

CS FOR SENATE BILL NO. 21(TRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE TRANSPORTATION COMMITTEE

Offered: 3/7/97

Referred: State Affairs

Sponsor(s): SENATORS TAYLOR, Pearce

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to ferries and ferry terminals, establishing the Alaska Marine
2 Highway Authority, and relating to maintenance of state marine vessels; and
3 providing for an effective date."

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

5 * **Section 1.** PURPOSE. The purpose of this Act is to establish an authority for the
6 operation, management, planning, construction, and maintenance of facilities for the marine
7 highway system. The authority shall be the exclusive state agency directly associated with
8 the operation, management, planning, construction, and maintenance of facilities for the marine
9 highway system.

10 * **Sec. 2.** AS 19 is amended by adding a new chapter to read:

11 **Chapter 55. Alaska Marine Highway Authority.**

12 **Article 1. Creation and Organization.**

13 **Sec. 19.55.010. Alaska Marine Highway Authority.** (a) The Alaska Marine
14 Highway Authority is established. The authority is a public corporation of the state.

1 The authority is an instrumentality of the state in the Department of Transportation and
2 Public Facilities but has a legal existence independent of and separate from the state
3 and has continuing succession until its existence is terminated by law.

4 (b) The powers of the authority are vested in the board of directors of the
5 authority.

6 **Sec. 19.55.020. Directors.** (a) The board of directors of the authority consists
7 of seven directors. One director is the commissioner of transportation and public
8 facilities, and six directors are appointed by the governor. The six appointed members
9 must be state residents who have experience with maritime affairs. Appointed
10 members must include

11 (1) two persons who are members of a union that represents employees
12 of the authority; at least one person appointed under this paragraph shall be a member
13 of a maritime union;

14 (2) two persons who are residents of Southeast Alaska;

15 (3) a person who is a resident of the Gulf of Alaska area west of Icy
16 Cape; and

17 (4) a person who represents the interests of the public.

18 (b) The appointed directors serve staggered five-year terms and may be
19 removed by the governor only for cause. Each director shall hold office for the term
20 of the director's appointment and until a successor is appointed and qualified. A
21 director is qualified for reappointment. A vacancy in a directorship occurring other
22 than by expiration of term shall be filled in the same manner as the original
23 appointment but only for the unexpired term.

24 (c) The directors shall comply with AS 39.50 (Conflict of Interest). Each
25 director before entering upon the director's duties shall subscribe to an oath to perform
26 the duties of office faithfully, impartially, and justly to the best of the director's ability.
27 A record of the oath shall be filed with the Office of the Governor.

28 (d) An appointed director is entitled to compensation at a rate of \$300 for each
29 day the director is engaged in actual performance of duties under this chapter. The
30 board of directors of the authority may provide by regulation for compensation for
31 partial days for an appointed director. In addition, an appointed director is entitled to

1 per diem and travel expenses authorized for boards and commissions under
2 AS 39.20.180.

3 **Sec. 19.55.030. Officers and quorum.** The directors shall elect one of their
4 number as chair of the board of directors. The directors shall elect a secretary and a
5 treasurer who need not be directors, and the same person may be elected to serve both
6 as secretary and treasurer. Four directors constitute a quorum of the board of directors.
7 Except as provided in AS 19.55.110(7), action may be taken and motions and
8 resolutions adopted by the board of directors at a meeting by the affirmative vote of
9 at least four directors. A vacancy in the board of directors of the authority does not
10 impair the right of a quorum to exercise all the powers and perform all the duties of
11 the board.

12 **Sec. 19.55.040. Staff.** (a) The board of directors shall employ a chief
13 executive officer who serves at the pleasure of the board.

14 (b) The chief executive officer may, with the approval of the board, select and
15 employ additional staff as necessary, including additional administrative officers. All
16 officers and employees of the authority are in the exempt service under AS 39.25.110.

17 (c) In addition to its staff of employees, the board of directors may contract
18 for and engage the services of consultants and professional, technical, and financial
19 advisors the authority considers necessary for the purpose of developing information,
20 conducting hearings, studies, investigations, or other proceedings, or otherwise
21 exercising its powers.

22 **Article 2. Powers and Duties.**

23 **Sec. 19.55.110. Powers of authority.** In addition to other powers granted in
24 this chapter, the authority may

- 25 (1) sue and be sued;
- 26 (2) adopt and alter an official seal;
- 27 (3) adopt and enforce regulations for the conduct of its business and
28 for the use of its services and facilities;
- 29 (4) maintain offices at a place in the state and at places out of the state
30 that are served by the marine highway system;
- 31 (5) establish terms and conditions of employment by the authority and

1 conduct or designate a representative to conduct labor negotiations with employees;

2 (6) subject to appropriation by the legislature, acquire, hold, use, and
3 dispose of its income, revenues, funds, and money;

4 (7) acquire, hold, use, lease, rent, construct, and dispose of personal
5 property for its purposes, except that the authority may dispose of a ferry only on
6 approval of at least five of its directors;

7 (8) acquire, hold, use, lease, or rent real property and dispose of real
8 property under AS 19.55.230;

9 (9) operate, maintain, improve, and extend a system of ferries
10 connecting with the public roads and highways of the state and including the boats,
11 vessels, wharves, docks, approaches, landings, and appurtenances the authority
12 determines necessary or desirable for safe and efficient operation of the ferry system
13 to best serve the public;

14 (10) do all acts and things necessary, convenient, or desirable to carry
15 out the powers expressly granted or necessarily implied in this chapter;

16 (11) establish annual rates and tariffs after public hearings;

17 (12) modify scheduled routes after public hearings.

