

HOUSE BILL NO. 301

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 5/6/03

Referred: Transportation, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the Knik Arm Bridge and Toll Authority and relating to that
2 authority; and providing for an effective date."

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

4 * **Section 1.** AS 44 is amended by adding a new chapter to read:

5 **Chapter 90. Knik Arm Bridge and Toll Authority.**

6 **Article 1. Establishment and Organization.**

7 **Sec. 44.90.011. Purpose.** The purpose of the authority created by this chapter
8 is to develop, stimulate, and advance the economic welfare of the state and further the
9 development of public transportation systems in the vicinity of the Upper Cook Inlet
10 with construction of a bridge to span Knik Arm and connect the Municipality of
11 Anchorage and the Matanuska-Susitna Borough.

12 **Sec. 44.90.021. Establishment of authority.** (a) There is established the
13 Knik Arm Bridge and Toll Authority. The authority is a public corporation and an
14 instrumentality of the state within the Department of Transportation and Public

1 Facilities but the authority has a separate and independent legal existence from the
2 state. The exercise by the authority of the powers in this chapter is considered an
3 essential governmental function of the state.

4 (b) The authority may not be terminated as long as it has bonds, notes, or other
5 obligations outstanding. Upon termination of the authority, its rights and property
6 pass to the state.

7 **Sec. 44.90.031. Board of directors of authority.** (a) The authority shall be
8 governed by a board of directors consisting of the following:

9 (1) the commissioner of transportation and public facilities or the
10 commissioner's designee;

11 (2) the commissioner of revenue or the commissioner's designee;

12 (3) one public member, appointed by the governor, who is a state
13 resident and United States citizen.

14 (b) The public member of the board shall serve for a term of five years and
15 may be reappointed to a single successive five-year term. The public member may
16 only be removed for cause.

17 (c) If a vacancy occurs in the public member seat on the board, the governor
18 shall make an appointment, effective immediately, for the unexpired portion of that
19 member's term.

20 **Sec. 44.90.041. Operation of authority.** (a) The powers of the authority are
21 vested in the board.

22 (b) Two members of the board constitute a quorum.

23 (c) The public member of the board serves as the chair of the board. Members
24 shall elect other officers they determine desirable.

25 (d) Action may be taken and motions and resolutions adopted by the board at a
26 meeting by the affirmative vote of at least two members.

27 (e) The public member of the board shall receive a stipend of \$300 a day
28 while performing business of the authority.

29 (f) The members of the board serving under AS 44.90.031(a)(1) and (2) serve
30 without compensation, but are entitled to per diem and travel expenses authorized by
31 law under AS 39.20.180.

1 provided in AS 44.90.221;

2 (8) apply for and accept gifts, grants, or loans from a federal agency or
3 an agency or instrumentality of the state, or from a municipality, private organization,
4 or other source;

5 (9) fix and collect fees, rents, tolls, rates, or other charges for the use of
6 the Knik Arm bridge and appurtenant facilities, or for a service developed, operated,
7 or provided by the authority; notwithstanding AS 37.10.050(a), fees, rents, tolls, rates,
8 and other charges fixed and collected under this paragraph may exceed the actual
9 operating cost of the use of the bridge, facility, or service;

10 (10) pledge fees, rents, tolls, rates, charges, or other revenue of the
11 authority as security for bonds of the authority;

12 (11) deposit or invest its funds, subject to agreements with
13 bondholders;

14 (12) procure insurance against any loss in connection with its
15 operation;

16 (13) contract for and engage the services of consultants, experts, and
17 financial and technical advisors that the authority considers necessary for the exercise
18 of its powers and functions under this chapter;

19 (14) apply for, obtain, hold, and use permits, licenses, or approvals
20 from appropriate agencies of the state, the United States, a foreign country, and any
21 other proper agency in the same manner as any other person;

22 (15) perform reconnaissance studies and engineering, survey, and
23 design studies with respect to the Knik Arm bridge and its appurtenant facilities;

24 (16) exercise powers of eminent domain or file a declaration of taking
25 as necessary for the Knik Arm bridge and appurtenant facilities under AS 09.55.240 -
26 09.55.460 to acquire land or an interest in land;

27 (17) confer with municipal and other governments, metropolitan
28 planning organizations, and the department, concerning the Knik Arm bridge;

29 (18) do all acts and things necessary to carry out the powers expressly
30 granted or necessarily implied in this chapter.

