

CS FOR HOUSE BILL NO. 320(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 4/8/00
Referred: Rules

Sponsor(s): REPRESENTATIVE HARRIS

A BILL

FOR AN ACT ENTITLED

1 "An Act approving the application for and acceptance of a grant of certain
2 federal land by the Alaska Railroad Corporation; approving the conveyance of the
3 entire interest in land appurtenant to the Whittier DeLong Dock by the Alaska
4 Railroad Corporation; relating to use and disposition of the Whittier DeLong Dock
5 and associated land; prohibiting the Alaska Railroad Corporation and the City
6 of Whittier from granting any special right, privilege, or preference to a third
7 party to provide management services for the DeLong Dock; providing that
8 contracts for management of the DeLong Dock by a third party shall be
9 awarded only under competitive procurement procedures established by the
10 Alaska Railroad Corporation and the City of Whittier; and providing for an
11 effective date."

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

1 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new
2 section to read:

3 **FINDINGS.** The legislature finds that the Whittier DeLong Dock and the associated
4 land are required for essential railroad purposes and that the acquisition of the dock and
5 associated land by the Alaska Railroad Corporation is in the best interests of the state.

6 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section
7 to read:

8 **APPROVAL.** The legislature authorizes the Alaska Railroad Corporation to apply for
9 and to accept a grant of a parcel of real property in Whittier, consisting of approximately 6.13
10 acres and the appurtenant facility known as the DeLong Dock, from the federal government
11 under terms of sec. 2837(b) - (e), Public Law 106-65. This section constitutes approval for
12 the Alaska Railroad Corporation to apply for and to accept a grant of federal land within a
13 municipality in accordance with AS 42.40.285(5).

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

16 **USE AND DISPOSITION OF THE WHITTIER DELONG DOCK AND**
17 **ASSOCIATED LAND.** (a) Within three months after the conveyance of the real property
18 described in sec. 2 of this Act from the United States to the Alaska Railroad Corporation, the
19 corporation shall reconvey ownership of the uplands, tidelands, and submerged lands to the
20 City of Whittier. The corporation shall retain ownership of the DeLong Dock and the railroad
21 tracks and rail bed located on the uplands.

22 (b) Notwithstanding (c) - (h) of this section, the corporation and the City of Whittier
23 are directed and authorized to enter into reciprocal leases for the DeLong Dock and
24 appurtenant land and to enter into a management agreement to operate the DeLong Dock and
25 appurtenant land as a single unit consistent to the extent possible with the terms contained in
26 the document entitled "Management Terms for DeLong Dock" and signed by the corporation
27 and the City of Whittier. Neither the corporation nor the City of Whittier may grant any
28 special right, privilege, or preference to a third party to provide management services at the
29 DeLong Dock. A contract for management of the DeLong Dock by a third party shall be
30 awarded only under competitive procurement procedures established by both parties in
31 accordance with applicable state law. If the management agreement is not signed by both the

1 corporation and the City of Whittier within six months after the real property described in sec.
2 2 of this Act is conveyed by the United States to the corporation, then the corporation and the
3 City of Whittier shall comply with (c) - (h) of this section.

4 (c) In exchange for ownership of the land described in (a) of this section, the City of
5 Whittier shall

6 (1) subdivide the land into two parcels that are separated by the centerline of
7 the DeLong Dock;

8 (2) grant a lease to the parcel of land north of the centerline of the DeLong
9 Dock to the corporation.

10 (d) The corporation shall grant a lease to that portion of the DeLong Dock south of
11 the centerline of the dock to the City of Whittier.

12 (e) The leases described in (c) and (d) of this section must include the following
13 provisions:

14 (1) each lease must be for a minimum term of 20 years;

15 (2) the rental rate for each lease is \$1.00 a year;

16 (3) the corporation shall have rail access to the dock, and the City of Whittier
17 shall have a usable road to lands at and beyond the dock;

18 (4) neither the corporation nor the City of Whittier may be required by the
19 lease to indemnify the other party for its own actions or the actions of a contractor,
20 subcontractor, or sublessee; liability of the parties shall be governed by the tort law of the
21 State of Alaska;

22 (5) the corporation and the City of Whittier may assign or sublease its interest
23 in the lease without the approval of the other party;

24 (6) the corporation and the City of Whittier shall agree to diligently work
25 together in good faith to resolve disputes and to collaborate with each other in developing a
26 management agreement for operation of the DeLong Dock facility with the goal of operating
27 the facility as a single entity for economic development purposes;

28 (7) the leases may not be subject to termination for a breach of a lease;

29 (8) the leases may be amended by mutual agreement of the corporation and
30 the City of Whittier.

31 (f) The corporation and the City of Whittier shall expeditiously and in good faith

1 undertake and complete the transactions described in this section under the terms and
2 conditions set out in this section and under such other terms and conditions as are mutually
3 satisfactory.

4 (g) Pending the completion of the transactions described in this section, the
5 corporation and the City of Whittier shall enter into an interim agreement for the use of the
6 Whittier DeLong Dock and associated land consistent with the provisions of this section.

7 (h) During the five-year period beginning on the date that the real property described
8 in sec. 2 of this Act is conveyed from the United States to the corporation, the property shall
9 be used for economic development of the Whittier and Prince William Sound areas, including
10 freight transportation, tourism, boat moorage for day cruiser or large ocean-going cruise ships,
11 fishing and fish processing, and other uses.

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

14 **TRANSFER OF CERTAIN STATE LAND AT WHITTIER.** In the event that all or
15 a portion of the land described in sec. 2837(b), Public Law 106-65, is transferred to the State
16 of Alaska or an agency of the State of Alaska other than the Alaska Railroad Corporation, the
17 State of Alaska shall expeditiously reconvey all land and improvements received under sec.
18 2837(b) - (e), Public Law 106-65, to the City of Whittier.

19 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section
20 to read:

21 **APPROVAL.** The legislature authorizes the Alaska Railroad Corporation to transfer
22 its entire interest in the land described in sec. 3(a) of this Act in accordance with sec. 3 of this
23 Act. This section constitutes legislative approval for the corporation to convey its entire
24 interest in that land under AS 42.40.285(1).

25 * **Sec. 6.** This Act takes effect immediately under AS 01.10.070(c).