

1 IN THE SENATE

BY SENATOR RYAN

2

SENATE BILL NO. 151

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIRST LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the Port of Whittier
7 Authority."

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

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ARTICLE I

10

GENERAL

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Section 1. SHORT TITLE. This Act may be cited as the "Port

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of Whittier Authority Act."

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Sec. 2. DEFINITIONS. When used in this Act unless clearly

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not applicable:

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(1) "Port of Whittier means all those facilities com-

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prising the area known as the Port of Whittier which may be con-

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veyed to the State of Alaska by the Government of the United States

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of America or an instrumentality thereof, and which, on the date

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of passage of this Act, are being administered by the United

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States Army. Such facilities are generally described as but not

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necessarily limited to land, rights in land, harbor and harbor

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facilities, buildings, warehouses, structures, plants, systems

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and works for the generation, production, transmission, and dis-

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tribution of electric energy for lighting, heating and power, and

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any and all property, equipment, improvements, and facilities

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whatsoever appurtenant or relating thereto.

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(2) "authority" means the Port of Whittier Authority;

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(3) "board" means the Port of Whittier Authority

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Board;

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1 (4) "construction" or "to construct" means building,
2 improvement, maintenance, equipment, enlargement, alteration,
3 extension, repair, and furnishing, or their verb forms;

4 (5) "person" means any natural person, association,
5 corporation, business trust, partnership, or public body;

6 (6) "federal government" or "federal agency" means
7 the Government of the United States of America and includes the
8 President, other officers, departments, corporations, authorities,
9 agencies, or any instrumentality of the United States of America;

10 (7) "charges" includes fees, tolls, rates, and rentals;

11 (8) "revenues" means all charges or any specified
12 portion thereof received for and all other income and receipts
13 derived by the authority from the operation of the Port of
14 Whittier or arising therefrom;

15 (9) the singular includes the plural.

16 Sec. 3. PORT OF WHITTIER AUTHORITY. The Port of Whittier
17 Authority is established as a public body corporate and politic
18 and shall have all the rights appertaining or belonging to
19 general bodies corporate except as limited, modified, or other-
20 wise provided by this Act.

21 Sec. 4. PORT OF WHITTIER AUTHORITY BOARD. a. The Port of
22 Whittier Authority Board is established as the governing body of
23 the authority.

24 b. The board consists of three members who are appointed
25 by and serve at the pleasure of the governor and confirmed by
26 the legislature meeting in joint session. In addition, the
27 commissioner of natural resources and the commissioner of public
28 works shall serve as ex officio members of the board without
29 additional compensation. The members shall be residents of

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1 Alaska qualified by administrative and business experience. No
2 member may be associated with any public service corporation
3 which provides a service for profit similar to any of the ser-
4 vices of the authority, nor may any member of the board have any
5 interest in any business that may be favorably or unfavorably
6 affected by the operation of the authority.

7 c. The term of office of each member is three years. The
8 term of one member shall expire on February 1 of each year. Any
9 member appointed to fill a vacancy occurring other than by ex-
10 piration of a term shall serve only for the unexpired term of the
11 member he succeeds. Members appointed are qualified to act and
12 receive compensation between the time of their appointment and
13 the time of confirmation or rejection by the legislature.

14 Sec. 5. BOARD--ORGANIZATION, COMPENSATION, OATH, AND BOND.

15 a. Within 10 days after the effective date of this Act, the
16 governor shall make all appointments to the board and the board
17 shall meet and organize by electing from its members a chairman,
18 a vice-chairman, and a secretary. At the first regular meeting
19 of every year the board shall elect new officers. One member of
20 the first board shall serve for one year, one member shall serve
21 for two years, and one member shall serve for three years. At
22 the time of the appointments, the governor shall designate which
23 members have been appointed for which terms. The commissioner of
24 the Department of Revenue shall be the treasurer of the authority
25 without voting rights or additional compensation. The treasurer
26 shall attend meetings when requested to do so and shall perform
27 all duties imposed upon him as treasurer of the authority.

28 b. Members of the board receive no salary but shall receive
29 the same per diem and travel expenses as are authorized for

1 members of state boards for time spent in the service of the
2 authority.

3 c. Members of the board shall take the oath required of
4 all public officers, and shall execute an official bond to the
5 state in the amount of \$5,000.00 with satisfactory sureties to be
6 approved by the commissioner of the Department of Revenue. The
7 oath and bond shall be filed with the commissioner of the Depart-
8 ment of Revenue.

9 Sec. 6. MEETINGS OF THE BOARD. a. All meetings of the
10 board shall be public. All members of the board shall attend
11 all meetings unless excused from attendance for a justifiable
12 reason; three members shall constitute a quorum for the organiza-
13 tion and transaction of business, unless the by-laws require a
14 larger number.