18 **Sec. 19.55.120. Duties of authority.** The authority shall

19 (1) assist the residents, businesses, and communities of the state in
20 obtaining optimal marine passenger and freight service;

21 (2) schedule vessel sailings to optimize the frequency of service to all
22 ports;

23 (3) encourage and integrate with other public and private carriers to the
24 greatest extent possible to provide ferry service within the state and between Alaska
25 ports and ports outside the state in order to provide optimum service within the state;

26 (4) provide reservation access and marketing information throughout
27 the state;

28 (5) encourage vessel construction, maintenance, and service in the state
29 to the greatest extent possible;

30 (6) employ residents of the state to the greatest extent legally possible;

31 (7) recognize Alaska unions and employee associations to the greatest

1 extent legally possible.

2 **Sec. 19.55.130. Use of name authorized.** The authority is authorized to
3 operate its ferry system under the name "Alaska Marine Highway System".

4 **Sec. 19.55.140. Comprehensive long-range plan.** The authority, with the
5 cooperation of the Department of Transportation and Public Facilities, shall prepare a
6 comprehensive long-range plan for the development and improvement of the Alaska
7 marine highway system and shall revise and update the plan at least every five years.
8 The authority shall submit the plan and revisions and updates of the plan to the
9 legislature.

10 **Article 3. Acquisition of Property.**

11 **Sec. 19.55.210. Acquisition of land and easements.** The authority, as part
12 of the cost of constructing, maintaining, or improving the marine highway system, may
13 acquire by purchase, gift, or exchange land in fee simple or easements that it considers
14 necessary and reasonable for either temporary or permanent public use. By the same
15 means, the authority may obtain material, including clay, gravel, sand, or rock, or the
16 land necessary to obtain the material, including access to it. The authority may acquire
17 the land or materials notwithstanding the fact that title to it is vested in the state or a
18 department, agency, commission, or institution of the state.

19 **Sec. 19.55.220. Authority to purchase property for the purpose of**
20 **exchange.** When a majority of the directors of the authority declares that it is in the
21 interest of the state, the authority may acquire by purchase, gift, or exchange privately
22 or publicly owned land or an interest in land for the purpose of exchanging the land
23 for privately or publicly owned land that the authority is authorized by law to acquire.

24 **Sec. 19.55.230. Disposal of land or rights in land.** (a) The authority may
25 vacate land or rights in land acquired for use in the marine highway system by
26 executing and filing a deed in the appropriate recording district. Upon vacating, title
27 reverts to the persons, heirs, successors, or assigns in whom it was vested at the time
28 of the taking.

29 (b) The authority may transfer land not considered necessary for use in the
30 marine highway system to the Department of Natural Resources for disposal. The
31 proceeds of disposal by the Department of Natural Resources shall be credited to the

1 funds from which the purchase was originally made.

2 **Article 4. Vessels and Ferry Terminal Facilities.**

3 **Sec. 19.55.310. Ferry terminal facilities.** (a) The authority may construct,
4 purchase, or lease ferry terminal facilities at locations it selects for the loading and
5 unloading of passengers and vehicles under their own power, on and off ferries. The
6 authority shall repair and maintain those facilities that it owns. Construction and
7 purchasing under this section are governed by AS 36.30 (State Procurement Code),
8 except as otherwise provided by law.

9 (b) The authority may connect ferry terminal facilities with local highway
10 systems.

11 (c) The authority may adopt regulations governing the use of ferry terminal
12 facilities by the public that it considers necessary and proper in the public interest.
13 The authority may charge a fee for the use of ferry terminal facilities, whether the use
14 is under a permit or otherwise, and whether the use is by one or more individuals.

15 (d) A ferry terminal facility in existence and serving the public on January 1,
16 1959, is not subject to (a) - (c) of this section.

17 **Sec. 19.55.320. Naming of vessel or facility.** (a) A vessel or facility
18 constructed or acquired by the authority must be named by law.

19 (b) A maritime vessel must bear the name of an Alaska glacier.

20 (c) A vessel used principally on the inland waterways of the state must bear
21 the name of an historical vessel that used the rivers of the state.

22 **Article 5. Budget and Revenue.**

23 **Sec. 19.55.410. Budget and appropriations.** The authority shall submit its
24 annual budget to the legislature through the governor as provided for state agencies by
25 AS 37.07 (Executive Budget Act). The authority shall expend money appropriated by
26 the legislature as authorized by the legislature.

27 **Article 6. General Provisions.**

28 **Sec. 19.55.910. Annual report.** By January 15 of each year, the board of
29 directors of the authority shall submit to the governor and the legislature a
30 comprehensive report describing the operations, income, and expenditures for the
31 preceding fiscal year.

