

27-LS0430\T
Martin
3/23/12

CS FOR SENATE BILL NO. 80()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): SENATORS MENARD, Huggins, Dyson, McGuire

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to bonds of the Knik Arm Bridge and Toll Authority; relating to**
2 **reserve funds of the authority; relating to taxes and assessments on a person that is a**
3 **party to an agreement with the authority; and establishing the Knik Arm Crossing**
4 **fund."**

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

6 *** Section 1.** AS 19.75.211(a) is repealed and reenacted to read:

7 (a) Notwithstanding any other provision of law, the authority may borrow
8 money and issue and refund bonds on which the principal and interest are paid out of
9 and secured by

10 (1) the gross revenue derived by the authority from the ownership, use,
11 and operation of its toll facilities, including money derived from the fees, rents, tolls,
12 rates, charges, and other revenue of the authority under this chapter;

13 (2) revenue received by a private person or enterprise that has entered
14 into a public-private partnership agreement with the authority; or

(3) any other revenue or money that the legislature has appropriated for that purpose, except a state tax or license.

* **Sec. 2.** AS 19.75.211(c) is amended to read:

(c) The authority may issue bonds in an aggregate amount not to exceed **\$600,000,000** [\$500,000,000], plus the cost of issuance.

* **Sec. 3.** AS 19.75.211 is amended by adding a new subsection to read:

(e) Before issuing bonds for the Knik Arm bridge under this section, the authority shall submit to the state bond committee a description of the bond issue, a copy of the resolution of the board of directors of the authority supporting the bond issue, a report setting out the sources and amounts of revenue that will be used for payment of the principal of and interest on the bonds and the effect the issuance of the bonds by the authority would have on the ability of the state or political subdivision of the state to market bonds, and a preliminary prospectus, offering circular, or official statement relating to the bond issue. Bonds may not be issued unless the state bond committee finds, based on the information submitted by the authority under this section and other information that is reasonably available to or requested by the committee, that either the Knik Arm bridge revenue and other revenue available to the authority or the revenue of the private person or enterprise under a public-private partnership agreement entered into by the authority under AS 19.75.111(a) can be reasonably expected to be adequate for payment of the principal of and interest on the bonds to be issued and that issuance of the bonds by the authority would not be expected adversely to affect the ability of the state or its political subdivisions to market bonds.

* **Sec. 4.** AS 19.75.221(h) is amended to read:

(h) Notwithstanding any other provision of law, the authority 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 authority. The interest earned on or profit derived from these funds and reserves shall be the property of the authority. **Deposits made into a reserve fund established under this section must include**

(1) revenue derived by the authority from the ownership, use, or

operation of toll facilities, including fees, rents, tolls, rates, charges, or other revenue of the authority;

(2) money that the legislature has appropriated for that purpose;
and

(3) other money that may be made available to the authority from other sources.

* **Sec. 5.** AS 19.75.221 is amended by adding new subsections to read:

(i) Money in a reserve fund established under (h) of this section

(1) shall be used only for

(A) the payment of monetary obligations, liabilities, and indebtedness of the authority, including termination payment obligations, under agreements for the financing, design, construction, maintenance, improvement, or operation of facilities, properties, or projects of the authority;

(B) the performance of the authority's statutory functions, including the authority's overhead and administrative costs and working capital; and

(C) planning, permitting, design, acquisition, construction, maintenance, improvement, or operation of transportation-related projects, facilities, properties, systems, or equipment of the authority or other public entities, including expansions, extensions, and capacity improvements, eligible under applicable federal and state law to be funded from toll revenue;

(2) may not be used for the purpose of planning, permitting, design, acquisition, construction, maintenance, improvement, or operation of projects, facilities, properties, systems, or equipment under (1)(C) of this subsection if the withdrawal would reduce the amount in the reserve fund to less than the reserve fund requirement.

