

HOUSE BILL NO. 434

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/8/06

Referred: Transportation, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act authorizing the commissioner of transportation and public facilities to**
2 **participate in certain federal highway programs and relating to that authorization;**
3 **relating to powers of the attorney general to waive immunity from suit in federal court**
4 **related to those programs; and providing for an effective date."**

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

6 * **Section 1.** AS 44.23.020 is amended by adding a new subsection to read:

7 (g) The attorney general may, in cases that involve compliance, discharge, or
8 enforcement of responsibilities assumed by the Department of Transportation and
9 Public Facilities under AS 44.42.300, waive the state's immunity from suit in federal
10 court provided under the Eleventh Amendment to the Constitution of the United
11 States.

12 * **Sec. 2.** AS 44.42 is amended by adding a new section to read:

13 **Article 2A. Certain Federal Highway Programs.**

14 **Sec. 44.42.300. Authorization to participate in certain federal highway**

1 **programs.** (a) The department may

2 (1) assume responsibilities under 23 U.S.C. 325, 23 U.S.C. 326, and 23
3 U.S.C. 327, including

4 (A) the filing of applications with the United States Department
5 of Transportation under 23 U.S.C. 325(c)(1) and 23 U.S.C. 327(b)(2); and

6 (B) taking those actions necessary to meet the application
7 requirements established under 23 U.S.C. 325(c)(3) and 23 U.S.C. 327(b)(4);

8 (2) enter one or more memoranda of understanding with the United
9 States Department of Transportation related to federal highway programs as provided
10 in 23 U.S.C. 325, 23 U.S.C. 326, and 23 U.S.C. 327;

11 (3) accept, receive, and administer grants, other money, or gifts from
12 public and private agencies, including the federal government, for the purpose of
13 carrying out the programs authorized under this section; and

14 (4) cooperate with the federal government in implementing this section
15 and any memorandum of understanding entered into under this section.

16 (b) Notwithstanding any contrary provisions of law, in implementing a
17 program under this section that is approved by the United States Department of
18 Transportation, the department is authorized to

19 (1) perform or conduct any of the activities described in any
20 memorandum entered into under 23 U.S.C. 325, 23 U.S.C. 326, or 23 U.S.C. 327;

21 (2) take actions necessary to implement the program; and

22 (3) adopt relevant federal environmental standards as the standards for
23 this state for the programs described in (a) of this section.

24 (c) The department may adopt regulations under AS 44.62 (Administrative
25 Procedure Act) to carry out this section.

26 * **Sec. 3.** This Act takes effect immediately under AS 01.10.070(c).