

HOUSE BILL NO. 294

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

BY REPRESENTATIVES WILSON, LEDOUX, AND SEATON, Buch

Introduced: 1/15/08

Referred: Transportation, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing the Alaska Marine Highway Authority, transferring to it from the**
2 **Department of Transportation and Public Facilities the responsibility for the operation,**
3 **management, planning, construction, and maintenance of facilities of the state's marine**
4 **highway system, and making conforming amendments; and providing for an effective**
5 **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. The purpose of this Act is to establish an authority for the operation,
10 management, planning, construction, and maintenance of facilities for the marine highway
11 system. The authority shall be the exclusive state agency directly associated with the
12 operation, management, planning, construction, and maintenance of facilities for the marine
13 highway system.

1 * **Sec. 2.** AS 19 is amended by adding a new chapter to read:

2 **Chapter 55. Alaska Marine Highway Authority.**

3 **Article 1. Creation and Organization.**

4 **Sec. 19.55.010. Alaska Marine Highway Authority.** (a) The Alaska Marine
5 Highway Authority is established. The authority is a public corporation of the state.
6 The authority is an instrumentality of the state in the Department of Transportation
7 and Public Facilities but has a legal existence independent of and separate from the
8 state and has continuing succession until its existence is terminated by law.

9 (b) The powers of the authority are vested in the board of directors of the
10 authority.

11 **Sec. 19.55.020. Directors.** (a) The board of directors of the authority consists
12 of seven directors. One director is the commissioner of transportation and public
13 facilities, and six directors are appointed by the governor. The six appointed directors
14 must be state residents who have experience with maritime affairs. The appointed
15 directors are subject to confirmation by a majority of the members of the legislature in
16 joint session. Appointed directors must include

17 (1) two persons who are members of a union that represents employees
18 of the authority; at least one person appointed under this paragraph shall be a member
19 of the maritime union representing the largest number of onboard employees of the
20 authority;

21 (2) two persons who are residents of Southeast Alaska, have a
22 significant high level of experience in the private sector, and are not employees of the
23 authority;

24 (3) a person who is a resident of the Gulf of Alaska area west of Icy
25 Cape, has a significant high level of experience in the private sector, and is not an
26 employee of the authority; and

27 (4) a person who represents the interests of the public.

28 (b) The appointed directors serve staggered five-year terms and may be
29 removed by the governor only for cause. Each director shall hold office for the term of
30 the director's appointment and until a successor is appointed and qualified. A director
31 is qualified for reappointment. A vacancy in a directorship occurring other than by

1 expiration of term shall be filled in the same manner as the original appointment but
2 only for the unexpired term.

3 (c) The directors shall comply with AS 39.50 (public official financial
4 disclosure). Each director before entering on the director's duties shall subscribe to an
5 oath to perform the duties of office faithfully, impartially, and justly to the best of the
6 director's ability. A record of the oath shall be filed with the Office of the Governor.

7 (d) An appointed director is entitled to compensation at a rate of \$300 for each
8 day the director is engaged in actual performance of duties under this chapter. The
9 board of directors of the authority may provide by regulation for compensation for
10 partial days for an appointed director. In addition, an appointed director is entitled to
11 per diem and travel expenses authorized for boards and commissions under
12 AS 39.20.180.

13 **Sec. 19.55.030. Officers and quorum.** The directors shall elect one of the
14 appointed directors as chair of the board of directors. The directors shall elect a
15 secretary and a treasurer who need not be directors, and the same person may be
16 elected to serve both as secretary and treasurer. Four directors constitute a quorum of
17 the board of directors. Except as provided in AS 19.55.110(a)(7), action may be taken
18 and motions and resolutions adopted by the board of directors at a meeting by the
19 affirmative vote of at least four directors. A vacancy in the board of directors of the
20 authority does not impair the right of a quorum to exercise all the powers and perform
21 all the duties of the board.

22 **Sec. 19.55.040. Staff.** (a) The board of directors shall employ a chief executive
23 officer who serves at the pleasure of the board.

24 (b) The chief executive officer may, with the approval of the board, select and
25 employ additional staff as necessary, including additional administrative officers. All
26 officers and employees of the authority are in the exempt service under AS 39.25.110.

27 (c) In addition to its staff of employees, the board of directors may contract for
28 and engage the services of consultants and professional, technical, and financial
29 advisors the authority considers necessary for the purpose of developing information,
30 conducting hearings, studies, investigations, or other proceedings, or otherwise
31 exercising its powers.

Article 2. Powers and Duties.

Sec. 19.55.110. Powers of authority. (a) In addition to other powers granted in this chapter, the authority may

(1) sue and be sued;

(2) adopt and alter an official seal;

(3) adopt and enforce regulations for the conduct of its business and for the use of its services and facilities;

(4) maintain offices at a place in the state and at places out of the state that are served by the marine highway system;

(5) establish terms and conditions of employment by the authority and conduct or designate a representative to conduct labor negotiations with employees;

(6) subject to appropriation by the legislature, acquire, hold, use, and dispose of its income, revenue, funds, and money;

(7) acquire, hold, use, lease, rent, construct, and dispose of personal property for its purposes, except that the authority may dispose of a ferry only on approval by the legislature by law;

(8) acquire, hold, use, lease, or rent real property and dispose of real property under AS 19.55.230;

(9) operate, maintain, improve, and extend a system of ferries connecting with the public roads and highways of the state and including the boats, vessels, wharves, docks, approaches, landings, and appurtenances the authority determines necessary or desirable for safe and efficient operation of the ferry system to best serve the public;

(10) adopt regulations under AS 44.62 (Administrative Procedure Act) governing

(A) access to and use of services and facilities of the authority;

(B) the authority of the officers and crew of vessels of the authority to maintain peace and order as necessary to protect the health, safety, and public welfare of the patrons and employees of the authority;

(C) rates, tariffs, and other charges for transportation and other services provided by the authority;

1 (11) do all acts and things necessary, convenient, or desirable to carry
2 out the powers expressly granted or necessarily implied in this chapter;

3 (12) modify scheduled routes after public hearings.