31 (b) The authority shall

1 (1) prepare an annual report of its operations to include a balance
 2 sheet, an income statement, a statement of changes in financial position, a
 3 reconciliation of changes in equity accounts, a summary of significant accounting
 4 principles, an auditor's report, comments regarding the year's business, and prospects
 5 for the next year; the report shall be completed by the third day of each regular session
 6 of the legislature, and the authority shall notify the governor, the commissioner of the
 7 department, the presiding officers of each house of the legislature, and the Legislative
 8 Budget and Audit Committee that the report is available;

9 (2) comply with the provisions of AS 37.07 (Executive Budget Act),
 10 except that AS 37.07 does not apply to the activities of the authority that relate to the
 11 authority's borrowing of money as provided in this chapter, including the issuing of its
 12 obligations or evidence of that borrowing and the repayment of the debt obligation;

13 (3) establish a personnel management system for hiring employees and
 14 setting employee-benefit packages;

15 (4) establish procedures, rules, and rates governing per diem and travel
 16 expenses of the employees of the authority in substantial conformity to statutes,
 17 procedures, rules, and rates applicable to state employees of similar state entities;

18 (5) coordinate the exercise of its powers to plan, design, construct,
 19 operate, and maintain the Knik Arm bridge with the department, and with the mayors
 20 of the Municipality of Anchorage and the Matanuska-Susitna Borough.

21 **Sec. 44.90.211. Bonds of the authority.** The authority may borrow money
 22 and issue bonds on which the principal and interest are payable from money derived
 23 from the fees, rents, tolls, rates, charges, and other revenue of the authority under this
 24 chapter. Before issuing bonds for the Knik Arm bridge, the authority shall submit to
 25 the state bond committee a description of the bond issue and a preliminary prospectus,
 26 offering circular, or official statement relating to the bond issue. Bonds may not be
 27 issued unless the state bond committee finds, based upon the information submitted by
 28 the authority under this section and other information that is reasonably available to
 29 the committee, that the Knik Arm bridge revenue and other revenue available to the
 30 authority can be reasonably expected to be adequate for payment of the principal and
 31 interest on the bonds to be issued and that issuance of the bonds by the authority

1 would not be expected to adversely affect the ability of the state or its political
 2 subdivisions to market bonds. Bonds may not be issued unless the principal amount
 3 of the bond issue is authorized by law.

4 **Sec. 44.90.221. Trust indentures and trust agreements.** (a) In the
 5 discretion of the authority, an issue of bonds may be secured by a trust indenture or
 6 trust agreement between the authority and a corporate trustee, by a secured loan
 7 agreement or other instrument, or by a resolution giving powers to a corporate trustee,
 8 by means of which the authority may

9 (1) make agreements with the trustee or the holders of the bonds that
 10 the authority determines to be necessary or desirable, including agreements as to the

11 (A) application, investment, deposit, use, and disposition of

12 (i) the proceeds of bonds of the authority;

13 (ii) money or other property of the authority; or

14 (iii) money or other property in which the authority has

15 an interest;

16 (B) fixing and collecting of fees, rents, tolls, rates, or other
 17 charges;

18 (C) assignment by the authority of its rights in any contract
 19 with respect to the Knik Arm bridge or in a mortgage or other security interest
 20 created with respect to the Knik Arm bridge to a trustee for the benefit of
 21 bondholders;

22 (D) terms and conditions under which the authority may issue
 23 additional bonds;

24 (E) vesting in a trustee of rights, powers, duties, money, or
 25 property in trust for the benefit of bondholders, including the right to enforce
 26 payment, performance, and all other rights of the authority or of the
 27 bondholders, under a lease, power of contract, contract of sale, mortgage,
 28 security agreement, or trust by injunction or other proceeding or by taking
 29 possession by agent or otherwise, and operating the Knik Arm bridge and
 30 collecting rents or other consideration and applying the same in accordance
 31 with the trust agreement;

1 (2) pledge, mortgage, or assign money, leases, agreements, property,
2 or other rights or assets of the authority either presently in hand or to be received in
3 the future, or both; and

4 (3) provide for any other matters that affect the security or protection
5 of the bonds.

