

**CS FOR HOUSE BILL NO. 301(TRA)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE TRANSPORTATION COMMITTEE

Offered: 5/10/03  
Referred: Finance

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

**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 (4) the mayor of the Municipality of Anchorage or the mayor's  
 15 designee;

16 (5) the mayor of the Matanuska-Susitna Borough or the mayor's  
 17 designee.

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

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

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

26 (b) Three members of the board constitute a quorum.

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

29 (d) Action may be taken and motions and resolutions adopted by the board at a  
 30 meeting by the affirmative vote of at least three members.

31 (e) The public member of the board shall receive a stipend of \$300 a day

1 while performing business of the authority.

2 (f) The members of the board serving under AS 44.90.031(a)(1), (2), (4), and  
3 (5) serve without compensation, but are entitled to per diem and travel expenses  
4 authorized by law under AS 39.20.180.

5 **Sec. 44.90.051. Executive director.** The authority shall employ an executive  
6 director who may not be a member of the board. The executive director shall serve at  
7 the pleasure of the board. The board shall establish the duties and compensation of the  
8 executive director.

9 **Sec. 44.90.061. Employment of personnel.** The executive director may hire  
10 employees of the authority. The board shall prescribe the duties and compensation of  
11 authority employees.

12 **Sec. 44.90.071. Personnel exempt from State Personnel Act.** The executive  
13 director and employees of the authority are in the exempt service under AS 39.25  
14 (State Personnel Act).

15 **Sec. 44.90.081. Legal advisor.** The attorney general is the legal counsel for  
16 the authority. The attorney general shall advise the authority in legal matters and  
17 represent it in suits.

## 18 **Article 2. Powers and Duties.**

19 **Sec. 44.90.111. Powers and duties of the authority.** (a) In furtherance of its  
20 purposes, the authority may

21 (1) own, acquire, construct, develop, create, reconstruct, equip,  
22 operate, maintain, extend, and improve the Knik Arm bridge and its appurtenant  
23 facilities;

24 (2) sue and be sued;

25 (3) adopt a seal;

26 (4) adopt, amend, and repeal regulations under AS 44.62 and establish  
27 bylaws;

28 (5) make and execute agreements, contracts, and other instruments for  
29 the exercise of its powers and functions under this chapter, including contracts with  
30 any person, firm, corporation, governmental agency, or other entity;

31 (6) in its own name acquire, lease, rent, or convey real and personal

1 property;

2 (7) issue bonds and otherwise incur indebtedness, in accordance with  
3 AS 44.90.131, in order to pay the cost of the Knik Arm bridge and its appurtenant  
4 facilities; the authority may also secure payment of the bonds or other indebtedness as  
5 provided in AS 44.90.131;

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

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

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

16 (11) deposit or invest its funds, subject to agreements with  
17 bondholders;

18 (12) procure insurance against any loss in connection with its  
19 operation;

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

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

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

28 (16) exercise powers of eminent domain or file a declaration of taking  
29 as necessary for the Knik Arm bridge and appurtenant facilities under AS 09.55.240 -  
30 09.55.460 to acquire land or an interest in land;

31 (17) confer with municipal and other governments, metropolitan

1 planning organizations, and the department, concerning the Knik Arm bridge;

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

4 (b) The authority shall

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

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

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

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

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

25 **Sec. 44.90.121. Bonds of the authority.** The authority may borrow money  
26 and issue bonds on which the principal and interest are payable from money derived  
27 from the fees, rents, tolls, rates, charges, and other revenue of the authority under this  
28 chapter. Before issuing bonds for the Knik Arm bridge, the authority shall submit to  
29 the state bond committee a description of the bond issue and a preliminary prospectus,  
30 offering circular, or official statement relating to the bond issue. Bonds may not be  
31 issued unless the state bond committee finds, based upon the information submitted by

1 the authority under this section and other information that is reasonably available to  
 2 the committee, that the Knik Arm bridge revenue and other revenue available to the  
 3 authority can be reasonably expected to be adequate for payment of the principal and  
 4 interest on the bonds to be issued and that issuance of the bonds by the authority  
 5 would not be expected to adversely affect the ability of the state or its political  
 6 subdivisions to market bonds. Bonds may not be issued unless the principal amount  
 7 of the bond issue is authorized by law.