1 **Sec. 19.55.920. Annual audit.** The authority shall have its financial records
 2 audited annually by a certified public accountant. The legislative auditor may
 3 prescribe the form and content of the financial records of the authority and shall have
 4 access to those records at any time.

5 **Sec. 19.55.990. Definitions.** In this chapter, unless the context requires
 6 otherwise,

7 (1) "authority" means the Alaska Marine Highway Authority;

8 (2) "ferry" means a vessel used in the common carriage of passengers
 9 and vehicles in intrastate or interstate commerce.

10 **Sec. 19.55.995. Short title.** This chapter may be cited as the Alaska Marine
 11 Highway Authority Act.

12 * **Sec. 3.** AS 03.53.010(a) is amended to read:

13 (a) An animal may not be transported into the state aboard a ferry operated by
 14 the Alaska Marine Highway Authority [DIVISION OF MARINE
 15 TRANSPORTATION OF THE DEPARTMENT OF TRANSPORTATION AND
 16 PUBLIC FACILITIES] unless the animal's owner, custodian, or attendant possesses
 17 a valid health certificate for the animal. This certificate shall accompany the animal
 18 or be in the possession of the animal's owner, custodian, or attendant aboard the ferry
 19 and shall be presented when requested by an employee of the state ferry system at the
 20 time the owner, custodian, or attendant makes arrangements to transport the animal,
 21 boards the ferry with the animal, or at any other time.

22 * **Sec. 4.** AS 18.65.755(a) is amended to read:

23 (a) A permittee may not carry a concealed handgun into

24 (1) a law enforcement or correctional facility;

25 (2) or on school grounds or a school bus; in this paragraph, "school
 26 grounds" has the meaning given in AS 11.71.900;

27 (3) a courthouse or a courtroom of this state, unless the permittee

28 (A) is a judge; or

29 (B) has been authorized to possess a concealed handgun by a
 30 judge presiding at that courthouse or courtroom;

31 (4) a building housing only state or federal offices or the offices of a

1 political subdivision of the state, except as authorized under (3) of this subsection;

2 (5) an office of the state, federal government, or of a political
3 subdivision of the state that is not located in a building described in (4) of this
4 subsection;

5 (6) a passenger loading or unloading area of an airline terminal;

6 (7) a vessel of the Alaska Marine Highway Authority [MARINE
7 HIGHWAY SYSTEM];

8 (8) a facility providing services to victims of domestic violence or
9 sexual assault;

10 (9) a residence where notice that carrying a concealed handgun is
11 prohibited has been given by the posting of a conspicuous notice or by oral statement
12 by the resident to the permittee;

13 (10) a meeting of a business, charitable, or other organization or entity
14 where notice that carrying a concealed handgun is prohibited has been given by the
15 posting of conspicuous notice;

16 (11) a financial institution; in this paragraph, "financial institution"
17 means a bank, savings bank, savings association, credit union, or other institution
18 regulated by the Department of Commerce and Economic Development under AS 06;

19 (12) another place where the possession of a deadly weapon or firearm
20 is prohibited by law; or

21 (13) a municipality or established village that has prohibited the
22 possession of concealed handguns by a permit under AS 18.65.780 - 18.65.785.

23 * **Sec. 5.** AS 19.65.050 is amended to read:

24 **Sec. 19.65.050. Legislative findings, purpose, and intent.** (a) The
25 legislature finds that

26 (1) the Alaska Marine Highway Authority [MARINE HIGHWAY
27 SYSTEM] is an essential part of the state transportation system, and that it warrants
28 continued and predictable state support;

29 (2) many communities' economies are dependent on a steady and stable
30 marine highway system service level;

31 (3) the state's tourism industry is greatly enhanced by a dependable

1 marine highway transportation network; and

2 (4) efficient and prudent management of the **authority** [SYSTEM] will
3 benefit the state's economy and foster economic development.

4 (b) It is the purpose of AS 19.65.050 - 19.65.100 to

5 (1) enable the **authority** [ALASKA MARINE HIGHWAY SYSTEM]
6 to manage and operate in a manner that will enhance performance and accountability
7 by allowing the **authority** [SYSTEM] to account for and spend its generated revenue;

8 (2) provide the management tools necessary to efficiently operate the
9 **authority** [ALASKA MARINE HIGHWAY SYSTEM];

10 (3) within constitutional constraints, provide for a predictable funding
11 base for **authority** [SYSTEM] operations; and

12 (4) provide for predictability and stability in the service level furnished
13 to communities served by the **authority** [SYSTEM].

14 (c) It is the intent of AS 19.65.050 - 19.65.100 to

15 (1) encourage prudent administration through cost management and
16 accurate budgeting by **the board of directors** [MANAGERS] of the **authority**
17 [ALASKA MARINE HIGHWAY SYSTEM];

18 (2) increase revenue from the operation of the **authority** [SYSTEM]
19 consistent with the public interest, increase service consistent with sound fiscal policy,
20 and assist the prudent management and operation of the **authority** [SYSTEM]; and

21 (3) achieve stability in the level of service communities can anticipate
22 through accurate planning and scheduling.