6 (b) Notwithstanding any other provisions of this chapter, the trust agreement
7 must contain an agreement by the authority that the authority will at all times maintain
8 fees, rents, tolls, rates, or other charges sufficient to

9 (1) pay the costs of operation and maintenance of the Knik Arm bridge
10 and its appurtenant facilities and the principal of and interest on bonds issued under
11 the trust agreement as the bonds severally become due and payable;

12 (2) provide for debt service coverage as considered necessary by the
13 authority for the marketing of its bonds; and

14 (3) provide for renewals, replacements, and improvements of the Knik
15 Arm bridge, and to maintain reserves required by the terms of the trust agreement.

16 (c) For the purpose of securing one or more issues of its bonds, the authority
17 may establish one or more special funds, called "capital reserve funds," and shall pay
18 into those capital reserve funds the proceeds of the sale of its bonds and any other
19 money that is available to the authority for the purposes of those funds. The funds
20 shall be established only if the authority determines that the establishment would
21 enhance the marketability of the bonds. All money held in a capital reserve fund,
22 except as provided in this section, shall be used as required solely for (1) the payment
23 of the principal of and interest on bonds or of the sinking fund payments with respect
24 to those bonds, (2) the purchase or redemption of bonds, or (3) the payment of a
25 redemption premium required to be paid when those bonds are redeemed before
26 maturity. However, money in a fund may not be withdrawn from the fund at any time
27 in an amount that would reduce the amount of the fund to less than the capital reserve
28 requirement set out in (d) of this section, except for the purpose of making, with
29 respect to those bonds, payment, when due, of principal, interest, redemption
30 premiums, and the sinking fund payments for the payment of which other money of
31 the authority is not available. Income or interest earned by or increment to a capital

1 reserve fund due to the investment of the fund or any other amounts in the fund may
2 be transferred by the authority to other funds or accounts of the authority to the extent
3 that the transfer does not reduce the amount of the capital reserve fund below the
4 capital reserve fund requirement.

5 (d) If the authority decides to issue bonds secured by a capital reserve fund,
6 the bonds may not be issued if the amount in the capital reserve fund is less than the
7 amount of the capital reserve fund requirement, if any, established by resolution of the
8 authority, unless the authority, at the time of issuance of the obligations, deposits in
9 the capital reserve fund from the proceeds of the obligations to be issued or from other
10 sources an amount that, together with the amount then in the fund, will not be less than
11 the capital reserve fund requirement.

12 (e) In computing the amount of a capital reserve fund for the purpose of this
13 section, securities in which all or a portion of the fund is invested shall be valued by
14 some reasonable method established by the authority by resolution. Valuation on a
15 particular date shall include the amount of any interest earned or accrued to that date.

16 (f) The chair of the board shall annually, not later than January 2, deliver to
17 the governor and the legislature a certificate stating the sum, if any, required to restore
18 any capital reserve fund to the capital reserve fund requirement. Money appropriated
19 during that fiscal year for capital reserve fund restoration shall be deposited by the
20 authority in the proper capital reserve fund.

21 (g) If the authority decides to issue bonds secured by a capital reserve fund,
22 the bonds may not be issued until 30 days after the authority has mailed notification to
23 the state bond committee and the Legislative Budget and Audit Committee by certified
24 mail of its intention to establish a capital reserve fund to secure the bond issue. The
25 notification must include the amount of the capital reserve fund to be established, the
26 amount of bonds proposed to be issued, and the total cost for which the bonds are to
27 be issued. The notification shall be accompanied by an estimate by the authority of
28 the need to withdraw money from the capital reserve fund during the term of the bond
29 issue, the amount that may be necessary to withdraw, and the time at which
30 withdrawals are estimated to be needed. By January 30 of each year, the authority
31 shall prepare, and provide to the state bond committee and the Legislative Budget and

1 Audit Committee, a revised estimate, considering the same factors, and a statement of
 2 all withdrawals that have occurred from the date of issuance of the bonds to the end of
 3 the preceding calendar year.

