation shall coordinate the exercise
26 of its powers to plan, design, construct, operate, and maintain the Knik Arm bridge
27 with the department, and with the mayors of the Municipality of Anchorage and the
28 Matanuska-Susitna Borough.

AS 19.75.111
(b) and
(b)(5)

29 Sec. 18.56.615. Bonds. (a) The Knik Crossing Development Corporation may
30 issue bonds in an aggregate amount not to exceed \$600,000,000, plus the cost of
31 issuance, in accordance with this chapter in order to build the Knik Arm bridge and its

HB 23 ("0")
Sec. 2.

1 appurtenant facilities. The amount of refunding bonds that may be issued by the Knik
2 Crossing Development Corporation and bond premiums may not be included in the
3 aggregate amount, but may be in addition to the amount authorized under this section.

4 (b) In addition to the security that may be provided to bonds of the Knik
5 Crossing Development Corporation under the powers granted to the Knik Crossing
6 Development Corporation under AS 18.56.086(a), the Knik Crossing Development
7 Corporation may pledge revenue derived by the Knik Crossing Development
8 Corporation from the ownership, use, and operation of its toll facilities, including
9 money derived from the fees, rents, tolls, rates, charges, and other revenue of the Knik
10 Crossing Development Corporation.

Related to
AS 19.75.111
(a)(12)

11 (c) The Knik Crossing Development Corporation may not issues bonds, or a
12 series of bonds, if the effective interest rate over the life of the bonds exceeds 11
13 percent a year or a rate of interest that is 125 percent of the rate of the Bond Buyer
14 Index of 20 Municipal Bond Average Yields for the week previous to the date of the
15 sale of the bonds, whichever is higher.

Portion of
AS 19.75.211
(b)

16 (d) Notwithstanding any other provisions of this chapter, the trust agreement,
17 or other similar document under which the Knik Crossing Development Corporation
18 issues bonds, must contain an agreement by the Knik Crossing Development
19 Corporation that the Knik Crossing Development Corporation will at all times
20 maintain fees, rents, tolls, rates, or other charges sufficient to

AS 19.75.221
(b)

21 (1) pay the costs of operation and maintenance of the Knik Arm bridge
22 and its appurtenant facilities and the principal of and interest on bonds issued under
23 the trust agreement as the bonds severally become due and payable;

AS 19.75.221
(b)(1)

24 (2) provide for debt service coverage as considered necessary by the
25 Knik Crossing Development Corporation for the marketing of its bonds; and

AS 19.75.221
(b)(2)

26 (3) provide for renewals, replacements, and improvements of the Knik
27 Arm bridge, and to maintain reserves required by the terms of the trust agreement or
28 other similar document.

AS 19.75.221
(b)(3)

29 **Sec. 18.56.620. Capital reserve fund.** (a) For the purpose of securing one or
30 more issues of its bonds, the Knik Crossing Development Corporation may establish
31 one or more special funds, called "capital reserve funds," and shall pay into those

AS 19.75.221
(c)

1 capital reserve funds the proceeds of the sale of its bonds and any other money that is
2 available to the Knik Crossing Development Corporation for the purposes of those
3 funds. The funds shall be established only if the Knik Crossing Development
4 Corporation determines that the establishment would enhance the marketability of the
5 bonds. All money held in a capital reserve fund, except as provided in this section,
6 shall be used as required solely for the payment of the principal of and interest on
7 bonds or of the sinking fund payments with respect to those bonds, the purchase or
8 redemption of bonds, or the payment of a redemption premium required to be paid
9 when those bonds are redeemed before maturity. However, money in a fund may not
10 be withdrawn from the fund at any time in an amount that would reduce the amount of
11 the fund to less than the capital reserve requirement set out in (b) of this section,
12 except for the purpose of making, with respect to those bonds, payment, when due, of
13 principal, interest, redemption premiums, and the sinking fund payments for the
14 payment of which other money of the Knik Crossing Development Corporation is not
15 available. Income or interest earned by or increment to a capital reserve fund due to
16 the investment of the fund or any other amounts in the fund may be transferred by the
17 Knik Crossing Development Corporation to other funds or accounts of the Knik
18 Crossing Development Corporation to the extent that the transfer does not reduce the
19 amount of the capital reserve fund below the capital reserve fund requirement.

AS 19.75.221
(c) cont'd

20 (b) If the Knik Crossing Development Corporation decides to issue bonds
21 secured by a capital reserve fund, the bonds may not be issued if the amount in the
22 capital reserve fund is less than the amount of the capital reserve fund requirement, if
23 any, established by resolution of the Knik Crossing Development Corporation, unless
24 the Knik Crossing Development Corporation, at the time of issuance of the
25 obligations, deposits in the capital reserve fund from the proceeds of the obligations to
26 be issued or from other sources an amount that, together with the amount then in the
27 fund, will not be less than the capital reserve fund requirement.

