

SENATE BILL NO. 130

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY SENATORS TAYLOR, Austerman, Cowdery

Introduced: 3/9/01

Referred: Transportation, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing the Alaska Marine Highway Authority; and providing for an**
2 **effective date."**

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

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

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

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

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

13 **Article 1. Creation and Organization.**

14 **Sec. 19.55.010. Alaska Marine Highway Authority.** (a) The Alaska Marine

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

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

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

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

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

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

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

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

30 (c) The directors shall comply with AS 39.50 (public official financial
 31 disclosure). Each director before entering upon the director's duties shall subscribe to

1 an oath to perform the duties of office faithfully, impartially, and justly to the best of
 2 the director's ability. A record of the oath shall be filed with the Office of the
 3 Governor.

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

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

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

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

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

29 **Article 2. Powers and Duties.**

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

- 1 (1) sue and be sued;
- 2 (2) adopt and alter an official seal;
- 3 (3) adopt and enforce regulations for the conduct of its business and
4 for the use of its services and facilities;
- 5 (4) maintain offices at a place in the state and at places out of the state
6 that are served by the marine highway system;
- 7 (5) establish terms and conditions of employment by the authority and
8 conduct or designate a representative to conduct labor negotiations with employees;
- 9 (6) subject to appropriation by the legislature, acquire, hold, use, and
10 dispose of its income, revenues, funds, and money;
- 11 (7) acquire, hold, use, lease, rent, construct, and dispose of personal
12 property for its purposes, except that the authority may dispose of a ferry only on
13 approval by the legislature by law;
- 14 (8) acquire, hold, use, lease, or rent real property and dispose of real
15 property under AS 19.55.230;
- 16 (9) operate, maintain, improve, and extend a system of ferries
17 connecting with the public roads and highways of the state and including the boats,
18 vessels, wharves, docks, approaches, landings, and appurtenances the authority
19 determines necessary or desirable for safe and efficient operation of the ferry system
20 to best serve the public;
- 21 (10) adopt regulations under AS 44.62 (Administrative Procedure Act)
22 governing
- 23 (A) access to and use of services and facilities of the authority;
- 24 (B) the authority of the officers and crew of vessels of the
25 authority to maintain peace and order as necessary to protect the health, safety,
26 and public welfare of the patrons and employees of the authority;
- 27 (C) rates, tariffs, and other charges for transportation and other
28 services provided by the authority;
- 29 (11) do all acts and things necessary, convenient, or desirable to carry
30 out the powers expressly granted or necessarily implied in this chapter;
- 31 (12) modify scheduled routes after public hearings.

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

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

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

12 (2) schedule vessel sailings to optimize the frequency of service to all
 13 ports;

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

17 (4) provide reservation access and marketing information throughout
 18 the state;

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

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

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

24 **Sec. 19.55.130. Use of name authorized.** The authority is authorized to
 25 operate its ferry system under the name "Alaska marine highway system."

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

1 **Article 3. Acquisition of Property.**

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

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

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

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

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

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

31 (b) The authority may connect ferry terminal facilities with local highway

1 systems.

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

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 a historical vessel that used the rivers of the state.

11 **Sec. 19.55.330. Transportation of members of the Alaska organized**
12 **militia.** To the extent that space is available, the authority shall provide free
13 transportation on vessels of the Alaska marine highway system for a member of the
14 Alaska National Guard, the Alaska Naval Militia, or the Alaska State Defense Force
15 who is en route to or from drill, training, or other official militia activities.

16 **Article 5. Budget and Revenue.**

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

21 **Article 6. General Provisions.**

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

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

30 **Sec. 19.55.990. Definitions.** In this chapter, unless the context requires
31 otherwise,

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

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

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

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

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

16 * **Sec. 4.** AS 19.65.050 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 * **Sec. 5.** AS 19.65.060 is amended to read:

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

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

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

31 (3) any other money that is appropriated to the [ALASKA MARINE

1 HIGHWAY SYSTEM] fund by the legislature; **unless otherwise provided by the**
 2 **legislature, appropriations to the fund under this paragraph** [, WHICH
 3 APPROPRIATIONS] are not one-year appropriations and [THE BALANCES OF
 4 WHICH] do not lapse under AS 37.25.010.