23 * **Sec. 6.** AS 19.65.060 is amended to read:

24 **Sec. 19.65.060. Alaska Marine Highway Authority [MARINE HIGHWAY**
25 **SYSTEM] fund.** (a) There is created, as a special account in the general fund, the
26 Alaska **Marine Highway Authority** [MARINE HIGHWAY SYSTEM] fund, into
27 which shall be deposited

28 (1) the gross revenue of the **authority** [ALASKA MARINE
29 HIGHWAY SYSTEM];

30 (2) money that is appropriated to the [ALASKA MARINE HIGHWAY
31 SYSTEM] fund by the legislature in an amount that is consistent from year to year and

1 is the amount necessary, after consideration of gross revenue, to provide stable services
 2 to the public consistent with the provisions of AS 19.65.050(b)(4); **unless otherwise**
 3 **provided by the legislature, appropriations to the fund under this paragraph** [,
 4 WHICH APPROPRIATIONS] are not one-year appropriations and [THE BALANCES
 5 OF WHICH] do not lapse under AS 37.25.010; and

6 (3) any other money that is appropriated to the [ALASKA MARINE
 7 HIGHWAY SYSTEM] fund by the legislature; **unless otherwise provided by the**
 8 **legislature, appropriations to the fund under this paragraph** [, WHICH
 9 APPROPRIATIONS] are not one-year appropriations and [THE BALANCES OF
 10 WHICH] do not lapse under AS 37.25.010.

11 (b) Nothing in **AS 19.65.050 - 19.65.100** [THIS CHAPTER] exempts money
 12 deposited into the [ALASKA MARINE HIGHWAY SYSTEM] fund from the
 13 requirements of AS 37.07 (Executive Budget Act) or dedicates that money for a
 14 specific purpose.

15 * **Sec. 7.** AS 19.65.070 is amended to read:

16 **Sec. 19.65.070. Revenue accounting.** (a) The **authority** [ALASKA
 17 MARINE HIGHWAY SYSTEM] shall account for and remit to the Department of
 18 Revenue in accordance with AS 37.10.050 all gross revenue generated from the
 19 operation of the **authority** [ALASKA MARINE HIGHWAY SYSTEM] during each
 20 **fiscal year** [ANNUAL OPERATING CYCLE]. The money shall then be deposited
 21 in the Alaska **Marine Highway Authority** [MARINE HIGHWAY SYSTEM] fund.

22 (b) The **authority** [ALASKA MARINE HIGHWAY SYSTEM] shall prepare
 23 a written report, **not** [NO] later than the 10th day of each regular legislative session,
 24 regarding the previous **fiscal year** [ANNUAL OPERATING CYCLE] and notify the
 25 legislature that the report is available. The report must identify

26 (1) gross revenue generated during the previous **fiscal year** [ANNUAL
 27 OPERATING CYCLE];

28 (2) gross revenue generated during the current **fiscal year** [ANNUAL
 29 OPERATING CYCLE] and an estimate of gross revenue for the remainder of the
 30 current **fiscal year** [ANNUAL OPERATING CYCLE];

31 (3) projections of the gross revenue to be generated during the next

1 **fiscal year** [ANNUAL OPERATING CYCLE]; and

2 (4) the difference between previous gross revenue estimates prepared
3 under this section and the revenues actually generated.

4 (c) The Department of Revenue shall prepare a written report, no later than the
5 10th legislative day of each regular legislative session, regarding the earnings on gross
6 revenue of the **authority** [ALASKA MARINE HIGHWAY SYSTEM] that was
7 deposited into the Alaska **Marine Highway Authority** [MARINE HIGHWAY
8 SYSTEM] fund during the prior fiscal year and projected earnings on gross revenue
9 of the **authority** [ALASKA MARINE HIGHWAY SYSTEM] that is projected to be
10 deposited into the Alaska **Marine Highway Authority** [MARINE HIGHWAY
11 SYSTEM] fund for the current fiscal year and the next fiscal year. The Department
12 of Revenue shall notify the legislature that the report is available.

13 * **Sec. 8.** AS 19.65.080 is amended to read:

14 **Sec. 19.65.080. Annual appropriation.** (a) Commencing with appropriations
15 for the fiscal year that begins July 1, 1991, on an annual basis and under AS 37.07
16 (Executive Budget Act), the legislature may appropriate amounts from the [ALASKA
17 MARINE HIGHWAY SYSTEM] fund **for management and operation of** [TO] the
18 **authority** [ALASKA MARINE HIGHWAY SYSTEM].

19 (b) The **authority** [DEPARTMENT OF TRANSPORTATION AND PUBLIC
20 FACILITIES] may request the legislature to appropriate money from the [ALASKA
21 MARINE HIGHWAY SYSTEM] fund to the **authority** [MARINE HIGHWAY
22 SYSTEM] for capital improvements [,] if

23 (1) the appropriation under (a) of this section has been made;

24 (2) the amount in the fund, without regard to the appropriation under
25 (a) of this section, exceeds the total of gross revenue deposited in the fund and the
26 general fund appropriations under AS 19.65.060(a)(2) by 10 percent; and

27 (3) the amount requested for appropriation under this subsection does
28 not exceed 50 percent of the balance remaining after the appropriation for annual
29 management and operations is made under (a) of this section.