4 (b) The authority may participate at any stage in any transportation planning
5 process undertaken by the Department of Transportation and Public Facilities. The
6 authority may designate representatives to participate as full members of any
7 transportation planning committee, working group, planning team, rating panel, or
8 similar organization established by the department or required for state participation in
9 federal transportation programs. The department shall include the authority as a full
10 participant in the departmental transportation planning process, including the
11 statewide transportation plan and the statewide transportation improvement program.

12 **Sec. 19.55.120. Duties of authority.** The authority shall

13 (1) assist the residents, businesses, and communities of the state in
14 obtaining optimal marine passenger and freight service;

15 (2) schedule vessel sailings to optimize the frequency of service to all
16 ports;

17 (3) encourage and integrate with other public and private carriers to the
18 greatest extent possible to provide ferry service within the state and between Alaska
19 ports and ports outside the state to provide optimum service within the state;

20 (4) provide reservation access and marketing information throughout
21 the state;

22 (5) encourage vessel construction, maintenance, and service in the
23 state to the greatest extent possible;

24 (6) employ residents of the state to the greatest extent legally possible;

25 (7) recognize Alaska unions and employee associations to the greatest
26 extent legally possible.

27 **Sec. 19.55.130. Use of name authorized.** The authority may operate its ferry
28 system under the name "Alaska marine highway system."

29 **Sec. 19.55.140. Comprehensive long-range plan.** The authority, with the
30 cooperation of the Department of Transportation and Public Facilities, shall prepare a
31 comprehensive long-range plan for the development and improvement of the Alaska

1 marine highway system and shall revise and update the plan at least every five years.
 2 The authority shall submit the plan and revisions and updates of the plan to the
 3 legislature.

4 **Article 3. Acquisition of Property.**

5 **Sec. 19.55.210. Acquisition of land and easements.** The authority, as part of
 6 the cost of constructing, maintaining, or improving the marine highway system, may
 7 acquire by purchase, gift, or exchange land in fee simple or easements that it considers
 8 necessary and reasonable for either temporary or permanent public use. By the same
 9 means, the authority may obtain material, including clay, gravel, sand, or rock, or the
 10 land necessary to obtain the material, including access to it. The authority may acquire
 11 the land or materials notwithstanding the fact that title to it is vested in the state or a
 12 department, agency, commission, or institution of the state.

13 **Sec. 19.55.220. Authority to purchase property for the purpose of**
 14 **exchange.** When a majority of the directors of the authority declares that it is in the
 15 interest of the state, the authority may acquire by purchase, gift, or exchange privately
 16 or publicly owned land or an interest in land for the purpose of exchanging the land
 17 for privately or publicly owned land that the authority is authorized by law to acquire.

18 **Sec. 19.55.230. Disposal of land or rights in land.** (a) The authority may
 19 vacate land or rights in land acquired for use in the marine highway system by
 20 executing and filing a deed in the appropriate recording district. On vacating, title
 21 reverts to the persons, heirs, successors, or assigns in whom it was vested at the time
 22 of the taking.

23 (b) The authority may transfer land not considered necessary for use in the
 24 marine highway system to the Department of Natural Resources for disposal. The
 25 proceeds of disposal by the Department of Natural Resources shall be credited to the
 26 funds from which the purchase was originally made.

27 **Article 4. Vessels and Ferry Terminal Facilities.**

28 **Sec. 19.55.310. Ferry terminal facilities.** (a) The authority may construct,
 29 purchase, or lease ferry terminal facilities at locations it selects for the loading and
 30 unloading of passengers and vehicles under their own power, on and off ferries. The
 31 authority shall repair and maintain those facilities that it owns. Construction and

1 purchasing under this section are governed by AS 36.30 (State Procurement Code),
2 except as otherwise provided by law.

3 (b) The authority may connect ferry terminal facilities with local highway
4 systems.

5 (c) The authority may adopt regulations governing the use of ferry terminal
6 facilities by the public that it considers necessary and proper in the public interest. The
7 authority may charge a fee for the use of ferry terminal facilities, whether the use is
8 under a permit or otherwise, and whether the use is by one or more individuals.

9 **Sec. 19.55.320. Naming of vessel or facility.** (a) A vessel or facility
10 constructed or acquired by the authority must be named by law.

11 (b) A maritime vessel must bear the name of an Alaska glacier.

12 (c) A vessel used principally on the inland waterways of the state must bear
13 the name of a historical vessel that used the rivers of the state.

14 **Sec. 19.55.330. Transportation of members of the Alaska organized**
15 **militia.** To the extent that space is available, the authority shall provide free
16 transportation on vessels of the Alaska marine highway system for a member of the
17 Alaska National Guard, the Alaska Naval Militia, or the Alaska State Defense Force
18 who is en route to or from drill, training, or other official militia activities.