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

9 * **Sec. 6.** AS 19.65.070 is amended to read:

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

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

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

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

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

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

29 (c) The Department of Revenue shall prepare a written report, no later than the
 30 10th legislative day of each regular legislative session, regarding the earnings on gross
 31 revenue of the **authority** [ALASKA MARINE HIGHWAY SYSTEM] that was

1 deposited into the Alaska **Marine Highway Authority** [MARINE HIGHWAY
 2 SYSTEM] fund during the prior fiscal year and projected earnings on gross revenue of
 3 the **authority** [ALASKA MARINE HIGHWAY SYSTEM] that is projected to be
 4 deposited into the Alaska **Marine Highway Authority** [MARINE HIGHWAY
 5 SYSTEM] fund for the current fiscal year and the next fiscal year. The Department of
 6 Revenue shall notify the legislature that the report is available.

7 * **Sec. 7.** AS 19.65.080 is amended to read:

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

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

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

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

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

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

28 * **Sec. 8.** AS 19.65.100 is amended to read:

29 **Sec. 19.65.100. Definitions.** In AS 19.65.050 - 19.65.100,

30 (1) **"authority" means the Alaska Marine Highway Authority**
 31 **["ANNUAL OPERATING CYCLE" MEANS THE ANNUAL STATE FISCAL**

1 YEAR BEGINNING ON JULY 1 AND ENDING AT MIDNIGHT ON THE
2 FOLLOWING JUNE 30];

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

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

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

10 * **Sec. 9.** AS 23.40.040 is amended to read:

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

24 * **Sec. 10.** AS 29.35.722 is amended to read:

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

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

31 (2) enter into an agreement with an authority under which the authority

1 would operate the Alaska marine highway system, the Anchorage or Fairbanks
 2 international airports, or any other state facility, system, or function that employs one
 3 or more employees.

4 * **Sec. 11.** AS 35.10.015(c) is amended to read:

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

16 * **Sec. 12.** AS 35.10.015(d) is amended to read:

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

27 * **Sec. 13.** AS 35.27.020(c) is amended to read:

28 (c) At least one percent or, in the case of a rural school facility, at least one-
 29 half of one percent of the construction cost of a building or facility approved for
 30 construction by the legislature after September 1, 1977, will be reserved for the
 31 following purposes: the design, construction, mounting and administration of works of

1 art in a school, office building, court building, [VESSEL OF THE MARINE
2 HIGHWAY SYSTEM,] or other building or facility **that** [WHICH] is subject to
3 substantial public use.

4 * **Sec. 14.** AS 35.27 is amended by adding a new section to read:

5 **Sec. 35.27.025. Application to Alaska Marine Highway Authority.** This
6 chapter applies to the Alaska Marine Highway Authority. Compliance with this
7 chapter is the sole responsibility of the authority with respect to the buildings and
8 facilities of the authority.

9 * **Sec. 15.** AS 35.27.030(1) is amended to read:

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

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

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

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

16 (iii) [BOATS AND VESSELS OF THE MARINE
17 HIGHWAY SYSTEM;

18 (iv)] transportation facilities **that** [WHICH]
19 accommodate traveling passengers;

20 (B) excludes other transportation facilities **and boats and**
21 **vessels of the authority**;

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

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

24 * **Sec. 17.** AS 36.30.015(g) is amended to read:

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

1 by the Alaska Marine Highway Authority [DEPARTMENT OF
2 TRANSPORTATION AND PUBLIC FACILITIES].