15 b. The board shall keep minutes of its meetings and may
16 publish so much thereof as it considers of public interest and
17 benefit.

18 Sec. 7. POWERS AND DUTIES OF THE BOARD. a. The board
19 shall manage the properties and businesses of the Port of
20 Whittier and may prescribe, amend, and repeal by-laws, rules,
21 and regulations governing the manner in which the business of
22 the authority may be conducted. Regulations of the board which
23 come under the meaning of "regulation" as defined by the Adminis-
24 trative Procedure Act may be promulgated and used only in accor-
25 dance with that Act.

26 b. The board may employ a person as the executive director
27 of the authority, which person shall be professionally trained
28 and professionally qualified and experienced in the performance
29 of his duties. The selection of the executive director is

1 subject to the approval of the governor. The executive director
2 may not have any interest in a business that may favorably or
3 unfavorably be affected by the operation of the authority.

4 c. The board shall fix and determine the number of officers,
5 agents, and employees of the authority and their respective com-
6 pensation and duties, and may delegate to the executive director
7 such powers and duties as it may deem proper.

8 d. On or before December 1 of each year, the board shall
9 submit to the governor a report containing a full and complete
10 account of its business for the preceding year, together with
11 other information, suggestions, and recommendations deemed of
12 public value.

13 ARTICLE II

14 POWERS AND DUTIES OF THE AUTHORITY

15 Sec. 8. a. The authority is established in order to acquire
16 maintain, operate, and improve the Port of Whittier and all
17 facilities whatsoever appurtenant or relating thereto, the title
18 to which may be acquired by the State of Alaska.

19 b. The authority may sue and be sued in its official cor-
20 porate name, make contracts, acquire through gift, grant, pur-
21 chase, lease, condemnation, or otherwise, and hold, use, handle,
22 enjoy, lease, sell, pledge, or otherwise dispose of any and all
23 real and personal property.

24 c. The authority has no power to levy any taxes or to
25 pledge the credit or the taxing power of the state or its poli-
26 tical subdivisions, and no debt or obligation of the authority
27 may be considered a debt or obligation of the state, of its
28 political subdivisions, or other public agencies.

29 d. In addition, the authority has, but is not limited to,

1 the power to do the following:

2 (1) fix, alter, charge, and collect fees, tolls, rates,
3 rentals, and other charges for the use of the facilities and
4 property of the Port of Whittier or its own services, or those
5 of any of its enterprises at reasonable rates, determined by the
6 authority for the purpose of providing for the payment of the
7 expenses of the authority, the acquisition, maintenance, opera-
8 tion and improvement of the facilities and properties of the Port
9 of Whittier, the payment of the principal of and interest on its
10 obligations.

11 (2) borrow money, make and issue negotiable instruments,
12 and other evidences of indebtedness or obligations of the
13 authority.

14 (3) make contracts and execute all instruments
15 necessary or convenient for the carrying on of its business.

16 (4) borrow money and accept grants of real and per-
17 sonal property from and enter into contracts, leases, or other
18 transactions with the federal government.

19 (5) exercise the power of eminent domain.

20 (6) do all acts and things necessary or convenient to
21 carry out the powers granted to it by this Act or any other act.

22 Sec. 9. MONEYS OF THE AUTHORITY. All moneys of the auth-
23 ority, from whatever source derived, shall be paid to the
24 treasurer of the authority. The moneys shall be deposited in the
25 first instance by the treasurer in one or more banks or trust
26 companies, in one or more special accounts, and each of such
27 special accounts shall be continuously secured by a pledge of
28 direct obligations of the federal government or of the state,
29 having an aggregate market value, exclusive of accrued interest,

1 at all times at least equal to the balance on deposit in such
2 account. Such securities shall either be deposited with the
3 treasurer or be held by a trustee or agent satisfactory to the
4 authority. The moneys in the accounts shall be paid out on the
5 warrant or other order of the treasurer of the authority or of
6 such other person as the authority may authorize to execute such
7 warrants or orders. The Department of Revenue is authorized from
8 time to time to examine the accounts and books of the authority,
9 including its receipts, disbursements, contracts, leases, sink-
10 ing funds, investments, and any other matters relating to its
11 finances, operations, and affairs.

12 Sec. 10. ACQUISITION OF LANDS. The state may acquire title
13 to any additional lands or interest in lands which may be required
14 for the purposes of the authority, and payment for such lands
15 shall be made by the state. The power of the state to acquire
16 lands does not limit or restrict the power of the authority
17 itself to acquire lands or interests in lands in the name of the
18 authority.

19 Sec. 11. COMPETITION IN AWARD OF CONTRACTS. If any project
20 is constructed pursuant to a contract and the estimated cost of
21 the work exceeds \$2,500.00, the contract shall be awarded to
22 the lowest responsible bidder after such advertisement for bids
23 as is deemed necessary by the board. The authority may make rules
24 and regulations for the submission of bids and the construction
25 of any project.

