

SENATE BILL NO. 371

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Introduced: 3/19/04

Referred: Transportation, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the powers and duties of the Department of Transportation and**
2 **Public Facilities; relating to a long-range program for highway construction and**
3 **maintenance; repealing a requirement that public facilities comply with energy**
4 **standards adopted by the Department of Transportation and Public Facilities; and**
5 **providing for an effective date."**

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

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

9 PURPOSE AND INTENT OF SECTION 4 OF THIS ACT. (a) The purpose of the
10 amendment of AS 44.42.050(a) by sec. 4 of this Act is to validate and affirm the long-
11 standing practice of the state with regard to the procedures used by the state for the planning
12 of transportation projects and to ensure the validity of all existing administrative regulations
13 of the Department of Transportation and Public Facilities.

1 (b) It is the intent of the legislature in amending of AS 44.42.050(a) to expressly
 2 overrule the decision of the Alaska Superior Court in Trout Unlimited v. State, 3AN-02-
 3 09363 Civil, and to affirm the validity of the state transportation planning process.

4 * **Sec. 2.** AS 19.10.140 is amended to read:

5 **Sec. 19.10.140. Long-range program for highway construction and**
 6 **maintenance.** The [GOVERNOR SHALL REQUIRE THE] department **may** [TO]
 7 establish a continuing, long-range program for highway construction and maintenance.
 8 The program must **periodically** [ANNUALLY] project proposed construction and
 9 maintenance of highways for not less than the next succeeding **two** [FIVE] years. **The**
 10 **program shall become part of the state transportation plan developed under**
 11 **AS 44.42.050** [A STATEMENT OF THE PROGRAM SHALL BE SUBMITTED
 12 BY THE GOVERNOR TO THE LEGISLATURE ANNUALLY, AND THE LONG-
 13 RANGE PROGRAM SHALL INCLUDE IN DETAIL THE PROGRAM PREPARED
 14 UNDER AS 19.10.150].

15 * **Sec. 3.** AS 44.42.020(a) is amended to read:

16 (a) The department shall

17 (1) plan, design, construct, and maintain all state modes of
 18 transportation and transportation facilities and all docks, floats, breakwaters, buildings,
 19 and similar facilities;

20 (2) study existing transportation modes and facilities in the state to
 21 determine how they might be improved or whether they should continue to be
 22 maintained;

23 (3) study alternative means of improving transportation in the state
 24 with regard to the economic costs of each alternative and its environmental and social
 25 effects;

26 (4) develop a comprehensive, long-range, intermodal transportation
 27 plan for the state;

28 (5) study alternatives to existing modes of transportation in urban areas
 29 and develop plans to improve urban transportation;

30 (6) cooperate and coordinate with and enter into agreements with
 31 federal, state, and local government agencies and private organizations and persons in

1 exercising its powers and duties;

2 (7) manage, operate, and maintain state transportation facilities and all
3 docks, floats, breakwaters, and buildings, including all state highways, vessels,
4 railroads, pipelines, airports, and aviation facilities;

5 (8) study alternative means of transportation in the state, considering
6 the economic, social, and environmental effects of each alternative;

7 (9) coordinate and develop state and regional transportation systems,
8 considering deletions, additions, and the absence of alterations;

9 (10) develop facility program plans for transportation and state
10 buildings, docks, and breakwaters required to implement the duties set out in this
11 section, including but not limited to functional performance criteria and schedules for
12 completion;

13 (11) supervise and maintain all state automotive and mechanical
14 equipment, aircraft, and vessels, except vessels and aircraft used by the Department of
15 Fish and Game or the Department of Public Safety; for state vehicles maintained by
16 the department, the department shall periodically [ANNUALLY] evaluate the cost,
17 efficiency, and commercial availability of alternative fuels [NATURAL GAS] for
18 automotive purposes, and the purpose for which the vehicles are intended to be used,
19 and convert or purchase vehicles to use alternative fuels [UTILIZE NATURAL
20 GAS] whenever practicable; the department may participate in joint ventures with
21 public or private partners that will foster the availability of alternative fuels
22 [NATURAL GAS] for all automotive fuel consumers;

23 (12) supervise aeronautics inside the state, under AS 02.10;

24 (13) [COMPLETE AND MAINTAIN A CURRENT INVENTORY
25 OF PUBLIC FACILITIES, INCLUDING A PROJECTION OF THE
26 SERVICEABILITY OF THE FACILITIES AND PROJECTIONS OF
27 REPLACEMENTS AND ADDITIONS TO FACILITIES NEEDED TO PROVIDE
28 THE LEVEL OF SERVICES PROGRAMMED BY THE VARIOUS USER
29 AGENCIES, FOR MUNICIPALITIES WITH POPULATIONS OF LESS THAN
30 12,000 AND FOR UNINCORPORATED COMMUNITIES, AND PERFORM
31 THOSE DUTIES ON A COOPERATIVE BASIS WITH LARGER