3 * **Sec. 18.** AS 36.30.850(b)(29) is amended to read:

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

7 * **Sec. 19.** AS 36.30.990(1) is amended to read:

8 (1) "agency"

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

12 (B) does not include

13 (i) the University of Alaska;

14 (ii) the Alaska Railroad Corporation;

15 (iii) the Alaska Housing Finance Corporation;

16 (iv) a regional Native housing authority created under
17 AS 18.55.996 or a regional electrical authority created under
18 AS 18.57.020;

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

24 (vi) the Alaska Aerospace Development Corporation;

25 (vii) the Alaska State Pension Investment Board;

26 (viii) the Alaska Seafood Marketing Institute;

27 * **Sec. 20.** AS 36.90.049(e)(1) is amended to read:

28 (1) "commissioner of the department that operates the marine vessel"
29 includes the president of the University of Alaska with regard to a vessel operated by
30 the university and the chief executive officer of the Alaska Marine Highway
31 Authority with regard to a vessel operated by the Alaska Marine Highway

1 **Authority:**

2 * **Sec. 21.** 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 as
13 Alaska **Marine Highway Authority [MARINE HIGHWAY SYSTEM]** program
14 receipts [OR FROM A SETTLEMENT OR FINAL JUDICIAL DETERMINATION
15 OF THE DINKUM SANDS CASE (UNITED STATES v. ALASKA) AND THE
16 NORTH SLOPE ROYALTY CASE (STATE v. AMERADA HESS, ET AL.) AND
17 NOT DEPOSITED INTO THE ALASKA PERMANENT FUND UNDER
18 AS 37.13.010(a)(1) OR (2) OR INTO THE PUBLIC SCHOOL TRUST FUND
19 UNDER AS 37.14.150].

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

27 * **Sec. 22.** AS 39.20.310(8) is amended to read:

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

1 * **Sec. 23.** AS 39.25.110(11) is amended to read:

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

4 (A) [REPEALED

5 (B)] Alaska Permanent Fund Corporation;

6 **(B)** [(C)] Alaska Industrial Development and Export Authority;

7 **(C)** [(D)] Alaska Commercial Fisheries Entry Commission;

8 **(D)** [(E)] Alaska Commission on Postsecondary Education;

9 **(E)** [(F)] Alaska Aerospace Development Corporation;

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

11 * **Sec. 24.** AS 39.30.150(b) is amended to read:

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

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

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

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

28 * **Sec. 25.** AS 39.35.680(21) is amended to read:

29 (21) "member" or "employee"

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

1 (B) includes

- 2 (i) an active member;
- 3 (ii) an inactive member;
- 4 (iii) a vested member;
- 5 (iv) a deferred vested member;
- 6 (v) a nonvested member;
- 7 (vi) a disabled member;
- 8 (vii) a retired member;
- 9 (viii) an elected public officer under AS 39.35.381;

10 (C) does not include

- 11 (i) former members;
- 12 (ii) persons compensated on a contractual or fee basis;
- 13 (iii) casual or emergency workers or nonpermanent
14 employees as defined in AS 39.25.200;
- 15 (iv) persons covered by the Alaska Teachers'
16 Retirement System except as provided under AS 39.35.131 and
17 39.35.381, or persons covered by the optional university retirement
18 program;
- 19 (v) employees of the Alaska Marine Highway
20 Authority [DIVISION OF MARINE TRANSPORTATION] engaged
21 in operating the state ferry system who are covered by a union or group
22 retirement system to which the state makes contributions;
- 23 (vi) justices of the supreme court or judges of the court
24 of appeals or of the superior or district courts of Alaska;
- 25 (vii) the administrative director of courts appointed
26 under art. IV, sec. 16 of the state constitution unless the director
27 becomes a member under AS 39.35.158;
- 28 (viii) members of the elected public officers' retirement
29 system (former AS 39.37); and
- 30 (ix) contractual employees of the legislative branch of
31 state government under AS 24.10.060(f);

1 (D) may include employees of the Alaska Marine Highway
 2 Authority [DIVISION OF MARINE TRANSPORTATION] excluded under
 3 (C)(v) of this paragraph provided that

4 (i) the State of Alaska formally agrees to their inclusion
 5 through the process of collective bargaining; and

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

10 * **Sec. 26.** AS 39.50.200(b) is amended by adding a new paragraph to read:

11 (57) Alaska Marine Highway Authority (AS 19.55.010).

