

CS FOR SENATE BILL NO. 21(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 4/25/97

Referred: Rules

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 directors
9 must be state residents who have experience with maritime affairs. The appointed
10 directors are subject to confirmation by a majority of the members of the legislature
11 in joint session. Appointed directors must include

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

16 (2) two persons who are residents of Southeast Alaska, have a
17 significant high level of experience in the private sector, and are not employees of the
18 authority;

19 (3) a person who is a resident of the Gulf of Alaska area west of Icy
20 Cape, has a significant high level of experience in the private sector, and is not an
21 employee of the authority; and

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

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

29 (c) The directors shall comply with AS 39.50 (conflict of interest). Each
30 director before entering upon the director's duties shall subscribe to an oath to perform
31 the duties of office faithfully, impartially, and justly to the best of the director's ability.

1 A record of the oath shall be filed with the Office of the Governor.

2 (d) An appointed director is entitled to compensation at a rate of \$300 for each
3 day the director is engaged in actual performance of duties under this chapter. The
4 board of directors of the authority may provide by regulation for compensation for
5 partial days for an appointed director. In addition, an appointed director is entitled to
6 per diem and travel expenses authorized for boards and commissions under
7 AS 39.20.180.

8 **Sec. 19.55.030. Officers and quorum.** The directors shall elect one of the
9 appointed directors as chair of the board of directors. The directors shall elect a secre-
10 tary and a treasurer who need not be directors, and the same person may be elected
11 to serve both as secretary and treasurer. Four directors constitute a quorum of the
12 board of directors. Except as provided in AS 19.55.110(a)(7), action may be taken and
13 motions and resolutions adopted by the board of directors at a meeting by the affirma-
14 tive vote of at least four directors. A vacancy in the board of directors of the authority
15 does not impair the right of a quorum to exercise all the powers and perform all the
16 duties of the board.

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

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

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

27 **Article 2. Powers and Duties.**

28 **Sec. 19.55.110. Powers of authority.** (a) In addition to other powers granted
29 in this chapter, the authority may

- 30 (1) sue and be sued;
31 (2) adopt and alter an official seal;

1 (3) adopt and enforce regulations for the conduct of its business and
2 for the use of its services and facilities;

3 (4) maintain offices at a place in the state and at places out of the state
4 that are served by the marine highway system;

5 (5) establish terms and conditions of employment by the authority and
6 conduct or designate a representative to conduct labor negotiations with employees;

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

9 (7) acquire, hold, use, lease, rent, construct, and dispose of personal
10 property for its purposes, except that the authority may dispose of a ferry only on
11 approval by the legislature by law;

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

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

19 (10) adopt regulations under AS 44.62 (Administrative Procedure Act)
20 governing

21 (A) access to and use of services and facilities of the authority;

22 (B) the authority of the officers and crew of vessels of the
23 authority to maintain peace and order as necessary to protect the health, safety,
24 and public welfare of the patrons and employees of the authority;

25 (C) rates, tariffs, and other charges for transportation and other
26 services provided by the authority;

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

29 (12) modify scheduled routes after public hearings.

30 (b) The authority may participate at any stage in any transportation planning
31 process undertaken by the Department of Transportation and Public Facilities. The

1 authority may designate representatives to participate as full members of any
 2 transportation planning committee, working group, planning team, rating panel, or
 3 similar organization established by the department or required for state participation
 4 in federal transportation programs. The department shall include the authority as a full
 5 participant in the departmental transportation planning process, including the statewide
 6 transportation plan and the statewide transportation improvement program.

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

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

10 (2) schedule vessel sailings to optimize the frequency of service to all
 11 ports;

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

15 (4) provide reservation access and marketing information throughout
 16 the state;

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

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

20 (7) recognize Alaska unions and employee associations to the greatest
 21 extent legally possible.

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

24 **Sec. 19.55.140. Comprehensive long-range plan.** The authority, with the
 25 cooperation of the Department of Transportation and Public Facilities, shall prepare a
 26 comprehensive long-range plan for the development and improvement of the Alaska
 27 marine highway system and shall revise and update the plan at least every five years.
 28 The authority shall submit the plan and revisions and updates of the plan to the
 29 legislature.