1 MUNICIPALITIES;

2 (14) ADOPT ENERGY PERFORMANCE STANDARDS FOR
 3 PUBLIC FACILITIES OF THE STATE, THE CONSTRUCTION OF WHICH
 4 BEGINS AFTER JULY 1, 1980; THE STANDARDS SHALL BE BASED ON
 5 THERMAL AND LIGHTING ENERGY STANDARDS ESTABLISHED BY THE
 6 AMERICAN SOCIETY OF HEATING, REFRIGERATION AND AIR
 7 CONDITIONING ENGINEERS AS ADAPTED FOR APPLICATION IN HIGH
 8 LATITUDE, COLD CLIMATE ENVIRONS;

9 (15) PROVIDE PLANNING ASSISTANCE, INCLUDING BUT NOT
 10 LIMITED TO ENERGY AUDITS AND RELATED TECHNICAL SERVICES, TO
 11 SCHOOL DISTRICTS AND REGIONAL EDUCATIONAL ATTENDANCE
 12 AREAS TO DEVELOP AND IMPLEMENT

13 (A) STANDARDS FOR THE DESIGN, CONSTRUCTION,
 14 AND OPERATION OF RURAL EDUCATIONAL FACILITIES; AND

15 (B) ENERGY CONSERVATION MEASURES FOR RURAL
 16 EDUCATIONAL FACILITIES;

17 (16)] implement the safety and financial responsibility requirements
 18 for air carriers under AS 02.40;

19 **(14)** [(17)] inspect weights and measures.

20 * **Sec. 4.** AS 44.42.050(a) is amended to read:

21 (a) The commissioner shall develop [ANNUALLY] a comprehensive,
 22 intermodal, long-range transportation plan for the state. **The plan may be developed**
 23 **in separate documents and divided into logical components, including geographic**
 24 **areas, modes of transportation, transportation corridors, systems, and other**
 25 **distinct subjects.** In developing and revising the state plan, the commissioner **may**
 26 [SHALL] consider **the requirements of 23 U.S.C. 135, as amended.** **Upon**
 27 **approval of the plan by the commissioner, the commissioner may transmit the**
 28 **plan to the governor and** [MEANS AND COSTS OF IMPROVING EXISTING
 29 MODES AND FACILITIES, STATE AND FEDERAL SUBSIDIES, AND THE
 30 COSTS AND BENEFITS OF NEW TRANSPORTATION MODES AND
 31 FACILITIES. THE COMMISSIONER SHALL ALSO CONSIDER THE

1 RECOMMENDATION OF THE ALASKA TRANSPORTATION PLANNING
 2 COUNCIL. THE PLAN SHALL BE SUBMITTED TO THE GOVERNOR FOR
 3 REVIEW AND APPROVAL AND SUBMITTED BY THE GOVERNOR TO] the
 4 legislature.

5 * **Sec. 5.** AS 44.42.050(d) is amended to read:

6 (d) The **commissioner shall periodically develop a program** [PLAN MUST
 7 INCLUDE A DESCRIPTION] of projects planned for design and construction for **a**
 8 **period of not less than** [THE FOLLOWING] two years **that implement the plan**
 9 **developed under (a) of this section. In developing the program of projects, the**
 10 **commissioner may consider the requirements of 23 U.S.C. 135, as amended.** The
 11 **program** [DESCRIPTION] is in addition to the long-range plan required by (a) of this
 12 section [AND BY AS 19.10.140]. The **program** [DESCRIPTION] must include an
 13 **estimate of federal, state, and other funds anticipated to be received and a**
 14 **description, location, and** itemization of the estimated cost for each project and the
 15 total cost of all projects. The commissioner shall propose and forward to the governor
 16 for review and approval [AND INCLUSION, AS APPROVED, IN THE CAPITAL
 17 BUDGET] a construction program that includes the projects to be undertaken during
 18 the following **year** [TWO YEARS], including recommended project priorities.
 19 [FUNDS FOR TRANSPORTATION CONSTRUCTION PROJECTS AND
 20 NECESSARY CONTINGENCIES SHALL BE ITEMIZED AS ALLOCATIONS
 21 WITHIN THE BILL FOR THE GENERAL APPROPRIATIONS ACT.]

22 * **Sec. 6.** AS 46.11.900(8) is amended to read:

23 (8) "thermal and lighting energy standards" means the thermal and
 24 lighting energy standards

25 (A) established by the American Society of Heating,
 26 Refrigeration, and Air Conditioning Engineers as revised

27 [(i) BY THE COMMISSIONER OF
 28 TRANSPORTATION AND PUBLIC FACILITIES UNDER
 29 AS 44.42.020(a) FOR PUBLIC FACILITIES; OR

30 (ii)] by the Alaska Housing Finance Corporation for
 31 buildings and structures that are not public facilities; or

1 (B) developed in regulations adopted

2 [(i) BY THE COMMISSIONER OF
3 TRANSPORTATION AND PUBLIC FACILITIES UNDER
4 AS 44.42.020(a) FOR PUBLIC FACILITIES; OR

5 (ii)] by the Alaska Housing Finance Corporation for
6 buildings and structures that are not public facilities.

7 * **Sec. 7.** AS 46.11.010 is repealed.

8 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 **RETROSPECTIVITY.** Section 4 of this Act is retrospective to July 1, 1977.

11 * **Sec. 9.** This Act takes effect immediately under AS 01.10.070(c).