30 (c) The unexpended and unobligated balance of money appropriated from the
31 [ALASKA MARINE HIGHWAY SYSTEM] fund lapses into the [ALASKA MARINE

1 HIGHWAY SYSTEM] fund at the end of the fiscal year for which it was appropriated.

2 * **Sec. 9.** AS 19.65.100 is amended to read:

3 Sec. 19.65.100. DEFINITIONS. In AS 19.65.050 - 19.65.100,

4 (1) **"authority" means the Alaska Marine Highway Authority**
5 ["ANNUAL OPERATING CYCLE" MEANS THE ANNUAL STATE FISCAL YEAR
6 BEGINNING ON JULY 1 AND ENDING AT MIDNIGHT ON THE FOLLOWING
7 JUNE 30];

8 (2) **"fiscal year" has the meaning given in AS 37.07.120;**

9 (3) **"fund" means the Alaska Marine Highway Authority fund;**

10 (4) "gross revenue" means all money, except money refunded to ticket
11 holders and others for unused services, that is generated from the operation of the
12 **authority** [ALASKA MARINE HIGHWAY SYSTEM], including that derived from
13 vessel operations and uses of **authority** [ALASKA MARINE HIGHWAY SYSTEM]
14 facilities.

15 * **Sec. 10.** AS 23.40.040 is amended to read:

16 **Sec. 23.40.040. Collective bargaining agreement.** The **Alaska Marine**
17 **Highway Authority** [COMMISSIONER OF TRANSPORTATION AND PUBLIC
18 FACILITIES] or an authorized representative, in accordance with AS 23.40.020 -
19 23.40.030, may negotiate and enter into collective bargaining agreements concerning
20 wages, hours, working conditions, and other employment benefits with the employees
21 of the **authority** [DIVISION OF MARINE TRANSPORTATION] engaged in
22 operating the state ferry system as masters or members of the crews of vessels or their
23 bargaining agent. [A COLLECTIVE BARGAINING AGREEMENT IS NOT FINAL
24 WITHOUT THE CONCURRENCE OF THE COMMISSIONER OF
25 TRANSPORTATION AND PUBLIC FACILITIES.] The **authority**
26 [COMMISSIONER OF TRANSPORTATION AND PUBLIC FACILITIES] may make
27 provision in the collective bargaining agreement for the settlement of labor disputes
28 by arbitration.

29 * **Sec. 11.** AS 29.35.722 is amended to read:

30 **Sec. 29.35.722. Ownership or operation of certain state facilities**
31 **prohibited.** The state may not, without the approval of the legislature,

1 (1) convey or transfer the assets of the Alaska Marine Highway
 2 Authority [MARINE HIGHWAY SYSTEM], the Anchorage or Fairbanks international
 3 airports, or any other state asset, except undeveloped state land as provided in
 4 AS 38.05.810 or surplus property, to an authority; or

5 (2) enter into an agreement with an authority under which the authority
 6 would operate the Alaska marine highway system, the Anchorage or Fairbanks
 7 international airports, or any other state facility, system, or function that employs one
 8 or more employees.

9 * **Sec. 12.** AS 35.10.015(c) is amended to read:

10 (c) In this section, "public facilities" includes vessels owned by the state and
 11 operated by the Alaska Marine Highway Authority [DIVISION OF MARINE
 12 TRANSPORTATION OF THE DEPARTMENT AS A PART OF THE ALASKA
 13 MARINE HIGHWAY SYSTEM]. All ferries owned or operated by the state shall be
 14 equipped with elevators or other passenger lifting equipment, ramps, or other facilities
 15 and devices to ensure that these vessels are accessible to and usable by physically
 16 handicapped, aged, or infirm passengers. In this subsection, "accessible to and usable
 17 by" means that a physically handicapped, aged, or infirm passenger can board,
 18 disembark, and move between decks and about the public areas aboard a state ferry
 19 with personal comfort and safety, and with safety to, other passengers and members
 20 of the crew.

21 * **Sec. 13.** AS 35.10.015(d) is amended to read:

22 (d) A [AFTER JUNE 25, 1976, A] ferry may not be constructed, lengthened,
 23 completely renovated, or purchased for use or entered into service by the Alaska
 24 Marine Highway Authority [DIVISION OF MARINE TRANSPORTATION OF THE
 25 DEPARTMENT AS A PART OF THE ALASKA MARINE HIGHWAY SYSTEM]
 26 that does not include adequate facilities and devices to ensure that the vessel is
 27 accessible to and usable by physically handicapped, aged, or infirm passengers. Some
 28 staterooms and all restrooms, indoor passageways, outdoor weather decks, and other
 29 public areas aboard the vessel shall be so designed and constructed as to permit access
 30 and use by physically handicapped, aged, or infirm passengers, including [BUT NOT
 31 LIMITED TO] those persons occupying a wheelchair.

