

**CS FOR HOUSE BILL NO. 471(FIN) am**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 4/3/06

Offered: 3/15/06

Sponsor(s): REPRESENTATIVES STOLTZE, Elkins

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act amending the Knik Arm Bridge and Toll Authority Act and the powers and  
2 authority of the authority to finance construction and maintenance of the Knik Arm  
3 Bridge, to set and collect tolls, and to carry out its duties; and providing for an effective  
4 date."

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

6 \* **Section 1.** AS 19.75.111 is amended to read:

7 **Sec. 19.75.111. Powers and duties of the authority.** (a) Except as otherwise  
8 explicitly made applicable to the authority, the performance of the authority's  
9 duties and the exercise of its powers, including its powers to issue bonds and  
10 otherwise incur debt, shall be governed exclusively by this chapter. In furtherance  
11 of its purposes, the authority may

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

1 (2) sue and be sued;  
 2 (3) adopt a seal;  
 3 (4) adopt, amend, and repeal regulations under AS 44.62 and establish  
 4 bylaws;

5 (5) make and execute agreements, contracts, and **all** other instruments  
 6 **with any public or private person, governmental unit or agency, corporation, or**  
 7 **other business entity lawfully conducting business in the United States** for the  
 8 exercise of its powers and functions under this chapter **and for the financing, design,**  
 9 **construction, maintenance, improvement, or operation of facilities, properties, or**  
 10 **projects of the authority**, including **making and executing** contracts with any  
 11 person, firm, corporation, governmental agency, or other entity **for the purpose of**

12 **(A) incurring indebtedness, obtaining investments in the**  
 13 **authority's projects, acquiring or granting lump sum payments for**  
 14 **services in advance or in arrears, grants, and other financing; and**

15 **(B) entering into public-private partnerships or service**  
 16 **contracts in any form;**

17 (6) in its own name acquire, lease, rent, **sell**, or convey real and  
 18 personal property;

19 (7) issue **and refund** bonds [AND OTHERWISE INCUR  
 20 INDEBTEDNESS,] in accordance with **this chapter** [AS 19.75.211], in order to pay  
 21 the cost of the Knik Arm bridge and its appurtenant facilities; the authority may also  
 22 secure payment of the bonds [OR OTHER INDEBTEDNESS] as provided in **this**  
 23 **chapter** [AS 19.75.221];

24 (8) **incur other indebtedness, including lines of credit and**  
 25 **indebtedness to the Federal Highway Administration, United States Department**  
 26 **of Transportation, under 23 U.S.C. 601 - 610 (Transportation Infrastructure**  
 27 **Finance and Innovation Act of 1998), as amended, and secure that indebtedness**  
 28 **as provided in this chapter;**

29 **(9)** apply for and accept gifts, grants, or loans from a federal agency or  
 30 an agency or instrumentality of the state, or from a municipality, private organization,  
 31 or other source, **including obtaining title to state, local government, or privately**

1 **owned land, directly or through a department of the state having jurisdiction of**  
 2 **the land;**

3 (10) [(9)] fix and collect fees, rents, tolls, rates, or other charges for the  
 4 use of the Knik Arm bridge and appurtenant facilities, or for a service developed,  
 5 operated, or provided by the authority; notwithstanding AS 37.10.050(a), fees, rents,  
 6 tolls, rates, and other charges fixed and collected under this paragraph may exceed the  
 7 actual operating cost of the use of the bridge, facility, or service;

8 **(11) bring civil actions, refer criminal actions to the appropriate**  
 9 **authority, and take other actions or enter into agreements with law enforcement**  
 10 **and collection agencies to enforce the collection of its fees, rents, tolls, rates, other**  
 11 **charges, penalties, and other obligations;**

12 (12) [(10)] pledge, **encumber, transfer, or otherwise obligate**  
 13 **revenue derived by the authority from the ownership, use, or operation of toll**  
 14 **facilities, including** fees, rents, tolls, rates, charges, or other revenue of the authority  
 15 **or money that the legislature may appropriate, except a state tax or license,** as  
 16 security for bonds **or other indebtedness or agreements** of the authority;

17 (13) [(11)] deposit or invest its funds, subject to agreements with  
 18 bondholders;

19 (14) [(12)] procure insurance against any loss in connection with its  
 20 operation;

21 (15) [(13)] contract for and engage the services of consultants, experts,  
 22 and financial and technical advisors that the authority considers necessary for the  
 23 exercise of its powers and functions under this chapter;