(j) Income or interest earned by, or increment to, a reserve fund established under (h) of this section, from the investment of all or part of the fund, may be transferred by the authority to other funds or accounts of the authority if the transfer does not reduce the amount of a reserve fund below the reserve fund requirement.

(k) In computing the amount of a reserve fund established under (h) of this

section, securities in which all or a portion of the fund is invested shall be valued by a reasonable method established by the authority by resolution or established by the terms of the agreement for which the fund serves as security. Valuation must include the amount of interest earned or accrued as of the date of the valuation.

(l) The chair of the board shall annually, not later than December 1, certify in writing to the governor and the legislature the amount, if any, required to restore a reserve fund established under (h) of this section to the reserve fund requirement. The legislature may appropriate to the authority the amount certified by the chair of the board that is needed to restore a reserve fund to the reserve fund requirement.

(m) In this section, "reserve fund requirement" means the amount required to be on deposit in a reserve fund established under (h) of this section as of the date of computation, as determined by resolution of the authority or by the terms of the agreement for which the fund serves as security.

* **Sec. 6.** AS 19.75.261 is amended to read:

Sec. 19.75.261. Exemption from taxation. The real and personal property of the authority and its assets, income, and receipts are declared to be the property of a political subdivision of the state and are exempt from all taxes and special assessments of the state or a political subdivision of the state. Notwithstanding any law to the contrary, rights and interests in real and personal property, assets, income, and receipts, including concession, franchise, leasehold, or other real or personal property rights and interests, held by a private person or enterprise under a public-private partnership agreement entered into under this chapter, except any rights and interests of the private person in property serving a business, commercial, or other purpose not necessary to operate the facilities, properties, or projects of the authority, shall be exempt from all ad valorem taxes on real or personal property and special property tax assessments of the state or a political subdivision of the state. All bonds of the authority are declared to be issued by a political subdivision of the state and for an essential public and governmental purpose. The bonds, the interest on the bonds, the income from the bonds and the transfer of the bonds, and all assets, income, and receipts pledged to pay or secure the payment of the bonds or interest on the bonds are, at all times, exempt from taxation by or under the

1 authority of the state, except for inheritance and estate taxes and taxes on transfers by
2 or in contemplation of death. Nothing in this section affects or limits an exemption
3 from license fees, property taxes, or excise, income, or other taxes provided under any
4 other law [, NOR DOES IT CREATE A TAX EXEMPTION WITH RESPECT TO
5 THE INTEREST OF ANY BUSINESS ENTERPRISE OR OTHER PERSON,
6 OTHER THAN THE AUTHORITY, IN ANY PROPERTY, ASSETS, INCOME,
7 RECEIPTS, PROJECT, OR LEASE, REGARDLESS OF WHETHER FINANCED
8 UNDER THIS CHAPTER].

9 * **Sec. 7.** AS 19.75 is amended by adding a new section to article 2 to read:

10 **Sec. 19.75.345. Knik Arm Crossing fund.** (a) The Knik Arm Crossing fund is
11 established as a separate fund in the general fund. The fund consists of

12 (1) money appropriated to the fund by the legislature;

13 (2) gifts, bequests, contributions from other sources, and federal
14 money appropriated to the fund;

15 (3) interest earned on the fund balance and appropriated to the fund;

16 and

17 (4) investments, to be managed by the Department of Revenue, which
18 shall be the fiduciary of the fund under AS 37.10.071.

19 (b) The fund is not a dedicated fund.

20 (c) Money in the fund may be transferred by the Department of Revenue to the
21 authority for the purposes listed in this section.

22 (d) On a date determined by the authority but not before the board of directors
23 of the authority executes a public-private partnership agreement under
24 AS 19.75.111(a)(5)(B) for design, construction, and maintenance of the Knik Arm
25 Crossing, the Department of Revenue shall transfer money from the fund to the
26 authority in an amount necessary to meet the reserve fund requirement. The authority
27 shall deposit the money into the reserve fund established in AS 19.75.221(h).