26 Sec. 12. CONTRACT BONDS. No contract shall be entered into
27 for construction of any project or for the purchase of materials,
28 unless the contractor shall give an undertaking with a sufficient
29 surety or sureties approved by the authority, and in an amount

1 fixed by the authority, for the faithful performance of the con-
2 tract; and such contract shall be accompanied by an additional
3 bond for the protection of those who furnish labor and material,
4 for such amount and subject to the terms and conditions estab-
5 lished by the authority. All construction contracts shall provide
6 among other things, that the person entering into such contract
7 with the authority shall pay for all materials furnished and ser-
8 vices rendered for the performance of the contract, and that any
9 person furnishing such materials or rendering such services may
10 maintain an action to recover for the same against the obligor
11 in the undertaking as though such person was named therein, pro-
12 vided the action is brought within one year after the time the
13 cause of action accrued. Nothing in this section shall be con-
14 strued to limit the power of the authority to construct any pro-
15 ject directly by the officers, agents, and employees of the
16 authority or by agreement with the federal or state governments
17 or any instrumentality thereof.

18 Sec. 13. DISPOSITION OF REAL AND PERSONAL PROPERTY. The
19 board may sell at public auction, and convey to the highest bid-
20 der, for such terms as it deems in the best interests of the
21 authority, any property belonging to the authority. The sale
22 may be made at the state capitol or at such other place as the
23 board orders. Notice of the sale shall be given at least 15
24 days prior thereto in such manner as the board may decide. The
25 proceeds shall be paid into the treasury of the authority. If,
26 in the unanimous judgment of the board, the property does not
27 exceed in value the sum of \$500.00, it may be sold at private
28 sale without advertising by any member of the board authorized by
29 a majority vote of the board. The sale shall be reported to and

1 confirmed by the board.

2 Sec. 14. USE OF FACILITIES. The use of the facilities of
3 the authority and the operation of its business shall be subject
4 to the rules and regulations from time to time adopted by the
5 authority.

6 Sec. 15. EXEMPTION OF AUTHORITY PROPERTY FROM TAXATION.
7 The authority shall be exempt from taxes or assessments upon
8 any property acquired, used, and held by it and revenue derived
9 by it including any profits made upon the disposition of any of
10 its property shall at all times be free from taxation in this
11 state. The provisions of this section do not prevent the auth-
12 ority from entering into agreements with the state's political
13 subdivisions to make payments in lieu of taxes when it is in the
14 interest of the public to do so.

15 Sec. 16. FEDERAL CONTRIBUTIONS OR LOANS: ACCEPTANCE. The
16 authority may accept contributions or loans from the United
17 States, or a federal department, instrumentality, or agency
18 for financing or aiding in financing the cost of investigations,
19 studies, surveys, plans and specifications and other action in-
20 cident to the acquisition, construction, maintenance and opera-
21 tions of the Port of Whittier.

22 Sec. 17. CONTRACTS AND COOPERATION WITH THE UNITED STATES
23 OR FEDERAL AGENCY. The authority may enter into contracts and
24 cooperate with the United States or a federal department, in-
25 strumentality, or agency in the making of preliminary investiga-
26 tions, studies, surveys, plans, and specifications and other
27 action incident to acquisition, construction, in the acquisition,
28 construction, maintenance, and operation and in financing or
29 aiding in the financing the cost of investigation, studies,

1 surveys, plans and specifications and other action incident to the
2 acquisition, construction, and of the acquisition, construction,
3 maintenance and operation of the Port of Whittier pursuant to
4 federal legislation under which aid, assistance, and cooperation
5 may be furnished by the United States.

6 Sec. 18. OBTAINING FEDERAL AID: COOPERATION. The authority
7 may do any and all things necessary to avail itself of such aid
8 and cooperation.

9 Sec. 19. STATE AND LOCAL AID: CONTRACTS: COOPERATION.
10 The authority may accept contributions from, contract with the
11 state, any state department, instrumentality or agency or any
12 political subdivision in the acquisition, construction, mainten-
13 ance and operation of and in the financing of the Port of
14 Whittier.

15 Sec. 20. FORM AND NATURE OF CONTRIBUTIONS. The contributions
16 may consist of real and personal property.

17 Sec. 21. SEVERABILITY CLAUSE. If a part of this Act is
18 invalid, all valid parts that are severable from the invalid part
19 remain in effect. If a part of this Act is invalid in one or
20 more of its applications, the part remains in effect in all valid
21 applications that are severable from the invalid applications.

22 Sec. 22. EFFECTIVE DATE. This Act takes effect on the day
23 after its passage and approval or on the day it becomes law
24 without such approval.

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