30 **Article 3. Acquisition of Property.**

31 **Sec. 19.55.210. Acquisition of land and easements.** The authority, as part

1 of the cost of constructing, maintaining, or improving the marine highway system, may
 2 acquire by purchase, gift, or exchange land in fee simple or easements that it considers
 3 necessary and reasonable for either temporary or permanent public use. By the same
 4 means, the authority may obtain material, including clay, gravel, sand, or rock, or the
 5 land necessary to obtain the material, including access to it. The authority may acquire
 6 the land or materials notwithstanding the fact that title to it is vested in the state or a
 7 department, agency, commission, or institution of the state.

8 **Sec. 19.55.220. Authority to purchase property for the purpose of**
 9 **exchange.** When a majority of the directors of the authority declares that it is in the
 10 interest of the state, the authority may acquire by purchase, gift, or exchange privately
 11 or publicly owned land or an interest in land for the purpose of exchanging the land
 12 for privately or publicly owned land that the authority is authorized by law to acquire.

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

18 (b) The authority may transfer land not considered necessary for use in the
 19 marine highway system to the Department of Natural Resources for disposal. The
 20 proceeds of disposal by the Department of Natural Resources shall be credited to the
 21 funds from which the purchase was originally made.

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

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

29 (b) The authority may connect ferry terminal facilities with local highway
 30 systems.

31 (c) The authority may adopt regulations governing the use of ferry terminal

1 facilities by the public that it considers necessary and proper in the public interest.
 2 The authority may charge a fee for the use of ferry terminal facilities, whether the use
 3 is under a permit or otherwise, and whether the use is by one or more individuals.

4 (d) A ferry terminal facility in existence and serving the public on January 1,
 5 1959, is not subject to (a) - (c) of this section.

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

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

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

11 **Article 5. Budget and Revenue.**

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

16 **Article 6. General Provisions.**

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

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

25 **Sec. 19.55.990. Definitions.** In this chapter, unless the context requires
 26 otherwise,

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

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

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

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

2 (a) An animal may not be transported into the state aboard a ferry operated by
3 the Alaska Marine Highway Authority [DIVISION OF MARINE
4 TRANSPORTATION OF THE DEPARTMENT OF TRANSPORTATION AND
5 PUBLIC FACILITIES] unless the animal's owner, custodian, or attendant possesses
6 a valid health certificate for the animal. This certificate shall accompany the animal
7 or be in the possession of the animal's owner, custodian, or attendant aboard the ferry
8 and shall be presented when requested by an employee of the state ferry system at the
9 time the owner, custodian, or attendant makes arrangements to transport the animal,
10 boards the ferry with the animal, or at any other time.

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

12 (a) A permittee may not carry a concealed handgun into
13 (1) a law enforcement or correctional facility;
14 (2) or on school grounds or a school bus; in this paragraph, "school
15 grounds" has the meaning given in AS 11.71.900;
16 (3) a courthouse or a courtroom of this state, unless the permittee
17 (A) is a judge; or
18 (B) has been authorized to possess a concealed handgun by a
19 judge presiding at that courthouse or courtroom;
20 (4) a building housing only state or federal offices or the offices of a
21 political subdivision of the state, except as authorized under (3) of this subsection;
22 (5) an office of the state, federal government, or of a political
23 subdivision of the state that is not located in a building described in (4) of this
24 subsection;
25 (6) a passenger loading or unloading area of an airline terminal;
26 (7) a vessel of the Alaska Marine Highway Authority [MARINE
27 HIGHWAY SYSTEM];
28 (8) a facility providing services to victims of domestic violence or
29 sexual assault;
30 (9) a residence where notice that carrying a concealed handgun is
31 prohibited has been given by the posting of a conspicuous notice or by oral statement

1 by the resident to the permittee;

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

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

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

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

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

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

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

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

20 (3) the state's tourism industry is greatly enhanced by a dependable
21 marine highway transportation network; and

