

HOUSE BILL NO. 365

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

BY REPRESENTATIVE GARA

Introduced: 2/13/08

Referred: Transportation, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act amending the ability of the Knik Arm Bridge and Toll Authority to make and**
2 **execute certain agreements, contracts, and other instruments; and relating to the facility**
3 **toll charges that the authority may collect from its operation of the Knik Arm bridge**
4 **and appurtenant facilities and to the necessity of securing the approval of the**
5 **commissioner of transportation and public facilities as to the amounts to be collected as**
6 **toll charges."**

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

8 *** Section 1.** AS 19.75.111(a) is amended to read:

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

13 (1) own, acquire, construct, develop, create, reconstruct, equip,

1 operate, maintain, extend, and improve the Knik Arm bridge and its appurtenant
2 facilities;

3 (2) sue and be sued;

4 (3) adopt a seal;

5 (4) adopt, amend, and repeal regulations under AS 44.62 and establish
6 bylaws;

7 (5) make and execute agreements, contracts, and all other instruments

8 (A) with any public or private person, governmental unit or
9 agency, corporation, or other business entity lawfully conducting business in
10 the United States for the exercise of its powers and functions under this
11 chapter, **other than those described under (B) of this paragraph;** and

12 **(B) subject to the provisions of AS 19.75.345,** for the
13 financing, design, construction, maintenance, improvement, or operation of
14 facilities, properties, or projects of the authority, including making and
15 executing contracts with any person, firm, corporation, governmental agency,
16 or other entity for the purpose of

17 (i) [(A)] incurring indebtedness, obtaining investments
18 in the authority's projects, acquiring or granting lump sum payments for
19 services in advance or in arrears, grants, and other financing; and

20 (ii) [(B)] entering into public-private partnerships or
21 service contracts in any form;

22 (6) in its own name acquire, lease, rent, sell, or convey real and
23 personal property;

24 (7) issue and refund bonds in accordance with this chapter, in order to
25 pay the cost of the Knik Arm bridge and its appurtenant facilities; the authority may
26 also secure payment of the bonds as provided in this chapter;

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

31 (9) apply for and accept gifts, grants, or loans from a federal agency or

1 an agency or instrumentality of the state, or from a municipality, private organization,
 2 or other source, including obtaining title to state, local government, or privately owned
 3 land, directly or through a department of the state having jurisdiction of the land;

4 (10) fix and collect fees, rents, tolls, rates, or other charges for the use
 5 of the Knik Arm bridge and appurtenant facilities, or for a service developed,
 6 operated, or provided by the authority; **for purposes of exercising the power granted**
 7 **in this paragraph,**

8 (A) notwithstanding AS 37.10.050(a), fees, rents, tolls, rates,
 9 and other charges fixed and collected under this paragraph may exceed the
 10 actual operating cost of the use of the bridge, facility, or service; **and**

11 (B) **the authority may make periodic changes in the tolls,**
 12 **fees, and other charges that it imposes and collects for a vehicle's use of a**
 13 **facility owned, controlled, or managed by the authority for which the toll,**
 14 **fee, or other charge is imposed only if**

15 (i) **the amount of the percentage of change in the toll,**
 16 **fee, or charge does not exceed the amount of the percentage of**
 17 **change in the Consumer Price Index for all urban consumers for**
 18 **the Anchorage metropolitan area compiled by the Bureau of Labor**
 19 **Statistics, United States Department of Labor, since the initial**
 20 **determination of a toll, fee, or other charge or the last periodic**
 21 **change, whichever is later; however, the authority may exceed the**
 22 **limitation of this sub-subparagraph if a greater change in a toll,**
 23 **fee, or other charge is necessary to allow the authority to remain in**
 24 **compliance with a provision of AS 19.75.221(b) or of a provision of**
 25 **a trust agreement entered into to secure the bonds of the authority**
 26 **issued under this chapter; and**

27 (ii) **the change is approved by the commissioner of**
 28 **transportation and public facilities;**

29 (11) bring civil actions, refer criminal actions to the appropriate
 30 authority, and take other actions or enter into agreements with law enforcement and
 31 collection agencies to enforce the collection of its fees, rents, tolls, rates, other

1 charges, penalties, and other obligations;