19 **Article 5. Budget and Revenue.**

20 **Sec. 19.55.410. Budget and appropriations.** The authority shall submit its
21 annual budget to the legislature through the governor as provided for state agencies by
22 AS 37.07 (Executive Budget Act). The authority shall expend money appropriated by
23 the legislature as authorized by the legislature.

24 **Article 6. General Provisions.**

25 **Sec. 19.55.910. Annual report.** By January 15 of each year, the board of
26 directors of the authority shall submit to the governor and the legislature a
27 comprehensive report describing the operations, income, and expenditures for the
28 preceding fiscal year.

29 **Sec. 19.55.920. Annual audit.** The authority shall have its financial records
30 audited annually by a certified public accountant. The legislative auditor may
31 prescribe the form and content of the financial records of the authority and shall have

1 access to those records at any time.

2 **Sec. 19.55.990. Definitions.** In this chapter, unless the context requires
3 otherwise,

4 (1) "authority" means the Alaska Marine Highway Authority;

5 (2) "ferry" means a vessel used in the common carriage of passengers
6 and vehicles in intrastate, interstate, or international commerce.

7 **Sec. 19.55.995. Short title.** This chapter may be cited as the Alaska Marine
8 Highway Authority Act.

9 * **Sec. 3.** AS 19.65.050 is amended to read:

10 **Sec. 19.65.050. Legislative findings, purpose, and intent.** (a) The legislature
11 finds that

12 (1) the Alaska Marine Highway Authority [MARINE HIGHWAY
13 SYSTEM] is an essential part of the state transportation system, and that it warrants
14 continued and predictable state support;

15 (2) many communities' economies are dependent on a steady and
16 stable marine highway system service level;

17 (3) the state's tourism industry is greatly enhanced by a dependable
18 marine highway transportation network; and

19 (4) efficient and prudent management of the authority [SYSTEM]
20 will benefit the state's economy and foster economic development.

21 (b) It is the purpose of AS 19.65.050 - 19.65.100 to

22 (1) enable the authority [ALASKA MARINE HIGHWAY SYSTEM]
23 to manage and operate in a manner that will enhance performance and accountability
24 by allowing the authority [SYSTEM] to account for and spend its generated revenue;

25 (2) provide the management tools necessary to efficiently operate the
26 authority [ALASKA MARINE HIGHWAY SYSTEM];

27 (3) within constitutional constraints, provide for a predictable funding
28 base for authority [SYSTEM] operations; and

29 (4) provide for predictability and stability in the service level furnished
30 to communities served by the authority [SYSTEM].

31 (c) It is the intent of AS 19.65.050 - 19.65.100 to

1 (1) encourage prudent administration through cost management and
 2 accurate budgeting by the board of directors [MANAGERS] of the authority
 3 [ALASKA MARINE HIGHWAY SYSTEM];

4 (2) increase revenue from the operation of the authority [SYSTEM]
 5 consistent with the public interest, increase service consistent with sound fiscal policy,
 6 and assist the prudent management and operation of the authority [SYSTEM]; and

7 (3) achieve stability in the level of service communities can anticipate
 8 through accurate planning and scheduling.

9 * **Sec. 4.** AS 19.65.060 is amended to read:

10 **Sec. 19.65.060. Alaska Marine Highway Authority [MARINE HIGHWAY**
 11 **SYSTEM] fund.** (a) There is created, as a special account in the general fund, the
 12 Alaska Marine Highway Authority [MARINE HIGHWAY SYSTEM] fund, into
 13 which shall be deposited

14 (1) the gross revenue of the authority [ALASKA MARINE
 15 HIGHWAY SYSTEM];

16 (2) money that is appropriated to the [ALASKA MARINE
 17 HIGHWAY SYSTEM] fund by the legislature in an amount that is consistent from
 18 year to year and is the amount necessary, after consideration of gross revenue, to
 19 provide stable services to the public consistent with the provisions of
 20 AS 19.65.050(b)(4); **unless otherwise provided by the legislature, appropriations**
 21 **to the fund under this paragraph** [, WHICH APPROPRIATIONS] are not one-year
 22 appropriations and [THE BALANCES OF WHICH] do not lapse under AS 37.25.010;
 23 and

24 (3) any other money that is appropriated to the [ALASKA MARINE
 25 HIGHWAY SYSTEM] fund by the legislature; **unless otherwise provided by the**
 26 **legislature, appropriations to the fund under this paragraph** [, WHICH
 27 APPROPRIATIONS] are not one-year appropriations and [THE BALANCES OF
 28 WHICH] do not lapse under AS 37.25.010.

29 (b) Nothing in **AS 19.65.050 - 19.65.100** [THIS CHAPTER] exempts money
 30 deposited into the [ALASKA MARINE HIGHWAY SYSTEM] fund from the
 31 requirements of AS 37.07 (Executive Budget Act) or dedicates that money for a

1 specific purpose.

2 * **Sec. 5.** AS 19.65.070 is amended to read:

3 **Sec. 19.65.070. Revenue accounting.** (a) The **authority** [ALASKA MARINE
4 HIGHWAY SYSTEM] shall account for and remit to the Department of Revenue in
5 accordance with AS 37.10.050 all gross revenue generated from the operation of the
6 **authority** [ALASKA MARINE HIGHWAY SYSTEM] during each **fiscal year**
7 [ANNUAL OPERATING CYCLE]. The money shall then be deposited in the Alaska
8 **Marine Highway Authority** [MARINE HIGHWAY SYSTEM] fund.