8 **Sec. 44.90.131. Trust indentures and trust agreements.** (a) In the  
 9 discretion of the authority, an issue of bonds may be secured by a trust indenture or  
 10 trust agreement between the authority and a corporate trustee, by a secured loan  
 11 agreement or other instrument, or by a resolution giving powers to a corporate trustee,  
 12 by means of which the authority may

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

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

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

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

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

19 an interest;

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

22 (C) assignment by the authority of its rights in any contract  
 23 with respect to the Knik Arm bridge or in a mortgage or other security interest  
 24 created with respect to the Knik Arm bridge to a trustee for the benefit of  
 25 bondholders;

26 (D) terms and conditions under which the authority may issue  
 27 additional bonds;

28 (E) vesting in a trustee of rights, powers, duties, money, or  
 29 property in trust for the benefit of bondholders, including the right to enforce  
 30 payment, performance, and all other rights of the authority or of the  
 31 bondholders, under a lease, power of contract, contract of sale, mortgage,

1 security agreement, or trust by injunction or other proceeding or by taking  
2 possession by agent or otherwise, and operating the Knik Arm bridge and  
3 collecting rents or other consideration and applying the same in accordance  
4 with the trust agreement;

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

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

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

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

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

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

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

1 requirement set out in (d) of this section, except for the purpose of making, with  
2 respect to those bonds, payment, when due, of principal, interest, redemption  
3 premiums, and the sinking fund payments for the payment of which other money of  
4 the authority is not available. Income or interest earned by or increment to a capital  
5 reserve fund due to the investment of the fund or any other amounts in the fund may  
6 be transferred by the authority to other funds or accounts of the authority to the extent  
7 that the transfer does not reduce the amount of the capital reserve fund below the  
8 capital reserve fund requirement.

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

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

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

25 (g) If the authority decides to issue bonds secured by a capital reserve fund,  
26 the bonds may not be issued until 30 days after the authority has mailed notification to  
27 the state bond committee and the Legislative Budget and Audit Committee by certified  
28 mail of its intention to establish a capital reserve fund to secure the bond issue. The  
29 notification must include the amount of the capital reserve fund to be established, the  
30 amount of bonds proposed to be issued, and the total cost for which the bonds are to  
31 be issued. The notification shall be accompanied by an estimate by the authority of

1 the need to withdraw money from the capital reserve fund during the term of the bond  
2 issue, the amount that may be necessary to withdraw, and the time at which  
3 withdrawals are estimated to be needed. By January 30 of each year, the authority  
4 shall prepare, and provide to the state bond committee and the Legislative Budget and  
5 Audit Committee, a revised estimate, considering the same factors, and a statement of  
6 all withdrawals that have occurred from the date of issuance of the bonds to the end of  
7 the preceding calendar year.

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

9 **Sec. 44.90.141. Validity of pledge.** It is the intention of the legislature that a  
10 pledge made in respect of bonds shall be perfected and shall be valid and binding from  
11 the time the pledge is made, that the money or property so pledged and after that  
12 received by the authority shall immediately be subject to the lien of the pledge without  
13 physical delivery or further act, and that the lien of the pledge shall be valid and  
14 binding against all parties having claims of any kind in tort, contract, or otherwise  
15 against the authority irrespective of whether the parties have notice. Neither the  
16 resolution, trust agreement, nor any other instrument by which a pledge is created need  
17 be recorded or filed under the provisions of the Uniform Commercial Code in order to  
18 be perfected or to be valid, binding, or effective against the parties. This section does  
19 not affect title to or conveyances of real property, and does not limit the applicability  
20 of AS 40.17.080(b).

21 **Sec. 44.90.151. Nonliability on bonds.** (a) Neither the members of the board  
22 nor a person executing the bonds of the authority is liable personally on the bonds or is  
23 subject to personal liability or accountability by reason of the issuance of the bonds.

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

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

1 the payment of the bond.

2 (d) Each obligation issued under this chapter other than a state guaranteed  
3 bond shall contain on its face a statement that the authority is not obligated to pay it  
4 nor the interest on it except from the revenue or assets of the authority and that neither  
5 the faith and credit nor the taxing power of the state or of any political subdivision of  
6 the state is pledged to the payment of the principal of or the interest on the obligation.

7 **Sec. 44.90.161. Pledge of the state.** The state pledges to and agrees with the  
8 holders of bonds issued under this chapter and with a federal agency that loans or  
9 contributes money in respect to the Knik Arm bridge that the state will not limit or  
10 alter the rights and powers vested in the authority under this chapter to fulfill the terms  
11 of a contract made by the authority with the holders or federal agency or in any way  
12 impair the rights and remedies of the holders until the bonds, together with the interest  
13 on them, with interest on unpaid installments of interest, and all costs and expenses in  
14 connection with an action or proceeding by or on behalf of the holders, are fully met  
15 and discharged. The authority may include this pledge and agreement of the state,  
16 insofar as it refers to holders of bonds of the authority, in a contract with the holders  
17 and, insofar as it relates to a federal agency, in a contract with the federal agency.