2 (12) pledge, encumber, transfer, or otherwise obligate revenue derived
3 by the authority from the ownership, use, or operation of toll facilities, including fees,
4 rents, tolls, rates, charges, or other revenue of the authority or money that the
5 legislature may appropriate, except a state tax or license, as security for bonds or other
6 indebtedness or agreements of the authority;

7 (13) deposit or invest its funds, subject to agreements with
8 bondholders;

9 (14) procure insurance against any loss in connection with its
10 operation;

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

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

17 (17) perform reconnaissance studies and engineering, survey, and
18 design studies with respect to the Knik Arm bridge and its appurtenant facilities;

19 (18) exercise powers of eminent domain or file a declaration of taking
20 as necessary for the Knik Arm bridge and appurtenant facilities under AS 09.55.240 -
21 09.55.460 to acquire land or an interest in land; the authority's exercise of powers
22 under this paragraph may not exceed the permissible exercise of those powers by the
23 state;

24 (19) confer with municipal and other governments, metropolitan
25 planning organizations, and the department, concerning the Knik Arm bridge;

26 (20) do all acts and things necessary to carry out the powers expressly
27 granted or necessarily implied in this chapter; nothing in this chapter limits the powers
28 of the authority that are expressly granted or necessarily implied.

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

30 **Sec. 19.75.345. Public review and legislative notice and approval.** (a) The
31 authority shall publish notice and provide a 60-day period for public review and

1 comment on all agreements, contracts, and other instruments proposed to be entered
2 into under AS 19.75.111(a)(5)(B).

3 (b) If, after consideration of public comments received under (a) of this
4 section, the authority determines that a potential agreement, contract, or other
5 instrument proposes a project that will sufficiently maximize the benefits to the people
6 of this state and merits the authority entering into the agreement, contract, or other
7 instrument, the authority shall

8 (1) issue a determination, with written findings addressing the basis for
9 the determination;

10 (2) publish notice of intent to enter into the agreement, contract, or
11 other instrument; and

12 (3) forward the notice under (2) of this subsection, along with the
13 findings, supporting documentation, and determination under (1) of this subsection, to
14 the presiding officer of each house of the legislature.

15 (c) If, after consideration of public comments received under (a) of this
16 section, the authority determines that a potential agreement, contract, or other
17 instrument, does not sufficiently maximize the benefits to the people of this state and
18 merit the authority entering into the agreement, contract, or other instrument, the
19 authority shall issue a written finding that addresses the basis for that determination.

20 (d) After the presiding officer of each house of the legislature receives a
21 determination from the authority under (b) of this section, the rules committee of each
22 house of the legislature shall introduce a bill in the committee's respective chamber
23 that provides for the approval of agreement, contract, or other instrument.

24 (e) If a bill approving the agreement, contract, or other instrument passes the
25 legislature within 60 days after the last date a presiding officer receives a
26 determination by the authority under (b) of this section, the authority shall make and
27 execute the agreement, contract, or other instrument after the effective date of the Act
28 approving the agreement, contract, or other instrument.

29 (f) Notwithstanding a legislative rule that prohibits the carryover of a bill after
30 the end of a special session or after the end of a regular session of a legislature, a bill
31 introduced under (d) of this section that is not passed or not withdrawn, defeated,

1 vetoed, or indefinitely postponed shall be carried over to any subsequent regular or
2 special legislative session convened during the 60-day period described in (e) of this
3 section in the same reading or status it was in at the time of adjournment. However, a
4 bill introduced under (d) of this section may not be carried over to the first regular
5 session of a legislature.

6 (g) If the legislature fails to approve the agreement, contract, or other
7 instrument entered into under AS 19.75.111(a)(5)(B), the authority may not enter into
8 the agreement, contract, or other instrument that the legislature failed to approve.

9 * **Sec. 3.** AS 44.42 is amended by adding a new section to article 1 to read:

10 **Sec. 44.42.090. Commissioner to approve toll changes of the Knik Arm**
11 **Bridge and Toll Authority.** The commissioner

12 (1) shall consider all proposed changes in the tolls, fees, and other
13 charges to be imposed and collected by the Knik Arm Bridge and Toll Authority under
14 AS 19.75; and

15 (2) may approve those changes; the commissioner shall exercise
16 authority under this paragraph in conformity to the standard set out in
17 AS 19.75.111(a)(10)(B).