9 (b) The **authority** [ALASKA MARINE HIGHWAY SYSTEM] shall prepare
10 a written report, **not** [NO] later than the 10th day of each regular legislative session,
11 regarding the previous **fiscal year** [ANNUAL OPERATING CYCLE] and notify the
12 legislature that the report is available. The report must identify

13 (1) gross revenue generated during the previous **fiscal year** [ANNUAL
14 OPERATING CYCLE];

15 (2) gross revenue generated during the current **fiscal year** [ANNUAL
16 OPERATING CYCLE] and an estimate of gross revenue for the remainder of the
17 current **fiscal year** [ANNUAL OPERATING CYCLE];

18 (3) projections of the gross revenue to be generated during the next
19 **fiscal year** [ANNUAL OPERATING CYCLE]; and

20 (4) the difference between previous gross revenue estimates prepared
21 under this section and the revenues actually generated.

22 (c) The Department of Revenue shall prepare a written report, **not** [NO] later
23 than the 10th legislative day of each regular legislative session, regarding the earnings
24 on gross revenue of the **authority** [ALASKA MARINE HIGHWAY SYSTEM] that
25 was deposited into the Alaska **Marine Highway Authority** [MARINE HIGHWAY
26 SYSTEM] fund during the prior fiscal year and projected earnings on gross revenue of
27 the **authority** [ALASKA MARINE HIGHWAY SYSTEM] that is projected to be
28 deposited into the Alaska **Marine Highway Authority** [MARINE HIGHWAY
29 SYSTEM] fund for the current fiscal year and the next fiscal year. The Department of
30 Revenue shall notify the legislature that the report is available.

31 * **Sec. 6.** AS 19.65.080 is amended to read:

1 **Sec. 19.65.080. Annual appropriation.** (a) Commencing with appropriations
 2 for the fiscal year that begins July 1, 1991, on an annual basis and under AS 37.07
 3 (Executive Budget Act), the legislature may appropriate amounts from the [ALASKA
 4 MARINE HIGHWAY SYSTEM] fund **for management and operation of** [TO] the
 5 **authority** [ALASKA MARINE HIGHWAY SYSTEM].

6 (b) The **authority** [DEPARTMENT OF TRANSPORTATION AND PUBLIC
 7 FACILITIES] may request the legislature to appropriate money from the [ALASKA
 8 MARINE HIGHWAY SYSTEM] fund to the **authority** [MARINE HIGHWAY
 9 SYSTEM] for capital improvements [,] if

10 (1) the appropriation under (a) of this section has been made;

11 (2) the amount in the fund, without regard to the appropriation under
 12 (a) of this section, exceeds the total of gross revenue deposited in the fund and the
 13 general fund appropriations under AS 19.65.060(a)(2) by 10 percent; and

14 (3) the amount requested for appropriation under this subsection does
 15 not exceed 50 percent of the balance remaining after the appropriation for annual
 16 management and operations is made under (a) of this section.

17 (c) The unexpended and unobligated balance of money appropriated from the
 18 [ALASKA MARINE HIGHWAY SYSTEM] fund lapses into the [ALASKA
 19 MARINE HIGHWAY SYSTEM] fund at the end of the fiscal year for which it was
 20 appropriated.

21 * **Sec. 7.** AS 19.65.100 is amended to read:

22 **Sec. 19.65.100. Definitions.** In AS 19.65.050 - 19.65.100,

23 (1) **"authority" means the Alaska Marine Highway Authority**
 24 ["ANNUAL OPERATING CYCLE" MEANS THE ANNUAL STATE FISCAL
 25 YEAR BEGINNING ON JULY 1 AND ENDING AT MIDNIGHT ON THE
 26 FOLLOWING JUNE 30];

27 (2) **"fiscal year" has the meaning given in AS 37.07.120;**

28 (3) **"fund" means the Alaska Marine Highway Authority fund;**

29 (4) **"gross revenue"** means all money, except money refunded to ticket
 30 holders and others for unused services, that is generated from the operation of the
 31 **authority** [ALASKA MARINE HIGHWAY SYSTEM], including that derived from

1 vessel operations and uses of authority [ALASKA MARINE HIGHWAY SYSTEM]
2 facilities.

3 * **Sec. 8.** AS 23.40.040 is amended to read:

4 **Sec. 23.40.040. Collective bargaining agreement.** The Alaska Marine
5 Highway Authority [COMMISSIONER OF TRANSPORTATION AND PUBLIC
6 FACILITIES] or an authorized representative, in accordance with AS 23.40.020 -
7 23.40.030, may negotiate and enter into collective bargaining agreements concerning
8 wages, hours, working conditions, and other employment benefits with the employees
9 of the authority [DIVISION OF MARINE TRANSPORTATION] engaged in
10 operating the state ferry system as masters or members of the crews of vessels or their
11 bargaining agent. [A COLLECTIVE BARGAINING AGREEMENT IS NOT FINAL
12 WITHOUT THE CONCURRENCE OF THE COMMISSIONER OF
13 TRANSPORTATION AND PUBLIC FACILITIES.] The authority
14 [COMMISSIONER OF TRANSPORTATION AND PUBLIC FACILITIES] may
15 make provision in the collective bargaining agreement for the settlement of labor
16 disputes by arbitration.