4 (h) Nothing in this section creates a debt or liability of the state.

5 **Sec. 44.90.231. Validity of pledge.** It is the intention of the legislature that a
 6 pledge made in respect of bonds shall be perfected and shall be valid and binding from
 7 the time the pledge is made, that the money or property so pledged and after that
 8 received by the authority shall immediately be subject to the lien of the pledge without
 9 physical delivery or further act, and that the lien of the pledge shall be valid and
 10 binding against all parties having claims of any kind in tort, contract, or otherwise
 11 against the authority irrespective of whether the parties have notice. Neither the
 12 resolution, trust agreement, nor any other instrument by which a pledge is created need
 13 be recorded or filed under the provisions of the Uniform Commercial Code in order to
 14 be perfected or to be valid, binding, or effective against the parties. This section does
 15 not affect title to or conveyances of real property, and does not limit the applicability
 16 of AS 40.17.080(b).

17 **Sec. 44.90.241. Nonliability on bonds.** (a) Neither the members of the board
 18 nor a person executing the bonds of the authority is liable personally on the bonds or is
 19 subject to personal liability or accountability by reason of the issuance of the bonds.

20 (b) The bonds issued by the authority do not constitute an indebtedness or
 21 other liability of the state or of a political subdivision of the state other than the
 22 authority, but shall be payable solely from the income, receipts, or other money or
 23 property of the authority.

24 (c) The authority may not pledge the faith or credit of the state or of a political
 25 subdivision of the state other than the authority, and the issuance of a bond by the
 26 authority does not directly, indirectly, or contingently obligate the state or a political
 27 subdivision of the state to apply money from, levy, or pledge any form of taxation to
 28 the payment of the bond.

29 (d) Each obligation issued under this chapter other than a state guaranteed
 30 bond shall contain on its face a statement that the authority is not obligated to pay it
 31 nor the interest on it except from the revenue or assets of the authority and that neither

1 the faith and credit nor the taxing power of the state or of any political subdivision of
 2 the state is pledged to the payment of the principal of or the interest on the obligation.

3 **Sec. 44.90.251. Pledge of the state.** The state pledges to and agrees with the
 4 holders of bonds issued under this chapter and with a federal agency that loans or
 5 contributes money in respect to the Knik Arm bridge that the state will not limit or
 6 alter the rights and powers vested in the authority under this chapter to fulfill the terms
 7 of a contract made by the authority with the holders or federal agency or in any way
 8 impair the rights and remedies of the holders until the bonds, together with the interest
 9 on them, with interest on unpaid installments of interest, and all costs and expenses in
 10 connection with an action or proceeding by or on behalf of the holders, are fully met
 11 and discharged. The authority may include this pledge and agreement of the state,
 12 insofar as it refers to holders of bonds of the authority, in a contract with the holders
 13 and, insofar as it relates to a federal agency, in a contract with the federal agency.

14 **Sec. 44.90.261. Exemption from taxation.** The real and personal property of
 15 the authority and its assets, income, and receipts are declared to be the property of a
 16 political subdivision of the state and are exempt from all taxes and special assessments
 17 of the state or a political subdivision of the state. All bonds of the authority are
 18 declared to be issued by a political subdivision of the state and for an essential public
 19 and governmental purpose. The bonds, the interest on the bonds, the income from the
 20 bonds and the transfer of the bonds, and all assets, income, and receipts pledged to pay
 21 or secure the payment of the bonds or interest on the bonds are, at all times, exempt
 22 from taxation by or under the authority of the state, except for inheritance and estate
 23 taxes and taxes on transfers by or in contemplation of death. Nothing in this section
 24 affects or limits an exemption from license fees, property taxes, or excise, income, or
 25 other taxes provided under any other law, nor does it create a tax exemption with
 26 respect to the interest of any business enterprise or other person, other than the
 27 authority, in any property, assets, income, receipts, project, or lease, regardless of
 28 whether financed under this chapter.