1 * **Sec. 14.** AS 35.27.020(c) is amended to read:

2 (c) At least one percent or, in the case of a rural school facility, at least one-
3 half of one percent of the construction cost of a building or facility approved for
4 construction by the legislature after September 1, 1977, will be reserved for the
5 following purposes: the design, construction, mounting, and administration of works
6 of art in a school, office building, court building, vessel of the **Alaska Marine**
7 **Highway Authority** [MARINE HIGHWAY SYSTEM], or other building or facility
8 **that** [WHICH] is subject to substantial public use.

9 * **Sec. 15.** AS 35.27 is amended by adding a new section to read:

10 **Sec. 35.27.025. Application to Alaska Marine Highway Authority.** This
11 chapter applies to the Alaska Marine Highway Authority. Compliance with this
12 chapter is the sole responsibility of the authority with respect to the vessels, public
13 buildings, and facilities of the authority.

14 * **Sec. 16.** AS 35.27.030(1) is amended to read:

15 (1) "building" or "facility" means a permanent improvement constructed
16 by the department **or authority**; the term

17 (A) includes, but is not limited to,

18 (i) schools, office buildings, and court buildings;

19 (ii) other buildings **that** [WHICH] the commissioner
20 determines are designed for substantial public use;

21 (iii) boats and vessels of the **authority** [MARINE
22 HIGHWAY SYSTEM];

23 (iv) transportation facilities **that** [WHICH] accommodate
24 traveling passengers;

25 (B) excludes other transportation facilities;

26 * **Sec. 17.** AS 35.27.030 is amended by adding a new paragraph to read:

27 (4) "authority" means the Alaska Marine Highway Authority.

28 * **Sec. 18.** AS 36.30.015(g) is amended to read:

29 (g) The **Alaska Marine Highway Authority** [DEPARTMENT OF
30 TRANSPORTATION AND PUBLIC FACILITIES] shall adopt regulations to manage
31 the procurement of supplies, services, professional services, and construction for the

1 repair, maintenance, and reconstruction of vessels, docking facilities, and passenger and
 2 vehicle transfer facilities of the Alaska marine highway system. The regulations must
 3 be based on principles of competitive procurement consistent with this chapter to
 4 satisfy the special requirements of the Alaska marine highway system as determined
 5 by the Alaska Marine Highway Authority [DEPARTMENT OF
 6 TRANSPORTATION AND PUBLIC FACILITIES].

7 * **Sec. 19.** AS 36.30.850(b)(29) is amended to read:

8 (29) construction of new vessels by the Alaska Marine Highway
 9 Authority [DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES]
 10 for the Alaska marine highway system;

11 * **Sec. 20.** AS 36.30.990(1) is amended to read:

12 (1) "agency"

13 (A) means a department, institution, board, commission,
 14 division, authority, public corporation, the Alaska Pioneers' Home, or other
 15 administrative unit of the executive branch of state government;

16 (B) does not include

17 (i) the University of Alaska;

18 (ii) the Alaska Railroad Corporation;

19 (iii) the Alaska Housing Finance Corporation;

20 (iv) a regional Native housing authority created under
 21 AS 18.55.996 or a regional electrical authority created under
 22 AS 18.57.020;

23 (v) the Alaska Marine Highway Authority
 24 [DEPARTMENT OF TRANSPORTATION AND PUBLIC
 25 FACILITIES], in regard to the repair, maintenance, and reconstruction
 26 of vessels, docking facilities, and passenger and vehicle transfer
 27 facilities of the Alaska marine highway system;

28 (vi) the Alaska Aerospace Development Corporation;

29 (vii) the Alaska State Pension Investment Board;

30 (viii) the Alaska Seafood Marketing Institute;

31 * **Sec. 21.** AS 36.90.050(a) is amended to read:

1 (a) Marine vessels owned by the state shall be maintained and repaired at a
 2 shipyard facility located in the state unless the commissioner of the department that
 3 operates the marine vessel determines in writing that there is no shipyard facility
 4 located in the state that is equipped or qualified to perform the particular maintenance
 5 or repair required, or, after taking into consideration the Alaska bidder preference set
 6 out in AS 36.30.170 and the interport differential, as determined by the Alaska **Marine**
 7 **Highway Authority under this section** [MARINE HIGHWAY SYSTEM], that the
 8 proposed cost of the maintenance or repair work is unreasonable. **In making the**
 9 **determination, the commissioner shall consider, and document in writing, the**
 10 **direct and indirect benefits to the economy and labor force in the state that would**
 11 **be derived by performing the vessel maintenance and repair at a facility in the**
 12 **state.** In this subsection, "commissioner of the department that operates the marine
 13 vessel" includes the president of the University of Alaska with regard to a vessel
 14 operated by the university **and the chief executive officer of the Alaska Marine**
 15 **Highway Authority with regard to a vessel operated by the Alaska Marine**
 16 **Highway Authority.**

17 * **Sec. 22.** AS 36.90.050 is amended by adding new subsections to read:

18 (c) When determining whether a marine vessel should be maintained or
 19 repaired at a shipyard facility located in the state, the commissioner of the department
 20 that operates the vessel shall use the lower of the budgeted cost of the maintenance or
 21 repair work or the anticipated actual cost of the maintenance or repair work in
 22 evaluating whether the proposed cost of the maintenance or repair work is reasonable.