17 * **Sec. 9.** AS 29.35.722 is amended to read:

18 **Sec. 29.35.722. Ownership or operation of certain state facilities**
19 **prohibited.** The state may not, without the approval of the legislature,

20 (1) convey or transfer the assets of the Alaska Marine Highway
21 Authority [MARINE HIGHWAY SYSTEM], the Anchorage or Fairbanks
22 international airports, or any other state asset, except undeveloped state land as
23 provided in AS 38.05.810 or surplused property, to an authority; or

24 (2) enter into an agreement with an authority under which the authority
25 would operate the Alaska marine highway system, the Anchorage or Fairbanks
26 international airports, or any other state facility, system, or function that employs one
27 or more employees.

28 * **Sec. 10.** AS 35.10.015(d) is amended to read:

29 (d) A [AFTER JUNE 25, 1976, A] ferry may not be constructed, lengthened,
30 completely renovated, or purchased for use or entered into service by the Alaska
31 Marine Highway Authority [DIVISION OF MARINE TRANSPORTATION OF

1 THE DEPARTMENT AS A PART OF THE ALASKA MARINE HIGHWAY
 2 SYSTEM] that does not include adequate facilities and devices to ensure that the
 3 vessel is accessible to and usable by persons with disabilities and by aged or infirm
 4 passengers. Some staterooms and all restrooms, indoor passageways, outdoor weather
 5 decks, and other public areas aboard the vessel shall be so designed and constructed as
 6 to permit access and use by persons with disabilities and by aged or infirm passengers,
 7 including those persons occupying a wheelchair.

8 * **Sec. 11.** AS 35.10.015(g) is amended to read:

9 (g) In this section, "public facilities" includes vessels owned by the state and
 10 operated by the Alaska Marine Highway Authority [DIVISION OF MARINE
 11 TRANSPORTATION OF THE DEPARTMENT AS A PART OF THE ALASKA
 12 MARINE HIGHWAY SYSTEM].

13 * **Sec. 12.** AS 35.27.020(c) is amended to read:

14 (c) At least one percent or, in the case of a rural school facility, at least one-
 15 half of one percent of the construction cost of a building or facility approved for
 16 construction by the legislature after September 1, 1977, will be reserved for the
 17 following purposes: the design, construction, mounting and administration of works of
 18 art in a school, office building, court building, [VESSEL OF THE MARINE
 19 HIGHWAY SYSTEM,] or other building or facility **that** [WHICH] is subject to
 20 substantial public use.

21 * **Sec. 13.** AS 35.27 is amended by adding a new section to read:

22 **Sec. 35.27.025. Application to Alaska Marine Highway Authority.** This
 23 chapter applies to the Alaska Marine Highway Authority. Compliance with this
 24 chapter is the sole responsibility of the authority with respect to the buildings and
 25 facilities of the authority.

26 * **Sec. 14.** AS 35.27.030(1) is amended to read:

27 (1) "building" or "facility" means a permanent improvement
 28 constructed by the department **or authority**; the term

29 (A) includes, but is not limited to,

30 (i) schools, office buildings, and court buildings;

31 (ii) other buildings **that** [WHICH] the commissioner

1 determines are designed for substantial public use;

2 (iii) [BOATS AND VESSELS OF THE MARINE
3 HIGHWAY SYSTEM;

4 (iv)] transportation facilities **that** [WHICH]
5 accommodate traveling passengers;

6 (B) excludes other transportation facilities **and boats and**
7 **vessels of the authority**;

8 * **Sec. 15.** AS 35.27.030 is amended by adding a new paragraph to read:

9 (4) "authority" means the Alaska Marine Highway Authority.

10 * **Sec. 16.** AS 36.30.015(g) is amended to read:

11 (g) The **Alaska Marine Highway Authority** [DEPARTMENT OF
12 TRANSPORTATION AND PUBLIC FACILITIES] shall adopt regulations to manage
13 the procurement of supplies, services, professional services, and construction for the
14 repair, maintenance, and reconstruction of vessels, docking facilities, and passenger
15 and vehicle transfer facilities of the Alaska marine highway system. The regulations
16 must be based on principles of competitive procurement consistent with this chapter to
17 satisfy the special requirements of the Alaska marine highway system as determined
18 by the **Alaska Marine Highway Authority** [DEPARTMENT OF
19 TRANSPORTATION AND PUBLIC FACILITIES].

20 * **Sec. 17.** AS 36.30.850(b)(29) is amended to read:

21 (29) construction of new vessels by the **Alaska Marine Highway**
22 **Authority** [DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES]
23 for the Alaska marine highway system;

24 * **Sec. 18.** AS 36.30.990(1) is amended to read:

25 (1) "agency"

26 (A) means a department, institution, board, commission,
27 division, authority, public corporation, the Alaska Pioneers' Home, the Alaska
28 Veterans' Home, or other administrative unit of the executive branch of state
29 government;

30 (B) does not include

31 (i) the University of Alaska;

- 1 (ii) the Alaska Railroad Corporation;
- 2 (iii) the Alaska Housing Finance Corporation;
- 3 (iv) a regional Native housing authority created under
- 4 AS 18.55.996 or a regional electrical authority created under
- 5 AS 18.57.020;
- 6 (v) the Alaska Marine Highway Authority
- 7 [DEPARTMENT OF TRANSPORTATION AND PUBLIC
- 8 FACILITIES], in regard to the repair, maintenance, and reconstruction
- 9 of vessels, docking facilities, and passenger and vehicle transfer
- 10 facilities of the Alaska marine highway system;
- 11 (vi) the Alaska Aerospace Development Corporation;
- 12 (vii) the Alaska Retirement Management Board;
- 13 (viii) the Alaska Seafood Marketing Institute;