24 (16) [(14)] apply for, obtain, hold, and use permits, licenses, or  
 25 approvals from appropriate agencies of the state, the United States, a foreign country,  
 26 and any other proper agency in the same manner as any other person;

27 (17) [(15)] perform reconnaissance studies and engineering, survey,  
 28 and design studies with respect to the Knik Arm bridge and its appurtenant facilities;

29 (18) [(16)] exercise, **on prior approval of the governor,** powers of  
 30 eminent domain or file a declaration of taking as necessary for the Knik Arm bridge  
 31 and appurtenant facilities under AS 09.55.240 - 09.55.460 to acquire land or an

1 interest in land **the authority's exercise of powers under this paragraph may not**  
 2 **exceed the permissible exercise of those powers by the state;**

3 (19) [(17)] confer with municipal and other governments, metropolitan  
 4 planning organizations, and the department, concerning the Knik Arm bridge;

5 (20) [(18)] do all acts and things necessary to carry out the powers  
 6 expressly granted or necessarily implied in this chapter; **nothing in this chapter**  
 7 **limits the powers of the authority that are expressly granted or necessarily**  
 8 **implied.**

9 (b) The authority shall

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

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

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

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

27 (5) coordinate the exercise of its powers to plan, design, construct,  
 28 operate, and maintain the Knik Arm bridge with the department, and with the mayors  
 29 of the Municipality of Anchorage and the Matanuska-Susitna Borough;

30 (6) **have the exclusive authority to determine and fix fees, rents,**  
 31 **tolls, rates, and other charges, including the tolls for the use of the bridge and**

1        **appurtenant facilities and for the use of all other properties under the control of**  
 2        **or owned or managed by the authority.**

3        \* **Sec. 2.** AS 19.75 is amended by adding a new section to read:

4                **Sec. 19.75.113. Assets, funds, and revenue of the authority.** (a) The  
 5        Department of Revenue shall separately account for all funds, assets, and revenue of  
 6        the authority.

7                (b) The deposit or investment of money in the authority's funds may be made  
 8        as the board determines. The interest earned on or profits derived from the deposit,  
 9        investment, or sale of an investment by the authority are funds of the authority.

10        \* **Sec. 3.** AS 19.75.211 is amended to read:

11                **Sec. 19.75.211. Bonds of the authority.** **Notwithstanding any other**  
 12        **provision of law, the** [THE] authority may borrow money and issue **and refund**  
 13        bonds on which the principal and interest are **paid out of and secured by the gross**  
 14        **revenue derived by the authority from the ownership, use, and operation of its**  
 15        **toll facilities, including** [PAYABLE FROM] money derived from the fees, rents,  
 16        tolls, rates, charges, and other revenue of the authority under this chapter **and any**  
 17        **other revenue or money that the legislature may appropriate, except a state tax**  
 18        **or license.** Before issuing bonds for the Knik Arm bridge, the authority shall submit to  
 19        the state bond committee a description of the bond issue and a preliminary prospectus,  
 20        offering circular, or official statement relating to the bond issue. Bonds may not be  
 21        issued unless the state bond committee finds, based upon the information submitted by  
 22        the authority under this section and other information that is reasonably available to  
 23        the committee, that the Knik Arm bridge revenue and other revenue available to the  
 24        authority can be reasonably expected to be adequate for payment of the principal **of**  
 25        and interest on the bonds to be issued and that issuance of the bonds by the authority  
 26        would not be expected to adversely affect the ability of the state or its political  
 27        subdivisions to market bonds. [BONDS MAY NOT BE ISSUED UNLESS THE  
 28        PRINCIPAL AMOUNT OF THE BOND ISSUE IS AUTHORIZED BY LAW.]

29        \* **Sec. 4.** AS 19.75.211 is amended by adding new subsections to read:

30                (b) The bonds of the authority may be sold in the amounts or series and at the  
 31        time determined by its board of directors. Bonds, or a series of bonds, may not be sold

1 if the effective interest rate over the life of the bonds exceeds 11 percent a year or a  
 2 rate of interest that is 125 percent of the rate of the Bond Buyer Index of 20 Municipal  
 3 Bond Average Yields for the week previous to the date of the sale of the bonds,  
 4 whichever is higher.

5 (c) The authority may issue bonds in an aggregate amount not to exceed  
 6 \$500,000,000, plus the cost of issuance.

7 (d) The amount of refunding bonds that may be issued by the authority and  
 8 bond premiums may not be included in the aggregate amount, but may be in addition  
 9 to the amount authorized by (c) of this section.