AS 19.75.221
(d)

28 (c) In computing the amount of a capital reserve fund for the purpose of this
29 section, securities in which all or a portion of the fund is invested shall be valued by
30 some reasonable method established by the Knik Crossing Development Corporation
31 by resolution. Valuation on a particular date shall include the amount of any interest

AS 19.75.221
(e)

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earned or accrued to that date.

(d) Notwithstanding any other provision of law, the Knik Crossing Development Corporation may establish other funds and reserves as the board of directors may determine reasonable and prudent for the issuance of bonds or for the conduct of the business and affairs of the Knik Crossing Development Corporation. The interest earned on or profit derived from these funds and reserves shall be the property of the Knik Crossing Development Corporation. Deposits made into the reserve fund established under this section must include

- (1) revenue derived by the Knik Crossing Development Corporation from the ownership, use, or operation of toll facilities, including fees, rents, tolls, rates, charges, or other revenue of the Knik Crossing Development Corporation;
- (2) money that the legislature has appropriated for that purpose; and
- (3) other money that may be made available to the Knik Crossing Development Corporation from other sources.

(e) If the Knik Crossing Development Corporation executes a public-private partnership agreement that includes financing by the private partner for the purpose of securing the Knik Crossing Development Corporation's annual availability payment, the Knik Crossing Development Corporation may establish a reserve fund, called the "availability payment reserve fund," and shall pay into that reserve fund

- (1) revenue derived by the Knik Crossing Development Corporation from the ownership, use, or operation of toll facilities, including fees, rents, tolls, rates, charges, or other revenue of the Knik Crossing Development Corporation;
- (2) money that the legislature has appropriated for that purpose; and
- (3) other money that may be made available to the Knik Crossing Development Corporation from other sources.

(f) All money held in the availability payment reserve fund shall be used solely for the payment of annual availability payments the Knik Crossing Development Corporation is obligated to make under a public-private partnership agreement executed by the Knik Crossing Development Corporation. When the terms of the Knik Crossing Development Corporation's public-private partnership agreement expires, all future revenue derived by the Knik Crossing Development Corporation

AS 19.75.221
(h)

Added by
HB 23
version "0"
Sec. 4

Establishing
"availability
payment
reserve fund"

Almost identical
language to (d)
above

Availability
payment reserve
fund to be
used to make
availability
payments.

Future revenue
to be deposited
into a new fund
(once availability
payments are
complete).

1 shall be deposited into a new fund, to be established by the Knik Crossing
2 Development Corporation under (d) of this section.

3 (g) The chair of the Knik Crossing Development Corporation shall annually,
4 not later than January 30, certify in writing to the governor and the legislature the
5 amount, if any, required to restore the capital reserve fund established under (a) of this
6 section to the capital reserve fund requirement, or the availability payment reserve
7 fund established under (e) of this section to an amount sufficient to pay the Knik
8 Crossing Development Corporation's next availability payment. The legislature may
9 appropriate to the Knik Crossing Development Corporation the amount certified by
10 the chair of the board that is needed to restore the reserve fund to the amount needed
11 for the next availability payment.

12 (h) Nothing in this section creates a debt or liability of the state.

13 (i) The Knik Crossing Development Corporation shall maintain a record of the
14 annual certifications made by the chair under (g) of this section. When the total
15 amount certified by the chair of the Knik Crossing Development Corporation as
16 necessary to restore the availability payment reserve fund totals \$1,140,000,000, the
17 duty of the chair of the Knik Crossing Development Corporation to report terminates.

18 (j) In this section, "capital reserve fund requirement" means the amount
19 required to be on deposit in a reserve fund established under (a) of this section as of
20 the date of computation, as determined by resolution of the Knik Crossing
21 Development Corporation or by the terms of the agreement for which the fund serves
22 as security.

23 **Sec. 18.56.625. Exemption from taxation.** The real and personal property of
24 the Knik Crossing Development Corporation and its assets, income, and receipts are
25 declared to be the property of a political subdivision of the state and are exempt from
26 all taxes and special assessments of the state or a political subdivision of the state.
27 Notwithstanding any law to the contrary, rights and interests in real and personal
28 property, assets, income, and receipts, including concession, franchise, leasehold, or
29 other real or personal property rights and interests, held by a private person or
30 enterprise under a public-private partnership agreement entered into under this
31 chapter, except any rights and interests of the private person in property serving a

Reporting requirement as in HB 23 version "0" p. 4, lines 5-12.

\$1.14 billion moral obligation cap (as in HB 23 version "0", p. 4, lines 5-12)

Defines "capital reserve fund requirement"; new provision.

AS 19.75.261

Added by HB 23 version "0" Sec. 6

1 business, commercial, or other purpose not necessary to operate the facilities,
 2 properties, or projects of the Knik Crossing Development Corporation, shall be
 3 exempt from all ad valorem taxes on real or personal property and special property tax
 4 assessments of the state or a political subdivision of the state. All bonds of the Knik
 5 Crossing Development Corporation are declared to be issued by a political subdivision
 6 of the state and for an essential public and governmental purpose. The bonds, the
 7 interest on the bonds, the income from the bonds and the transfer of the bonds, and all
 8 assets, income, and receipts pledged to pay or secure the payment of the bonds or
 9 interest on the bonds are, at all times, exempt from taxation by or under the authority
 10 of the state, except for inheritance and estate taxes and taxes on transfers by or in
 11 contemplation of death. Nothing in this section affects or limits an exemption from
 12 license fees, property taxes, or excise, income, or other taxes provided under any other
 13 law.