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (2) money that is appropriated to the [ALASKA MARINE HIGHWAY
20 SYSTEM] fund by the legislature in an amount that is consistent from year to year and
21 is the amount necessary, after consideration of gross revenue, to provide stable services
22 to the public consistent with the provisions of AS 19.65.050(b)(4); **unless otherwise**
23 **provided by the legislature, appropriations to the fund under this paragraph** [,
24 WHICH APPROPRIATIONS] are not one-year appropriations and [THE BALANCES
25 OF WHICH] do not lapse under AS 37.25.010; and

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

31 (b) Nothing in **AS 19.65.050 - 19.65.100** [THIS CHAPTER] exempts money

1 deposited into the [ALASKA MARINE HIGHWAY SYSTEM] fund from the
 2 requirements of AS 37.07 (Executive Budget Act) or dedicates that money for a
 3 specific purpose.

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

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

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

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

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

20 (3) projections of the gross revenue to be generated during the next
 21 **fiscal year** [ANNUAL OPERATING CYCLE]; and

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

24 (c) The Department of Revenue shall prepare a written report, no later than the
 25 10th legislative day of each regular legislative session, regarding the earnings on gross
 26 revenue of the **authority** [ALASKA MARINE HIGHWAY SYSTEM] that was
 27 deposited into the Alaska **Marine Highway Authority** [MARINE HIGHWAY
 28 SYSTEM] fund during the prior fiscal year and projected earnings on gross revenue
 29 of the **authority** [ALASKA MARINE HIGHWAY SYSTEM] that is projected to be
 30 deposited into the Alaska **Marine Highway Authority** [MARINE HIGHWAY
 31 SYSTEM] fund for the current fiscal year and the next fiscal year. The Department

1 of Revenue shall notify the legislature that the report is available.

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

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

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

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

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

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

19 (c) The unexpended and unobligated balance of money appropriated from the
20 [ALASKA MARINE HIGHWAY SYSTEM] fund lapses into the [ALASKA MARINE
21 HIGHWAY SYSTEM] fund at the end of the fiscal year for which it was appropriated.

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

23 **Sec. 19.65.100. DEFINITIONS.** In AS 19.65.050 - 19.65.100,

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

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

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

30 (4) "gross revenue" means all money, except money refunded to ticket
31 holders and others for unused services, that is generated from the operation of the

1 authority [ALASKA MARINE HIGHWAY SYSTEM], including that derived from
 2 vessel operations and uses of authority [ALASKA MARINE HIGHWAY SYSTEM]
 3 facilities.

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

5 **Sec. 23.40.040. Collective bargaining agreement.** The Alaska Marine
 6 Highway Authority [COMMISSIONER OF TRANSPORTATION AND PUBLIC
 7 FACILITIES] or an authorized representative, in accordance with AS 23.40.020 -
 8 23.40.030, may negotiate and enter into collective bargaining agreements concerning
 9 wages, hours, working conditions, and other employment benefits with the employees
 10 of the authority [DIVISION OF MARINE TRANSPORTATION] engaged in
 11 operating the state ferry system as masters or members of the crews of vessels or their
 12 bargaining agent. [A COLLECTIVE BARGAINING AGREEMENT IS NOT FINAL
 13 WITHOUT THE CONCURRENCE OF THE COMMISSIONER OF
 14 TRANSPORTATION AND PUBLIC FACILITIES.] The authority
 15 [COMMISSIONER OF TRANSPORTATION AND PUBLIC FACILITIES] may make
 16 provision in the collective bargaining agreement for the settlement of labor disputes
 17 by arbitration.

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

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

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

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

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

30 (c) In this section, "public facilities" includes vessels owned by the state and
 31 operated by the Alaska Marine Highway Authority [DIVISION OF MARINE

1 TRANSPORTATION OF THE DEPARTMENT AS A PART OF THE ALASKA
 2 MARINE HIGHWAY SYSTEM]. All ferries owned or operated by the state shall be
 3 equipped with elevators or other passenger lifting equipment, ramps, or other facilities
 4 and devices to ensure that these vessels are accessible to and usable by physically
 5 handicapped, aged, or infirm passengers. In this subsection, "accessible to and usable
 6 by" means that a physically handicapped, aged, or infirm passenger can board,
 7 disembark, and move between decks and about the public areas aboard a state ferry
 8 with personal comfort and safety, and with safety to, other passengers and members
 9 of the crew.