10 \* **Sec. 5.** AS 19.75.221 is amended by adding a new subsection to read:

11 (h) Notwithstanding any other provision of law, the authority may establish  
 12 other funds and reserves as the board of directors may determine reasonable and  
 13 prudent for the issuance of bonds or for the conduct of the business and affairs of the  
 14 authority. The interest earned on or profit derived from these funds and reserves shall  
 15 be the property of the authority.

16 \* **Sec. 6.** AS 19.75.241(b) is amended to read:

17 (b) The bonds issued by the authority do not constitute an indebtedness or  
 18 other liability of the state or of a political subdivision of the state other than the  
 19 authority, but shall be payable solely from the income, receipts, or other money or  
 20 property of the authority. **All documents published by the authority or to which the**  
 21 **authority is a signatory and used in or for the issuance of bonds by the authority**  
 22 **must state that they are prepared by or for the authority.**

23 \* **Sec. 7.** AS 19.75.241(c) is amended to read:

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 **or to make payments due on the bonds from any source of**  
 29 **funds not pledged for repayment of the bonds.**

30 \* **Sec. 8.** AS 19.75 is amended by adding new sections to article 2 to read:

31 **Sec. 19.75.330. Bond terms.** (a) The bonds of the authority mature at the time

1 fixed by the board. The bonds may be subject to redemption before their fixed  
2 maturities as determined by the board, or by the authority's executive director when  
3 delegated that responsibility under AS 19.75.332, and with the premium fixed by the  
4 board, but a bond may not be subject to redemption before its fixed maturity date  
5 unless the right to redeem that bond is expressly mentioned on the face of the bond.  
6 The bonds

7 (1) may be in denominations determined by the board;

8 (2) may be issued in coupon form or in fully registered form, and may  
9 be registrable as to principal or both principal and interest, all under regulations and  
10 conditions the board provides;

11 (3) are payable as to principal and interest at the place determined by  
12 the board;

13 (4) shall be signed on behalf of the authority as the board may direct;  
14 the signatures may be facsimile signatures; each of the interest coupons, if any,  
15 attached to the bonds shall be signed by the facsimile signatures of the officials as the  
16 board may direct;

17 (5) shall have the seal of the authority impressed, printed, or  
18 lithographed on them; and

19 (6) shall be issued under and subject to the terms, conditions, and  
20 covenants, providing for the payment of the principal of and interest on the bonds and  
21 the other terms, conditions, covenants, and protective features safeguarding this  
22 payment and relating to the operations, maintenance, or capital improvements as found  
23 necessary by the board, which covenants may include a provision requiring the setting  
24 aside and maintenance of certain reserves to secure the payment of the principal and  
25 interest or for operations, maintenance, or capital improvements.

26 (b) The board may select a trustee or trustees for the holders of the bonds or  
27 any series of the bonds, for the safeguarding and disbursement of any of the money in  
28 any of the funds created under this chapter or for the duties of authentication, delivery,  
29 and registration of the bonds as the board may determine. The board shall fix the  
30 rights, duties, powers, and obligations of the trustee or trustees.

31 (c) In determining the matters and questions relating to the issuance and sale

1 of the bonds and the fixing of the maturities, terms, conditions, covenants, and other  
2 subjects of the bonds as provided in (a) and (b) of this section, the decisions of the  
3 board shall be those found to be reasonably necessary for the best interests of the  
4 authority and the construction, operation, and maintenance of its facilities, and those  
5 that will accomplish the most advantageous sale of the bonds, giving due regard to (1)  
6 necessary or normal costs of maintenance and operation; (2) renewals and  
7 replacements of and repairs to the toll facilities; (3) all improvements to toll facilities  
8 and property of toll facilities owned, used, operated, or leased in connection with toll  
9 facilities; (4) the future growth and expansion of all of the facilities; and (5) the  
10 possibility of additional revenue bond financing for toll facilities purposes. A decision  
11 of the board as expressed in any bond resolution, is final when any bonds have been  
12 issued under the bond resolution.

13 (d) A bond resolution may provide that the bonds issued must contain a recital  
14 that the bonds are issued under this chapter, and any bonds containing this recital are  
15 conclusively considered to be valid and to have been issued in conformity with this  
16 chapter.

17 (e) The validity of the authorization and issuance of bonds is not affected by  
18 any proceeding for the acquisition or construction of the additions, improvements, or  
19 facilities for which the bonds have been issued or by any contract in connection with  
20 the acquisition or construction.