AS 19.75.261
 (cont'd)

14 **Sec. 18.56.630. Exemption from local regulation.** Notwithstanding any
 15 contrary provision of law, the activities of the Knik Crossing Development
 16 Corporation are exempt from land use planning, zoning, permitting, or other similar
 17 governmental powers of political subdivisions of the state.

AS 19.75.917

18 **Sec. 18.56.635. Liability for payment of tolls.** The owner of a vehicle using a
 19 facility owned, controlled, or managed by the Knik Crossing Development
 20 Corporation for which a toll or fee is imposed is liable for the payment of the toll or
 21 fee solely because of the vehicle ownership, unless the vehicle, except a rental vehicle,
 22 is used without the owner's knowledge and incurs the toll or fee during operation.

AS 19.75.915

23 * **Sec. 3.** AS 36.30.015(f) is amended to read:

24 (f) The board of directors of the Alaska Housing Finance Corporation,
 25 notwithstanding AS 18.56.088, and the membership of the Alaska Industrial
 26 Development and Export Authority, notwithstanding AS 44.88.085, [AND THE
 27 BOARD OF DIRECTORS OF THE KNIK ARM BRIDGE AND TOLL
 28 AUTHORITY UNDER AS 19.75.111,] shall adopt regulations under AS 44.62
 29 (Administrative Procedure Act), and the board of trustees of the Alaska Retirement
 30 Management Board shall adopt regulations under AS 37.10.240, to govern the
 31 procurement of supplies, services, professional services, and construction for the

Confirming;
 removes
 reference to
 KABATA
 from State
 Procurement
 Code

1 respective public corporation and board. The regulations must reflect competitive
2 bidding principles and provide vendors reasonable and equitable opportunities to
3 participate in the procurement process and must include procurement methods to meet
4 emergency and extraordinary circumstances. Notwithstanding the other provisions of
5 this subsection, the Alaska Housing Finance Corporation, the Alaska Industrial
6 Development and Export Authority, [THE KNIK ARM BRIDGE AND TOLL
7 AUTHORITY,] and the Alaska Retirement Management Board shall comply with
8 AS 36.30.170(b).

9 * Sec. 4. AS 36.30.850(b)(45) is amended to read:

10 (45) a subsidiary of the Alaska Housing Finance Corporation created
11 under AS 18.56.086 for the purpose of planning, financing, or constructing in-state
12 natural gas pipeline projects or for the purpose of aiding in the planning, financing, or
13 constructing of in-state natural gas pipeline projects; or a subsidiary of the Alaska
14 Housing Finance Corporation created under AS 18.56.086 for the purpose of
15 constructing a bridge to span Knik Arm.

*Conforming;
Adds KCDC
to state
Procurement Code
exceptions*

16 * Sec. 5. AS 19.75.011, 19.75.021, 19.75.031, 19.75.041, 19.75.051, 19.75.061, 19.75.071,
17 19.75.081, 19.75.111, 19.75.113, 19.75.211, 19.75.221, 19.75.231, 19.75.241, 19.75.251,
18 19.75.261, 19.75.271, 19.75.281, 19.75.291, 19.75.301, 19.75.311, 19.75.321, 19.75.330,
19 19.75.332, 19.75.334, 19.75.336, 19.75.338, 19.75.340, 19.75.911, 19.75.915, 19.75.920,
20 19.75.980, 19.75.990; AS 39.25.110(39); and AS 39.50.200(b)(60) are repealed.

*Repeal of
KABATA
enabling
statutes*

21 * Sec. 6. The uncodified law of the State of Alaska is amended by adding a new section to
22 read:

TRANSITION:

23 TRANSITION. (a) All rights, titles, interests, agreements, contracts, instruments,
24 indebtedness, investments, leases, real and personal property, lines of credit, gifts, grants,
25 loans, fees, rents, tolls, civil actions, revenue, funds, insurance, permits, licenses, studies, and
26 intellectual property of the Knik Arm Bridge and Toll Authority are transferred to the Knik
27 Crossing Development Corporation.

*Transfer of
KABATA assets,
etc. to KCDC*

28 (b) For one year following the effective date of this Act, the members of the board of
29 directors for the Knik Arm Bridge and Toll Authority on the day before the effective date of
30 this Act shall serve as a nonvoting advisory board to the board of directors of the Knik
31 Crossing Development Corporation. While serving as a nonvoting advisory board under this

*KABATA board
to serve in
advisory
capacity to
KCDC board
for one year.*

- 1 subsection, the members of the board of directors of the Knik Arm Bridge and Toll Authority
- 2 shall serve without compensation but are entitled to per diem and travel expenses as provided
- 3 by the Alaska Housing Finance Corporation."