23 (d) In this section, "interport differential" includes all costs related to the
 24 performance of the maintenance or repair work of a marine vessel at a shipyard located
 25 outside of the state, including labor and travel costs incurred moving the vessel from
 26 its Alaska home port to the shipyard outside of the state; additional fuel consumption;
 27 cost of consumables including lubricants and other engine, deck, and galley stores;
 28 maintenance costs incurred during running time; cost of crew transfers including airfare
 29 between Alaska and the shipyard; wages; crew room and board; per diem for other
 30 employees; agency overhead; dockage or port charges incurred while the maintenance
 31 or repair work is being conducted; and costs related to loading, bunkering, and

1 preparing for the voyages to and from the vessel's Alaska home port.

2 * **Sec. 23.** AS 37.05.550 is amended to read:

3 **Sec. 37.05.550. Alaska Marine Highway Authority [MARINE HIGHWAY**
 4 **SYSTEM] vessel replacement fund.** (a) There is in the general fund the Alaska
 5 **Marine Highway Authority [MARINE HIGHWAY SYSTEM] vessel replacement**
 6 fund. The fund consists of money appropriated to it by the legislature. Money
 7 appropriated to the fund does not lapse. The Department of Revenue shall manage the
 8 fund. Interest received on money in the fund shall be accounted for separately and may
 9 be appropriated into the fund annually. The legislature may appropriate money from
 10 the fund for refurbishment of existing state ferry vessels, acquisition of additional state
 11 ferry vessels, or replacement of retired or outmoded state ferry vessels.

12 (b) The legislature may appropriate to the fund money received by the state
 13 as Alaska **Marine Highway Authority [MARINE HIGHWAY SYSTEM]** program
 14 receipts or from a settlement or final judicial determination of the Dinkum Sands case
 15 (United States v. Alaska) [AND THE NORTH SLOPE ROYALTY CASE (STATE V.
 16 AMERADA HESS, ET AL.)] and not deposited into the Alaska permanent fund under
 17 AS 37.13.010(a)(1) or (2) or into the public school trust fund under AS 37.14.150.

18 (c) The Department of Revenue shall prepare a written report, no later than the
 19 10th legislative day of each regular legislative session, regarding the earnings of the
 20 Alaska **Marine Highway Authority [MARINE HIGHWAY SYSTEM]** vessel
 21 replacement fund during the prior fiscal year and projected earnings of the Alaska
 22 **Marine Highway Authority [MARINE HIGHWAY SYSTEM]** vessel replacement
 23 fund for the current fiscal year and the next fiscal year. The Department of Revenue
 24 shall notify the legislature that the report is available.

25 * **Sec. 24.** AS 39.20.310(8) is amended to read:

26 (8) persons employed by the **Alaska Marine Highway Authority**
 27 **[DIVISION OF MARINE TRANSPORTATION]** as masters and members of the crews
 28 operating the state ferry system who are covered by collective bargaining agreements
 29 as provided in AS 23.40.040, except as expressly provided by law;

30 * **Sec. 25.** AS 39.25.110(11) is amended to read:

31 (11) the officers and employees of the following boards, commissions,

1 and authorities:

2 (A) [REPEALED

3 (B)] Alaska Permanent Fund Corporation;

4 ~~(B)~~ [(C)] Alaska Industrial Development and Export Authority;

5 ~~(C)~~ [(D)] Alaska Commercial Fisheries Entry Commission;

6 ~~(D)~~ [(E)] Alaska Commission on Postsecondary Education;

7 ~~(E)~~ [(F)] Alaska Aerospace Development Corporation;

8 ~~(F)~~ **Alaska Marine Highway Authority**;

9 * **Sec. 26.** AS 39.30.150(b) is amended to read:

10 (b) Employees of the **Alaska Marine Highway Authority** [DIVISION OF
11 MARINE TRANSPORTATION] included in the public employees' retirement system
12 through the process of collective bargaining under AS 39.35.680(21)(D) may, under
13 the terms of a collective bargaining agreement, utilize contributions made under (a) of
14 this section on their behalf to offset the costs of inclusion in the public employees'
15 retirement system; however,

16 (1) the state is placed under no obligation to continue making
17 contributions under this section if the state resumes participation in the federal social
18 security system;

19 (2) the bargaining agreement must provide a mechanism for satisfying
20 any residual liabilities that might exist if the state resumes participation in the federal
21 social security system; and

22 (3) funds contributed under (a) of this section on behalf of employees
23 who are not covered by maritime union contracts may not be obligated or expended
24 to pay any costs associated with the inclusion of marine transportation employees in
25 the public employees' retirement system.