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

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

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

22 (c) At least one percent or, in the case of a rural school facility, at least one-
 23 half of one percent of the construction cost of a building or facility approved for
 24 construction by the legislature after September 1, 1977, will be reserved for the
 25 following purposes: the design, construction, mounting, and administration of works
 26 of art in a school, office building, court building, [VESSEL OF THE MARINE
 27 HIGHWAY SYSTEM,] or other building or facility **that** [WHICH] is subject to
 28 substantial public use.

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

30 **Sec. 35.27.025. Application to Alaska Marine Highway Authority.** This
 31 chapter applies to the Alaska Marine Highway Authority. Compliance with this

1 chapter is the sole responsibility of the authority with respect to the buildings and
2 facilities of the authority.

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

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

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

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

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

10 (iii) [BOATS AND VESSELS OF THE MARINE
11 HIGHWAY SYSTEM;

12 (iv)] transportation facilities **that** [WHICH]
13 accommodate traveling passengers;

14 (B) excludes other transportation facilities **and boats and**
15 **vessels of the authority**;

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

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

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

19 (g) The **Alaska Marine Highway Authority** [DEPARTMENT OF
20 TRANSPORTATION AND PUBLIC FACILITIES] shall adopt regulations to manage
21 the procurement of supplies, services, professional services, and construction for the
22 repair, maintenance, and reconstruction of vessels, docking facilities, and passenger and
23 vehicle transfer facilities of the Alaska marine highway system. The regulations must
24 be based on principles of competitive procurement consistent with this chapter to
25 satisfy the special requirements of the Alaska marine highway system as determined
26 by the **Alaska Marine Highway Authority** [DEPARTMENT OF
27 TRANSPORTATION AND PUBLIC FACILITIES].

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

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

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

2 (1) "agency"

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

6 (B) does not include

7 (i) the University of Alaska;

8 (ii) the Alaska Railroad Corporation;

9 (iii) the Alaska Housing Finance Corporation;

10 (iv) a regional Native housing authority created under
11 AS 18.55.996 or a regional electrical authority created under
12 AS 18.57.020;

13 (v) the Alaska Marine Highway Authority
14 [DEPARTMENT OF TRANSPORTATION AND PUBLIC
15 FACILITIES], in regard to the repair, maintenance, and reconstruction
16 of vessels, docking facilities, and passenger and vehicle transfer
17 facilities of the Alaska marine highway system;

18 (vi) the Alaska Aerospace Development Corporation;

19 (vii) the Alaska State Pension Investment Board;

20 (viii) the Alaska Seafood Marketing Institute;

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

22 (a) Marine vessels owned by the state shall be maintained and repaired at a
23 shipyard facility located in the state unless the commissioner of the department that
24 operates the marine vessel determines in writing that there is no shipyard facility
25 located in the state that is equipped or qualified to perform the particular maintenance
26 or repair required, or, after taking into consideration the Alaska bidder preference set
27 out in AS 36.30.170 and the interport differential, as determined by the Alaska Marine
28 Highway Authority under this section [MARINE HIGHWAY SYSTEM], that the
29 proposed cost of the maintenance or repair work is unreasonable. In making the
30 determination, the commissioner shall consider, and document in writing, the
31 direct and indirect benefits to the economy and labor force in the state that would

1 be derived by performing the vessel maintenance and repair at a facility in the
 2 state. A detailed list of the costs and factors considered in calculating the
 3 interport differential must be provided to each person who expresses an interest
 4 in submitting a bid to perform maintenance or repair work on a marine vessel
 5 owned by the state. [IN THIS SUBSECTION, "COMMISSIONER OF THE
 6 DEPARTMENT THAT OPERATES THE MARINE VESSEL" INCLUDES THE
 7 PRESIDENT OF THE UNIVERSITY OF ALASKA WITH REGARD TO A VESSEL
 8 OPERATED BY THE UNIVERSITY.]