14 * **Sec. 19.** AS 36.90.049(e)(1) is amended to read:

15 (1) "commissioner of the department that operates the marine vessel"

16 includes the president of the University of Alaska with regard to a vessel operated by

17 the university **and the chief executive officer of the Alaska Marine Highway**

18 **Authority with regard to a vessel operated by the Alaska Marine Highway**

19 **Authority**;

20 * **Sec. 20.** AS 37.05.550 is amended to read:

21 **Sec. 37.05.550. Alaska Marine Highway Authority [MARINE HIGHWAY**

22 **SYSTEM] vessel replacement fund.** (a) There is in the general fund the Alaska

23 **Marine Highway Authority [MARINE HIGHWAY SYSTEM] vessel replacement**

24 fund. The fund consists of money appropriated to it by the legislature. Money

25 appropriated to the fund does not lapse. The Department of Revenue shall manage the

26 fund. Interest received on money in the fund shall be accounted for separately and may

27 be appropriated into the fund annually. The legislature may appropriate money from

28 the fund for refurbishment of existing state ferry vessels, acquisition of additional state

29 ferry vessels, or replacement of retired or outmoded state ferry vessels.

30 (b) The legislature may appropriate to the fund money received by the state as

31 Alaska **Marine Highway Authority [MARINE HIGHWAY SYSTEM] program**

1 receipts or from a settlement or final judicial determination of the Dinkum Sands case
 2 (United States v. Alaska) and the North Slope royalty case (State v. Amerada Hess, et
 3 al.) and not deposited into the Alaska permanent fund under AS 37.13.010(a)(1) or
 4 into the public school trust fund under AS 37.14.150.

5 (c) The Department of Revenue shall prepare a written report, **not** [NO] later
 6 than the 10th legislative day of each regular legislative session, regarding the earnings
 7 of the Alaska **Marine Highway Authority** [MARINE HIGHWAY SYSTEM] vessel
 8 replacement fund during the prior fiscal year and projected earnings of the Alaska
 9 **Marine Highway Authority** [MARINE HIGHWAY SYSTEM] vessel replacement
 10 fund for the current fiscal year and the next fiscal year. The Department of Revenue
 11 shall notify the legislature that the report is available.

12 * **Sec. 21.** AS 39.20.310(8) is amended to read:

13 (8) persons employed by the **Alaska Marine Highway Authority**
 14 [DIVISION OF MARINE TRANSPORTATION] as masters and members of the
 15 crews operating the state ferry system who are covered by collective bargaining
 16 agreements as provided in AS 23.40.040, except as expressly provided by law;

17 * **Sec. 22.** AS 39.25.110(11) is amended to read:

18 (11) the officers and employees of the following boards, commissions,
 19 and authorities:

20 (A) [REPEALED

21 (B)] Alaska Permanent Fund Corporation;

22 **(B)** [(C)] Alaska Industrial Development and Export Authority;

23 **(C)** [(D)] Alaska Commercial Fisheries Entry Commission;

24 **(D)** [(E)] Alaska Commission on Postsecondary Education;

25 **(E)** [(F)] Alaska Aerospace Development Corporation;

26 **(F)** [(G)] Alaska Natural Gas Development Authority;

27 **(G) Alaska Marine Highway Authority;**

28 * **Sec. 23.** AS 39.25.110(16) is amended to read:

29 (16) persons employed by the **Alaska Marine Highway Authority**
 30 [DIVISION OF MARINE TRANSPORTATION] as masters and members of the
 31 crews of vessels who operate the state ferry system and who are covered by a

1 collective bargaining agreement provided in AS 23.40.040;

2 * **Sec. 24.** AS 39.30.150(b) is amended to read:

3 (b) Employees of the Alaska Marine Highway Authority [DIVISION OF
4 MARINE TRANSPORTATION] included in AS 39.35.095 - 39.35.680 through the
5 process of collective bargaining under AS 39.35.680(22)(D) may, under the terms of a
6 collective bargaining agreement, utilize contributions made under (a) of this section on
7 their behalf to offset the costs of inclusion in the public employees' retirement system;
8 however,

9 (1) the state is placed under no obligation to continue making
10 contributions under this section if the state resumes participation in the federal social
11 security system;

12 (2) the bargaining agreement must provide a mechanism for satisfying
13 any residual liabilities that might exist if the state resumes participation in the federal
14 social security system; and

15 (3) funds contributed under (a) of this section on behalf of employees
16 who are not covered by maritime union contracts may not be obligated or expended to
17 pay any costs associated with the inclusion of marine highway system
18 [TRANSPORTATION] employees in AS 39.35.095 - 39.35.680.

