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IN THE HOUSE

BY MR. STRANDBERG

HOUSE BILL NO. 135

IN THE LEGISLATURE OF THE STATE OF ALASKA

SECOND LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the establishment of a state transportation authority; and providing for an effective date."

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

ARTICLE I

GENERAL

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

Sec. 2. DEFINITIONS. As used in this Act:

- (1) "authority" means the Alaska Transportation Authority;
- (2) "board" means the Alaska Transportation Authority Board;
- (3) "project" or "enterprise" means any structure, facility, system, works or other undertaking, together with all appurtenances which the authority is authorized to construct, improve, equip, furnish, maintain, acquire, or operate under the provisions of this Act;
- (4) "charges" includes fees, tolls, rates and rentals.

Sec. 3. ALASKA TRANSPORTATION AUTHORITY. The Alaska Transportation Authority is established as a public body corporate and politic.

Sec. 4. ALASKA TRANSPORTATION AUTHORITY BOARD. a. The Alaska Transportation Authority Board is established as the

1 governing body of the authority.

2 b. The board consists of seven members who are appointed
3 by and serve at the pleasure of the governor, and are confirmed
4 by the legislature meeting in joint session. No more than four
5 members may be of the same political party. The members shall
6 be residents of Alaska. No member may be associated with any
7 public service corporation which provides a service for profit
8 similar to any of the services of the authority, nor may a
9 member have any interest in a business that may be favorably or
10 unfavorably affected by the authority.

11 c. The term of service for a member of the board is five
12 years. The term of one member shall expire on February 1 of
13 each year, except that on February 1 of the third and fifth years
14 the terms of two members shall expire. A member appointed to
15 fill a vacancy occurring other than by expiration of a term shall
16 serve for the unexpired term of the member he succeeds. Newly
17 appointed members are qualified to act and to receive compensa-
18 tion between the time of their appointment and the time of con-
19 firmation or rejection by the legislature.

20 Sec. 5. BOARD: ORGANIZATION, COMPENSATION, AND OATH. a.
21 Within 60 days after the effective date of this Act the governor
22 shall appoint the board. At the time of these appointments, the
23 governor shall designate which members have been appointed for
24 the terms of service provided by Sec. 4c of this Act. Public
25 officers or employees are eligible for appointment to the board
26 without forfeiture of any public office, position or employment.
27 Within 14 days after the last of the original appointments have
28 been made, the board shall meet and organize by electing from
29 its members a chairman, a vice-chairman, and a secretary. At the

1 first regular meeting of every odd-numbered year the board shall
2 elect new officers. The commissioner of revenue shall be the
3 treasurer of the authority without voting rights or additional
4 compensation.

5 b. Members of the board receive no salary, but shall re-
6 ceive the same per diem and travel expenses as are authorized
7 for state boards for time spent in the service of the authority.

8 c. Members of the board shall take the oath required of
9 all public officers, and shall execute an official bond to the
10 state in the amount of \$5,000.00 with satisfactory sureties
11 approved by the commissioner of revenue. The oath and bond
12 shall be filed with the commissioner of revenue.

13 Sec. 6. POWERS AND DUTIES OF THE BOARD. a. The board
14 shall manage the properties and business of the authority and
15 may prescribe by-laws, rules and regulations. Rules and regula-
16 tions of the board shall be promulgated in accordance with the
17 Administrative Procedure Act.

18 b. The board may employ a person as the executive director
19 of the authority. He shall be professionally trained and experi-
20 enced in the performance of his duties. The selection of the
21 executive director is subject to the approval of the governor.
22 The executive director shall not have any interest in a business
23 that may be affected, favorably or unfavorably, by the operation
24 of the authority. The board may delegate to the executive
25 director the powers and duties it deems proper.

26 c. The board shall, under the merit principle, determine
27 the number of officers and employees of the authority and their
28 compensation and duties.

29 d. Before December 1 of each year the board shall submit

1 to the governor and the legislature a general report and a per-
2 sonnel report. This requirement is for informational purposes
3 and does not mean that the state may regulate the budget or per-
4 sonnel policies of the authority. The general report shall
5 describe the authority's operations, fiscal transactions,
6 financial condition and future plans in a comprehensive form to
7 be prescribed by the governor. The personnel report shall
8 describe the authority's personnel administration, including its
9 policies on recruitment, classification, promotion, compensation,
10 employee services, and other related personnel matters.

11 Sec. 7. MEETINGS OF BOARD. a. The meetings of the board
12 shall be public. Four members shall constitute a quorum for the
13 transaction of business, unless the by-laws require a larger
14 number.

15 b. The board shall keep minutes of its meetings and send
16 certified copies to the governor.

17 c. The board shall hold public hearings before it sets or
18 alters charges or terminates a service.

19 ARTICLE II

20 POWERS AND DUTIES OF THE AUTHORITY

21 Sec. 20. POWERS OF AUTHORITY. a. The authority is estab-
22 lished to construct, acquire, maintain, and operate airports and
23 landing fields; bridges; ferry boats, slips and terminals; ports
24 and port and harbor facilities, which may include an examination
25 of the coast line to determine what prospective harbor areas
26 should be reserved for development; railroads; tunnels; and any
27 other transportation project which is in the interest of the
28 public, whether on the state, regional, or local level.