29 **Sec. 44.90.271. Bonds legal investments for fiduciaries.** The bonds of the
 30 authority are securities in which all public officers and bodies of the state and all
 31 municipalities and municipal subdivisions, all insurance companies and associations

1 and other persons carrying on an insurance business, all banks, bankers, trust
 2 companies, savings banks, savings associations, including savings and loan
 3 associations and building and loan associations, investment companies and other
 4 persons carrying on banking business, all administrators, guardians, executors,
 5 trustees, and other fiduciaries, and other persons who are now or may afterward be
 6 authorized to invest in bonds or other obligations of the state may properly and legally
 7 invest money, including capital in their control or belonging to them. Notwithstanding
 8 any other provision of law, the bonds of the authority are also securities that may be
 9 deposited with and may be received by all public officers and bodies of the state and
 10 all municipalities and municipal subdivisions for any purpose for which the deposit of
 11 bonds or other obligations of the state is now or may afterward be authorized.

12 **Sec. 44.90.281. Audit.** The legislative auditor annually shall audit, or cause to
 13 have audited, the financial records of the authority. The legislative auditor may
 14 prescribe the form and content of the financial records of the authority and shall have
 15 access to these records at any reasonable time.

16 **Sec. 44.90.291. State appropriations for Knik Arm bridge and**
 17 **appurtenant facilities not affected.** This chapter does not prevent the state from
 18 making appropriations for or in aid of the acquisition, design, construction, or
 19 operation of the Knik Arm bridge and its appurtenant facilities.

20 **Sec. 44.90.301. Insurance.** The authority shall keep in force public liability
 21 insurance in an amount reasonably calculated to cover potential claims for bodily
 22 injury, death or disability, and property damage that may arise from or be related to its
 23 operation and activities, naming the state as an additional insured.

24 **Sec. 44.90.311. Safeguarding of money.** The authority shall maximize
 25 revenue from and deposit all money in depositories acceptable to the commissioner of
 26 revenue and otherwise safeguard the money under instructions as the commissioner of
 27 revenue may from time to time issue.

28 **Sec. 44.90.321. Fidelity bond.** The authority shall obtain a fidelity bond in an
 29 amount determined by the board, for the members of the board and any official
 30 responsible for authority accounts and finances. A bond must be in effect for the
 31 tenure of the bonded person.

1 **Article 3. General Provisions.**

2 **Sec. 44.90.911. Exemption from local regulation.** Notwithstanding any
3 contrary provision of law, the activities of the authority are exempt from land use
4 planning, zoning, permitting, or other similar governmental powers of political
5 subdivisions of the state.

6 **Sec. 44.90.980. Definitions.** In this chapter, unless the context requires
7 otherwise,

8 (1) "authority" means the Knik Arm Bridge and Toll Authority;

9 (2) "board" means the board of directors of the authority;

10 (3) "department" means the Department of Transportation and Public
11 Facilities.

12 **Sec. 44.90.990. Short title.** This chapter may be cited as the Knik Arm
13 Bridge and Toll Authority Act.

14 * **Sec. 2.** AS 36.30.015(f) is amended to read:

15 (f) The board of directors of the Alaska Housing Finance Corporation,
16 notwithstanding AS 18.56.088, **and the board of directors of the Knik Arm Bridge**
17 **and Toll Authority under AS 44.90.111**, shall adopt regulations under AS 44.62
18 (Administrative Procedure Act) and the board of trustees of the Alaska State Pension
19 Investment Board shall adopt regulations under AS 37.10.240 to govern the
20 procurement of supplies, services, professional services, and construction for the
21 respective public corporation and board. The regulations must reflect competitive
22 bidding principles and provide vendors reasonable and equitable opportunities to
23 participate in the procurement process and must include procurement methods to meet
24 emergency and extraordinary circumstances. Notwithstanding the other provisions of
25 this subsection, the Alaska Housing Finance Corporation, **the Knik Arm Bridge and**
26 **Toll Authority**, and the Alaska State Pension Investment Board shall comply with
27 AS 36.30.170(b).

28 * **Sec. 3.** AS 39.25.110 is amended by adding a new paragraph to read:

29 (39) the executive director and employees of the Knik Arm Bridge and
30 Toll Authority under AS 44.90.051 and 44.90.061.

31 * **Sec. 4.** This Act takes effect immediately under AS 01.10.070(c).