19 * **Sec. 25.** AS 39.35.680(22) is amended to read:

20 (22) "member" or "employee"

21 (A) means a person eligible to participate in the plan and who
22 is covered by the plan;

23 (B) includes

24 (i) an active member;

25 (ii) an inactive member;

26 (iii) a vested member;

27 (iv) a deferred vested member;

28 (v) a nonvested member;

29 (vi) a disabled member;

30 (vii) a retired member;

31 (viii) an elected public officer under AS 39.35.381;

1 (C) does not include

2 (i) former members;

3 (ii) persons compensated on a contractual or fee basis;

4 (iii) casual or emergency workers or nonpermanent
5 employees as defined in AS 39.25.200;

6 (iv) persons covered by the Alaska Teachers'
7 Retirement System except as provided under AS 39.35.131 and
8 39.35.381, or persons covered by a university retirement program;

9 (v) employees of the Alaska Marine Highway
10 Authority [DIVISION OF MARINE TRANSPORTATION] engaged
11 in operating the state ferry system who are covered by a union or group
12 retirement system to which the state makes contributions;

13 (vi) justices of the supreme court or judges of the court
14 of appeals or of the superior or district courts of Alaska;

15 (vii) the administrative director of courts appointed
16 under art. IV, sec. 16 of the state constitution unless the director
17 becomes a member under AS 39.35.158;

18 (viii) members of the elected public officers' retirement
19 system (former AS 39.37); and

20 (ix) contractual employees of the legislative branch of
21 state government under AS 24.10.060(f);

22 (D) may include employees of the Alaska Marine Highway
23 Authority [DIVISION OF MARINE TRANSPORTATION] excluded under
24 (C)(v) of this paragraph provided that

25 (i) the State of Alaska formally agrees to their inclusion
26 through the process of collective bargaining; and

27 (ii) no collective bargaining agreement has the effect of
28 obligating contributions made by the state under AS 39.30.150 in the
29 event the state resumes participation in the federal social security
30 system;

31 * **Sec. 26.** AS 39.50.200(b) is amended by adding a new paragraph to read:

1 (64) Alaska Marine Highway Authority (AS 19.55.010).

2 * **Sec. 27.** AS 41.23.080(c) is amended to read:

3 (c) Subject to a finding of public need by the Department of Natural
4 Resources, the development of transportation facilities including roads, expansion of
5 the existing boat launching ramp and related parking, highways, and ferry terminals by
6 the Department of Transportation and Public Facilities **or the Alaska Marine**
7 **Highway Authority,** and electric power transmission facilities and other public
8 utilities within the land described in (a) of this section is consistent with the purposes
9 of AS 41.23.050 - 41.23.080.

10 * **Sec. 28.** AS 43.40.010(g) is amended to read:

11 (g) The proceeds of the revenue from the tax on all motor fuels, except as
12 provided in (e), (f), and (j) of this section, shall be deposited in a special highway fuel
13 tax account in the state general fund. The legislature may appropriate funds from **the**
14 **account** [IT] for expenditure by the Department of Transportation and Public
15 Facilities **or the Alaska Marine Highway Authority** directly or as matched with
16 available federal-aid highway money for maintenance of highways, construction of
17 highway projects and ferries included in the program provided for in AS 19.10.150,
18 including approaches, appurtenances and related facilities and acquisition of rights-of-
19 way or easements, and other highway **and marine highway system** costs including
20 surveys, administration, and related matters. All departments of the state government
21 authorized to spend funds collected from taxes imposed by this chapter shall perform,
22 when feasible, all construction or reconstruction projects by contract after the projects
23 have been advertised for competitive bids, except that, when feasible, arrangements
24 shall be made with political subdivisions to carry out the construction or
25 reconstruction projects. If it is not feasible for the work to be performed by state
26 engineering forces, the commissioner of transportation and public facilities may
27 contract on a professional basis with private engineering firms for road design, bridge
28 design, and services in connection with surveys. If more than one private engineering
29 firm is available for the work, the contracts shall be entered into on a negotiated basis.

30 * **Sec. 29.** AS 44.42.020(a)(1) is amended to read:

31 (1) plan, design, construct, and maintain all state modes of

1 transportation and transportation facilities and all docks, floats, breakwaters, buildings,
 2 and similar facilities, **except that departmental planning, design, construction, or**
 3 **maintenance of transportation modes or facilities under the jurisdiction of the**
 4 **Alaska Marine Highway Authority is subject to direction by the Alaska Marine**
 5 **Highway Authority;**

6 * **Sec. 30.** AS 44.42.020(a)(7) is amended to read:

7 (7) manage, operate, and maintain state transportation facilities and all
 8 docks, floats, breakwaters, and buildings, including all state highways, vessels,
 9 railroads, pipelines, airports, and aviation facilities, **except that the department is**
 10 **not responsible for management or operation of transportation facilities under**
 11 **the jurisdiction of the Alaska Marine Highway Authority or for management,**
 12 **operation, or maintenance of vessels or equipment under the jurisdiction of the**
 13 **Alaska Marine Highway Authority;**

14 * **Sec. 31.** The uncodified law of the State of Alaska enacted in sec. 1(a), ch. 88, SLA 2000,
 15 is amended to read:

16 (a) In order to provide more frequent and efficient marine ferry service to the
 17 residents of Prince of Wales Island and adjacent areas of southern Southeast Alaska,
 18 the legislature authorizes the **Alaska Marine Highway Authority** [DEPARTMENT
 19 OF TRANSPORTATION AND PUBLIC FACILITIES] to enter into an agreement
 20 with the Inter-Island Ferry Authority regarding the operation of the Clarke Bay
 21 Terminal, Prince of Wales Island.