12 * **Sec. 27.** AS 41.23.080(c) is amended to read:

13 (c) Subject to a finding of public need by the Department of Natural
 14 Resources, the development of transportation facilities including roads, expansion of
 15 the existing boat launching ramp and related parking, highways, and ferry terminals by
 16 the Department of Transportation and Public Facilities or the Alaska Marine
 17 Highway Authority and electric power transmission facilities and other public
 18 utilities within the land described in (a) of this section is consistent with the purposes
 19 of AS 41.23.050 - 41.23.080.

20 * **Sec. 28.** AS 43.40.010(g) is amended to read:

21 (g) The proceeds of the revenue from the tax on all motor fuels, except as
 22 provided in (e), (f), and (j) of this section, shall be deposited in a special highway fuel
 23 tax account in the state general fund. The legislature may appropriate funds from the
 24 account [IT] for expenditure by the Department of Transportation and Public
 25 Facilities or the Alaska Marine Highway Authority directly or as matched with
 26 available federal-aid highway money for maintenance of highways, construction of
 27 highway projects and ferries included in the program provided for in AS 19.10.150,
 28 including approaches, appurtenances and related facilities and acquisition of rights-of-
 29 way or easements, and other highway and marine highway system costs including
 30 surveys, administration, and related matters. All departments of the state government
 31 authorized to spend funds collected from taxes imposed by this chapter shall perform,

1 when feasible, all construction or reconstruction projects by contract after the projects
 2 have been advertised for competitive bids, except that, when feasible, arrangements
 3 shall be made with political subdivisions to carry out the construction or
 4 reconstruction projects. If it is not feasible for the work to be performed by state
 5 engineering forces, the commissioner of transportation and public facilities may
 6 contract on a professional basis with private engineering firms for road design, bridge
 7 design, and services in connection with surveys. If more than one private engineering
 8 firm is available for the work, the contracts shall be entered into on a negotiated basis.

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

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

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

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

24 * **Sec. 31.** The uncodified law of the State of Alaska enacted in sec. 1(a), ch. 88, SLA 2000,
 25 is amended to read:

26 (a) In order to provide more frequent and efficient marine ferry service to the
 27 residents of Prince of Wales Island and adjacent areas of southern Southeast Alaska,
 28 the legislature authorizes the **Alaska Marine Highway Authority** [DEPARTMENT
 29 OF TRANSPORTATION AND PUBLIC FACILITIES] to enter into an agreement
 30 with the Inter-Island Ferry Authority regarding the operation of the Clarke Bay
 31 Terminal, Prince of Wales Island.

1 * **Sec. 32.** TRANSFER OF APPROPRIATIONS, EMPLOYEES, AND ASSETS TO
 2 ALASKA MARINE HIGHWAY AUTHORITY. (a) Employees of the Department of
 3 Transportation and Public Facilities assigned to the management, operation, and maintenance
 4 of the Alaska marine highway system on the effective date of this section are transferred to
 5 the Alaska Marine Highway Authority as state employees of the authority. The commissioner
 6 of transportation and public facilities shall determine which employees are transferred to the
 7 authority. An employee who is transferred to the authority under this subsection shall
 8 continue to participate without interruption in the supplemental employee benefits program
 9 under AS 39.30.150 - 39.30.180 and in the public employees' retirement system under
 10 AS 39.35 if the employee was a participant in these programs on the day before the employee
 11 was transferred to the authority.

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

30 (c) The unexpended and unobligated balances of operating and capital appropriations
 31 for the Department of Transportation and Public Facilities, Alaska marine highway system,

1 shall be transferred to the Alaska Marine Highway Authority.

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

5 * **Sec. 33.** The uncodified law of the State of Alaska is amended by adding a new section to
6 read:

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

13 (b) The governor shall appoint the initial members of the board of directors of the
14 Alaska Marine Highway Authority, as provided for under AS 19.55.020(a), added by sec. 2 of
15 this Act, before December 1, 2001.

16 * **Sec. 34.** AS 19.65.011, 19.65.020, 19.65.030, 19.65.035; and AS 39.25.110(16) are
17 repealed.

18 * **Sec. 35.** Sections 1 and 33 of this Act take effect immediately under AS 01.10.070(c).

19 * **Sec. 36.** Except as provided in sec. 35 of this Act, this Act takes effect January 1, 2002.