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

10 (c) The commissioner of a department that operates a marine vessel shall adopt
 11 regulations establishing the criteria that the department shall use to determine whether
 12 the cost of maintenance or repair work at a shipyard facility located in the state is
 13 reasonable under (a) of this section. The commissioner shall designate by regulation
 14 the designated base port for each vessel operated by the department. A vessel's
 15 designated base port is the vessel's delivery and redelivery port. The Alaska Marine
 16 Highway Authority shall adopt regulations establishing the criteria that the authority
 17 shall use in calculating the interport differential under this section. The criteria for
 18 calculating the interport differential must include costs incurred from the time that the
 19 vessel leaves the vessel's designated base port to enter the shipyard facility until the
 20 time that the vessel returns to the designated base port from the shipyard facility.

21 (d) In this section,

22 (1) "commissioner of the department that operates the marine vessel"
 23 includes the president of the University of Alaska with regard to a vessel operated by
 24 the university and the chief executive officer of the Alaska Marine Highway Authority
 25 with regard to a vessel operated by the Alaska Marine Highway Authority;

26 (2) "interport differential" includes all costs related to the performance
 27 of the maintenance or repair work of a marine vessel at a shipyard located outside of
 28 the state, including travel costs incurred moving the vessel from its designated base
 29 port to the shipyard outside of the state; additional fuel consumption; cost of
 30 consumables including lubricants and other engine and deck stores; maintenance costs
 31 incurred during running time; cost of crew transfers including airfare between Alaska

1 and the shipyard; wages in travel status; crew room and board; and other interport
2 costs identified by the Alaska Marine Highway Authority.

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

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

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

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

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

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

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

1 (11) the officers and employees of the following boards, commissions,
2 and authorities:

3 (A) [REPEALED

4 (B)] Alaska Permanent Fund Corporation;

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

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

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

8 ~~(F)~~ [(F)] Alaska Aerospace Development Corporation;

9 **(F) Alaska Marine Highway Authority;**

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

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

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

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

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

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

28 (21) "member" or "employee"

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

31 (B) includes

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

1 through the process of collective bargaining; and

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

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

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

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

9 (1) plan, design, construct, and maintain all state modes of
 10 transportation and transportation facilities and all docks, floats, breakwaters, buildings,
 11 and similar facilities, **except that departmental planning, design, construction, or**
 12 **maintenance of transportation modes or facilities under the jurisdiction of the**
 13 **Alaska Marine Highway Authority is subject to direction by the Alaska Marine**
 14 **Highway Authority;**

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

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

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

1 AS 39.35 if the employee was a participant in these programs on the day before the employee
2 was transferred to the authority.

3 (b) During the term of a collective bargaining agreement that applies to employees
4 who are transferred to the Alaska Marine Highway Authority and that is in effect on the
5 effective date of this section, nothing in this Act terminates or modifies recognition of the
6 exclusive bargaining representative for those employees or that collective bargaining
7 agreement. The Alaska Marine Highway Authority shall abide by the collective bargaining
8 agreements that are in effect for employees transferred to the authority on the date of transfer.
9 A collective bargaining agreement covering employees transferred under this Act shall remain
10 in effect for the term of the agreement unless the agreement is renegotiated by the Alaska
11 Marine Highway Authority and the exclusive bargaining representative. The legislature finds
12 that the community of interest of shore-based employees of the Alaska Marine Highway
13 Authority is substantially different from the community of interest of the employees of the
14 executive branch in the classified service. Accordingly, the shore-based employees of the
15 Alaska Marine Highway Authority are severed from their recognized collective bargaining
16 units in effect on the effective date of this section on expiration of the collective bargaining
17 agreement in effect on the effective date of this section for their unit. The severed units shall
18 continue as units of the Alaska Marine Highway Authority with the exclusive representative
19 in place at the time of the severance until actions under AS 23.40.070 - 23.40.260 (Public
20 Employment Relations Act) change the units or representatives.

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

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

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

1 years, one member serves for four years, and two members serve for five years.

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

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

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

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

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