21 **Sec. 19.75.332. Bond resolution.** (a) When issuing bonds of the authority, the  
22 board shall adopt the bond resolution and approve all other documents and  
23 proceedings necessary for the issuance, sale, and delivery of the bonds or any part or  
24 series of them. The bond resolution shall fix the aggregate principal amount and  
25 denomination, date, maturities, place or places of payment, rights of redemption, if  
26 any, terms, form, conditions, and covenants of the bonds or each series of them. The  
27 board shall also determine and provide for the date and manner of sale of the bonds,  
28 and shall provide where the notice of sale, if any, is to be published.

29 (b) The board may delegate to the authority's executive director the authority  
30 to approve final principal maturities and dates, interest rates, redemption rights, and  
31 interest payment dates under the terms and conditions the board determines by

1 resolution.

2 **Sec. 19.75.334. Enforcement by holder.** The holder of any bonds or the  
3 trustee for the holders of the bonds or any series of them, may, by appropriate  
4 proceedings in state court, compel the transfer, setting aside, and payment of money  
5 and the enforcement of all of the terms, conditions, and covenants as required and  
6 provided in AS 19.75.330 and 19.75.332 and in the bond resolution.

7 **Sec. 19.75.336. Bond negotiability.** The bonds and the coupons attached to  
8 them are fully negotiable instruments under the laws of the state.

9 **Sec. 19.75.338. Refunding.** (a) The bonds or any part of them may be  
10 refunded at or before their maturity by the issuance of refunding revenue bonds of the  
11 authority if, in the opinion of the board, refunding is advantageous to and in the best  
12 interest of the authority.

13 (b) The board shall adopt the resolution authorizing refunding and all other  
14 documents and proceedings necessary for the issuance, exchange or sale, and delivery  
15 of the bonds. All provisions of AS 19.75.211 - 19.75.271, except AS 19.75.211(c), and  
16 AS 19.75.330 - 19.75.340 applicable to revenue bonds are applicable to the refunding  
17 bonds and to the issuance, sale, or exchange of the bonds, except as otherwise  
18 provided in this section.

19 (c) Refunding bonds may be issued in a principal amount sufficient to provide  
20 money for the payment of all bonds to be refunded by them and, in addition, for the  
21 payment of all expenses incident to the calling, retiring, or paying of the outstanding  
22 bonds, and the issuance of the refunding bonds. These expenses include, without  
23 limitation,

24 (1) the difference in amount between the par value of the refunding  
25 bonds and any amount less than par for which the refunding bonds are sold;

26 (2) any amount necessary to be made available for the payment of  
27 interest on the refunding bonds from the date of sale of the bonds to the date of  
28 payment of the bonds to be refunded or to the date on which the bonds to be refunded  
29 will be paid under the call of the bonds or agreement with the holders of the bonds;

30 (3) the premium, if any, necessary to be paid in order to call or retire  
31 the outstanding bonds; and

1 (4) the interest accruing on the outstanding bonds to the date of the call  
2 or retirement and other costs of issuance and refunding.

3 **Sec. 19.75.340. Bonds as legal investments.** Bonds of the authority, including  
4 toll facilities bonds, are legal investments for all banks, trust companies, savings  
5 banks, savings and loan associations, and other persons carrying on a banking  
6 business, all insurance companies and other persons carrying on an insurance business,  
7 and all executors, administrators, trustees, and other fiduciaries. The bonds may be  
8 accepted as security for deposits of all money of the state and its political subdivisions.

9 \* **Sec. 9.** AS 19.75 is amended by adding new sections to read:

10 **Sec. 19.75.915. Liability for payment of tolls.** The owner of a vehicle using a  
11 facility owned, controlled, or managed by the authority for which a toll or fee is  
12 imposed is liable for the payment of the toll or fee solely because of the vehicle  
13 ownership, unless the vehicle, except a rental vehicle, is used without the owner's  
14 knowledge and incurs the toll or fee during operation.

15 **Sec. 19.75.920. Statutory construction.** This chapter shall be liberally  
16 construed in order to carry out the purposes for which it was enacted. All existing laws  
17 in conflict with this chapter are superseded as necessary to accomplish the purposes of  
18 this chapter.

19 \* **Sec. 10.** AS 19.75.980 is amended to read:

20 **Sec. 19.75.980. Definitions.** In this chapter, **except as otherwise provided**  
21 **and** unless the context requires otherwise,

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

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

24 (3) "department" means the Department of Transportation and Public  
25 Facilities;

26 (4) **"state bond committee" means the state bond committee**  
27 **created by AS 37.15.110.**

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