

CS FOR HOUSE BILL NO. 434(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/18/06

Referred: Finance

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

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 **waiving the state's immunity from suit related to those programs; and providing for an**
4 **effective date."**

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

6 * **Section 1.** AS 44.42 is amended by adding a new section to read:

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

8 **Sec. 44.42.300. Authorization to participate in certain federal highway**
9 **programs.** (a) The department may

10 (1) assume responsibilities under 23 U.S.C. 325 - 327, including

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

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

1 (2) enter into one or more memoranda of understanding with the
2 United States Department of Transportation related to federal highway programs as
3 provided in 23 U.S.C. 325 - 327;

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

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

9 (b) Notwithstanding any contrary provisions of law, in implementing a
10 program under this section that is approved by the United States Department of
11 Transportation, the department may

12 (1) perform or conduct any of the activities described in a
13 memorandum entered into under 23 U.S.C. 325 - 327;

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

15 (3) adopt relevant federal environmental standards as the standards for
16 this state for a program described in (a) of this section.

17 (c) Under art. II, sec. 21, Constitution of the State of Alaska, in cases that
18 involve compliance with, discharge of, or enforcement of responsibilities assumed by
19 the department under this section, the state hereby waives its immunity from suit

20 (1) in federal court under the Eleventh Amendment to the Constitution
21 of the United States; and

22 (2) under the doctrine of sovereign immunity.

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

25 * **Sec. 2.** This Act takes effect immediately under AS 01.10.070(c).