18 **Sec. 44.90.171. Exemption from taxation.** The real and personal property of  
19 the authority and its assets, income, and receipts are declared to be the property of a  
20 political subdivision of the state and are exempt from all taxes and special assessments  
21 of the state or a political subdivision of the state. All bonds of the authority are  
22 declared to be issued by a political subdivision of the state and for an essential public  
23 and governmental purpose. The bonds, the interest on the bonds, the income from the  
24 bonds and the transfer of the bonds, and all assets, income, and receipts pledged to pay  
25 or secure the payment of the bonds or interest on the bonds are, at all times, exempt  
26 from taxation by or under the authority of the state, except for inheritance and estate  
27 taxes and taxes on transfers by or in contemplation of death. Nothing in this section  
28 affects or limits an exemption from license fees, property taxes, or excise, income, or  
29 other taxes provided under any other law, nor does it create a tax exemption with  
30 respect to the interest of any business enterprise or other person, other than the  
31 authority, in any property, assets, income, receipts, project, or lease, regardless of

1 whether financed under this chapter.

2 **Sec. 44.90.181. Bonds legal investments for fiduciaries.** The bonds of the  
3 authority are securities in which all public officers and bodies of the state and all  
4 municipalities and municipal subdivisions, all insurance companies and associations  
5 and other persons carrying on an insurance business, all banks, bankers, trust  
6 companies, savings banks, savings associations, including savings and loan  
7 associations and building and loan associations, investment companies and other  
8 persons carrying on banking business, all administrators, guardians, executors,  
9 trustees, and other fiduciaries, and other persons who are now or may afterward be  
10 authorized to invest in bonds or other obligations of the state may properly and legally  
11 invest money, including capital in their control or belonging to them. Notwithstanding  
12 any other provision of law, the bonds of the authority are also securities that may be  
13 deposited with and may be received by all public officers and bodies of the state and  
14 all municipalities and municipal subdivisions for any purpose for which the deposit of  
15 bonds or other obligations of the state is now or may afterward be authorized.

16 **Sec. 44.90.191. Audit.** The legislative auditor annually shall audit, or cause to  
17 have audited, the financial records of the authority. The legislative auditor may  
18 prescribe the form and content of the financial records of the authority and shall have  
19 access to these records at any reasonable time.

20 **Sec. 44.90.201. State appropriations for Knik Arm bridge and**  
21 **appurtenant facilities not affected.** This chapter does not prevent the state from  
22 making appropriations for or in aid of the acquisition, design, construction, or  
23 operation of the Knik Arm bridge and its appurtenant facilities.

24 **Sec. 44.90.211. Insurance.** The authority shall keep in force public liability  
25 insurance in an amount reasonably calculated to cover potential claims for bodily  
26 injury, death or disability, and property damage that may arise from or be related to its  
27 operation and activities, naming the state as an additional insured.

28 **Sec. 44.90.221. Safeguarding of money.** The authority shall maximize  
29 revenue from and deposit all money in depositories acceptable to the commissioner of  
30 revenue and otherwise safeguard the money under instructions as the commissioner of  
31 revenue may from time to time issue.

1           **Sec. 44.90.231. Fidelity bond.** The authority shall obtain a fidelity bond in an  
 2 amount determined by the board, for the members of the board and any official  
 3 responsible for authority accounts and finances. A bond must be in effect for the  
 4 tenure of the bonded person.

5   **Article 3. General Provisions.**

6           **Sec. 44.90.241. Exemption from local regulation.** Notwithstanding any  
 7 contrary provision of law, the activities of the authority are exempt from land use  
 8 planning, zoning, permitting, or other similar governmental powers of political  
 9 subdivisions of the state.

10           **Sec. 44.90.249. Definitions.** In this chapter, unless the context requires  
 11 otherwise,

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

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

14   (3) "department" means the Department of Transportation and Public  
 15 Facilities.

16           **Sec. 44.90.250. Short title.** This chapter may be cited as the Knik Arm  
 17 Bridge and Toll Authority Act.

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

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

- 1     \* **Sec. 3.** AS 39.25.110 is amended by adding a new paragraph to read:  
2                             (39) the executive director and employees of the Knik Arm Bridge and  
3             Toll Authority under AS 44.90.051 and 44.90.061.  
4     \* **Sec. 4.** This Act takes effect immediately under AS 01.10.070(c).