26 * **Sec. 27.** AS 39.35.680(21) is amended to read:

27 (21) "member" or "employee"

28 (A) means a person eligible to participate in the system and
29 who is covered by the system;

30 (B) includes

31 (i) active member;

- 1 (ii) inactive member;
 2 (iii) vested member;
 3 (iv) deferred vested member;
 4 (v) non-vested member;
 5 (vi) disabled member;
 6 (vii) retired member;
 7 (viii) an elected public officer under AS 39.35.381;
- 8 (C) does not include
- 9 (i) former members;
 10 (ii) persons compensated on a contractual or fee basis;
 11 (iii) casual or emergency workers or nonpermanent
 12 employees as defined in AS 39.25.200;
 13 (iv) persons covered by the Alaska Teachers' Retirement
 14 System except as provided under AS 39.35.131 and 39.35.381, or
 15 persons covered by the optional university retirement program;
 16 (v) employees of the **Alaska Marine Highway**
 17 **Authority** [DIVISION OF MARINE TRANSPORTATION] engaged
 18 in operating the state ferry system who are covered by a union or group
 19 retirement system to which the state makes contributions;
 20 (vi) justices of the supreme court or judges of the court
 21 of appeals or of the superior or district courts of Alaska;
 22 (vii) the administrative director of courts appointed
 23 under art. IV, sec. 16 of the state constitution unless the director
 24 becomes a member under AS 39.35.158; and
 25 (viii) members of the elected public officers' retirement
 26 system (former AS 39.37);
- 27 (D) may include employees of the **Alaska Marine Highway**
 28 **Authority** [DIVISION OF MARINE TRANSPORTATION] excluded under
 29 (C)(v) of this paragraph provided that
- 30 (i) the State of Alaska formally agrees to their inclusion
 31 through the process of collective bargaining; and

(ii) no collective bargaining agreement has the effect of obligating contributions made by the state under AS 39.30.150 in the event the state resumes participation in the federal social security system;

* **Sec. 28.** AS 39.50.200(b) is amended by adding a new paragraph to read:

(56) Alaska Marine Highway Authority (AS 19.55.010).

* **Sec. 29.** AS 44.42.020(a)(1) is amended to read:

(1) plan, design, construct, and maintain all state modes of transportation and transportation facilities and all docks, floats, breakwaters, buildings, and similar facilities, **except that the department is not responsible for planning, design, construction, or maintenance of transportation modes or facilities under the jurisdiction of the Alaska Marine Highway Authority;**

* **Sec. 30.** AS 44.42.020(a)(7) is amended to read:

(7) manage, operate, and maintain state transportation facilities and all docks, floats, breakwaters, and buildings, including all state highways, vessels, railroads, pipelines, airports, and aviation facilities, **except that the department is not responsible for management, operation, or maintenance of transportation facilities, vessels, or equipment under this jurisdiction of the Alaska Marine Highway Authority;**

* **Sec. 31.** TRANSFER OF APPROPRIATIONS, EMPLOYEES, AND ASSETS TO ALASKA MARINE HIGHWAY AUTHORITY. (a) Employees of the Department of Transportation and Public Facilities assigned to the management, operation, and maintenance of the Alaska marine highway system on the effective date of this section are transferred to the Alaska Marine Highway Authority as state employees of the authority. The commissioner of transportation and public facilities shall determine which employees are transferred to the authority. An employee who is transferred to the authority under this subsection shall continue to participate without interruption in the supplemental employee benefits program under AS 39.30.150 - 39.30.180 and in the public employees' retirement system under AS 39.35 if the employee was a participant in these programs on the day before the employee was transferred to the authority.

(b) Nothing in this Act terminates or modifies recognition of an exclusive bargaining

1 representative or a collective bargaining agreement that is in effect on the effective date of this
2 Act. The Alaska Marine Highway Authority shall abide by the collective bargaining
3 agreements that are in effect for employees transferred to the authority on the date of transfer.
4 A collective bargaining agreement covering employees transferred under this Act shall remain
5 in effect for the term of the agreement unless the agreement is renegotiated by the parties.

6 (c) The unexpended and unobligated balances of operating and capital appropriations
7 for the Department of Transportation and Public Facilities, Alaska marine highway system,
8 shall be transferred to the Alaska Marine Highway Authority.

9 (d) The personal property assets and real property assets, including ferries, equipment,
10 buildings, and associated facilities, of the Department of Transportation and Public Facilities,
11 Alaska marine highway system, shall be transferred to the Alaska Marine Highway Authority.

12 * **Sec. 32.** INITIAL APPOINTMENT OF MEMBERS OF THE ALASKA MARINE
13 HIGHWAY AUTHORITY. (a) Notwithstanding AS 19.55.020(b), added by sec. 2 of this
14 Act, and AS 39.05.055, the initially appointed members of the board of directors of the Alaska
15 Marine Highway Authority shall be appointed by the governor to terms as follows: one
16 member serves for one year, one member serves for two years, one member serves for three
17 years, one member serves for four years, and two members serve for five years.

18 (b) The governor shall appoint the initial members of the board of directors of the
19 Alaska Marine Highway Authority, as provided for under AS 19.55.020(a), added by sec. 2
20 of this Act, before December 1, 1997.

21 * **Sec. 33.** AS 19.65.011, 19.65.020, 19.65.030; and AS 39.25.110(16) are repealed.

22 * **Sec. 34.** Section 5, ch. 94, SLA 1992, is repealed.

23 * **Sec. 35.** Sections 1, 21, 22, 32, and 34 of this Act take effect immediately under
24 AS 01.10.070(c).

25 * **Sec. 36.** Except as provided in sec. 35 of this Act, this Act takes effect January 1, 1998.