22 * **Sec. 32.** Section 2, ch. 22, SLA 2003, is repealed and reenacted to read:

23 Sec. 2. AS 37.05.550(b) is amended to read:

24 (b) The legislature may appropriate to the fund money received by the state as
 25 Alaska Marine Highway Authority program receipts or from a settlement or final
 26 judicial determination of the Dinkum Sands case (United States v. Alaska) and the
 27 North Slope royalty case (State v. Amerada Hess, et al.) and not deposited into the
 28 Alaska permanent fund under AS 37.13.010(a)(1) **or (2)** or into the public school trust
 29 fund under AS 37.14.150.

30 * **Sec. 33.** The uncodified law of the State of Alaska enacted in sec. 5(a), ch. 22, SLA 2003,
 31 is amended to read:

1 (a) Before October 1 of each year, the commissioner of revenue shall calculate
 2 the amount by which each permanent fund dividend is reduced as a result of the
 3 amendment to AS 37.13.010(a) in sec. 3, ch. 22, SLA 2003, [OF THIS ACT] when
 4 compared to what the amount of each dividend would have been for that year had the
 5 amendment to AS 37.13.010(a) in sec. 3, ch. 22, SLA 2003, [OF THIS ACT] not
 6 taken effect. If the amount of that reduction is equal to or greater than \$20, sec. 2, ch.
 7 22, SLA 2003, as amended by sec. 21 of the 2008 Act providing for the
 8 establishment of an Alaska Marine Highway Authority, and sec. 4, ch. 22, SLA
 9 2003, [SECS. 2 AND 4 OF THIS ACT] take effect.

10 * **Sec. 34.** AS 19.65.011, 19.65.020, 19.65.030, and 19.65.035 are repealed.

11 * **Sec. 35.** The uncodified law of the State of Alaska is amended by adding a new section to
 12 read:

13 TRANSFER OF APPROPRIATIONS, EMPLOYEES, AND ASSETS TO ALASKA
 14 MARINE HIGHWAY AUTHORITY. (a) Employees of the Department of Transportation
 15 and Public Facilities assigned to the management, operation, and maintenance of the Alaska
 16 marine highway system on the effective date of this section are transferred to the Alaska
 17 Marine Highway Authority as state employees of the authority. The commissioner of
 18 transportation and public facilities shall determine which employees are transferred to the
 19 authority. An employee who is transferred to the authority under this subsection shall
 20 continue to participate without interruption in the supplemental employee benefits program
 21 under AS 39.30.150 - 39.30.180 and in the public employees' retirement system under
 22 AS 39.35 if the employee was a participant in these programs on the day before the employee
 23 was transferred to the authority.

24 (b) During the term of a collective bargaining agreement that applies to employees
 25 who are transferred to the Alaska Marine Highway Authority and that is in effect on the
 26 effective date of this section, nothing in this Act terminates or modifies recognition of the
 27 exclusive bargaining representative for those employees or that collective bargaining
 28 agreement. The Alaska Marine Highway Authority shall abide by the collective bargaining
 29 agreements that are in effect for employees transferred to the authority on the date of transfer.
 30 A collective bargaining agreement covering employees transferred under this Act shall remain
 31 in effect for the term of the agreement unless the agreement is renegotiated by the Alaska

1 Marine Highway Authority and the exclusive bargaining representative. The legislature finds
 2 that the community of interest of shore-based employees of the Alaska Marine Highway
 3 Authority is substantially different from the community of interest of the employees of the
 4 executive branch in the classified service. Accordingly, the shore-based employees of the
 5 Alaska Marine Highway Authority are severed from their recognized collective bargaining
 6 units in effect on the effective date of this section on expiration of the collective bargaining
 7 agreement in effect on the effective date of this section for their unit. The severed units shall
 8 continue as units of the Alaska Marine Highway Authority with the exclusive representative
 9 in place at the time of the severance until actions under AS 23.40.070 - 23.40.260 (Public
 10 Employment Relations Act) change the units or representatives.

11 (c) The unexpended and unobligated balances of operating and capital appropriations
 12 for the Department of Transportation and Public Facilities, Alaska marine highway system,
 13 shall be transferred to the Alaska Marine Highway Authority.

14 (d) The personal property assets and real property assets, including ferries, equipment,
 15 buildings, and associated facilities, of the Department of Transportation and Public Facilities,
 16 Alaska marine highway system, shall be transferred to the Alaska Marine Highway Authority.

17 * **Sec. 36.** The uncodified law of the State of Alaska is amended by adding a new section to
 18 read:

19 INITIAL APPOINTMENT OF MEMBERS OF THE ALASKA MARINE
 20 HIGHWAY AUTHORITY. (a) Notwithstanding AS 19.55.020(b), added by sec. 2 of this
 21 Act, and AS 39.05.055, the initially appointed members of the board of directors of the
 22 Alaska Marine Highway Authority shall be appointed by the governor to terms as follows:
 23 one member serves for one year, one member serves for two years, one member serves for
 24 three years, one member serves for four years, and two members serve for five years.

25 (b) The governor shall appoint the initial members of the board of directors of the
 26 Alaska Marine Highway Authority, as provided for under AS 19.55.020(a), added by sec. 2 of
 27 this Act, before December 1, 2008.

28 * **Sec. 37.** Sections 1, 33, and 36 of this Act take effect immediately under AS 01.10.070(c).

29 * **Sec. 38.** Section 32 of this Act takes effect on the effective date described in sec. 5(a), ch.
 30 22, SLA 2003, as amended by sec. 33 of this Act.

31 * **Sec. 39.** Except as provided in secs. 37 and 38 of this Act, this Act takes effect January 1,

1 2009.