29 b. The authority has, but is not limited to, the following

1 powers:

2 (1) sue and be sued in its official corporate name,
3 provided that suits for an injunction cannot be brought against
4 it without the approval of the attorney general;

5 (2) make contracts;

6 (3) acquire through gift, grant, purchase, lease, the
7 powers of eminent domain, or otherwise, and hold, use, enjoy,
8 lease, sell, or otherwise dispose of any and all real and person-
9 al property;

10 (4) fix, alter, and collect charges for the use of its
11 projects, or its services, at reasonable rates determined by the
12 authority for the purpose of providing for the payment of the
13 general expenses of the authority, the construction, acquisition,
14 and operation of its projects and properties, the payment of the
15 principal of and interest on its obligations, and to fulfill the
16 terms and provisions of any agreement made with the purchasers
17 or holders of its obligations;

18 (5) borrow money, make and issue negotiable notes,
19 bonds, and other evidences of indebtedness or obligations of the
20 authority; secure the payment of its bonds, or any part of them,
21 by establishing a lien on all or part of its revenues and by
22 making agreements with the purchasers or holders of its bonds or
23 with others in connection with its bonds, whether issued or to
24 be issued, and in general to provide for the security of its
25 bonds and the rights of the holders;

26 (6) borrow money and accept grants of real and person-
27 al property from and enter into contracts, leases or other tran-
28 sactions with the federal government;

29 (7) enter on any lands, waters and premises for the

1 purpose of making surveys, soundings and examinations;

2 (8) enter into agreements with the state, any of its
3 political subdivisions or other public agencies for the under-
4 taking of any project;

5 (9) acquire, by assignment from the state, contracts
6 which are not complete and which involve any of the undertakings
7 authorized by this Act;

8 (10) enter into agreements with the state in order to
9 utilize the staff and facilities of the Department of Public
10 Works in planning, contracting for, construction of, maintaining,
11 or operating any project.

12 c. The powers of the authority are limited by the follow-
13 ing provisions:

14 (1) No project may be undertaken unless it has been
15 approved by the governor.

16 (2) The authority has no power to levy taxes or to
17 pledge the credit or the taxing power of the state, and no debt
18 or obligation of the authority may be considered a debt or obli-
19 gation of the state.

20 Sec. 21. REVENUE BONDS. a. The authority may, by resolu-
21 tion of the board, issue revenue bonds.

22 b. These bonds shall mature no later than 40 years after
23 their date of issue, bear an interest rate not exceeding 6%, be
24 either coupon or fully registered without coupons, carry regis-
25 tration exchangeability and interchangeability privileges, be
26 subject to terms of redemption at prices not exceeding 105% of
27 the principal, be entitled to priorities in the revenues of the
28 authority as the bond resolutions may provide, and may contain
29 provisions for protecting and enforcing the rights of the bond-

1 holders as may be reasonable and proper and not in violation of
2 the law.

3 c. The bonds shall be sold to the highest responsible bid-
4 der after public notice. If no bids are received or the author-
5 ity determines that the bids are not satisfactory as to the
6 price or the responsibility of the bidder, the authority may
7 reject any bids received and either readvertise or sell the
8 bonds at a private sale.

9 d. The authority may enter into agreements with banks,
10 trust companies, the federal government, or any other person hav-
11 ing power to provide security for its bonds, and may pledge all
12 or any part of its revenues. The indenture agreement may con-
13 tain provisions normally found in these agreements.

14 Sec. 22. REMEDIES OF BONDHOLDERS. a. In the event that
15 the authority defaults in the payment of principal or interest on
16 any bonds for a period of at least 30 days, or in the event that
17 the authority fails or refuses to comply with the provisions of
18 this Act or defaults in any agreement made with holders of its
19 bonds, the holders of 25% of the value of the bonds then out-
20 standing and affected by the authority's unlawful action or
21 default may, subject to any limitations of the indenture or bond
22 agreement, or in addition to any remedies of the indenture or
23 bond agreement, appoint a trustee to represent the bondholders.
24 The trustee may bring an action in the superior court of Alaska
25 to enforce the rights of the bondholders as may be established
26 by indentures or other agreements, as may be reasonable and
27 proper, and in all cases in accordance with the following pro-
28 visions:

29 (1) Before a trustee initiates an action in the

1 superior court, he shall give notice in writing to the authority,
2 the legislature, and attorney general of the state. If the
3 legislature is in session when notice is given, the trustee may
4 not initiate an action until it adjourns. If the legislature is
5 not in session, the trustee may not initiate an action until 45
6 days after the convening of the next regular session. If the
7 legislature satisfies the claims of the bondholders, the default
8 of the authority shall be cured. The attorney general may allow
9 exceptions to this provision if a trustee is able to prove that
10 an unusual situation exists and serious harm would result if
11 legal action were postponed.

12 (2) A receiver appointed by a court to operate and to
13 collect the revenues of any project of the authority may not
14 sell, assign, mortgage, or otherwise dispose of any of the assets
15 belonging to the authority. It is the intention of this Act to
16 limit the powers of a receiver to the operation of authority pro-
17 jects and to prohibit the selling or otherwise disposing of any
18 assets belonging to the authority.

19 Sec. 23. DEPARTMENT OF ADMINISTRATION TO AUDIT RECORDS.
20 The authority shall allow the Department of Administration and
21 the legislative auditor to audit its accounts and books at any
22 time. The Department of Administration may prescribe the form
23 and content of the financial records of the authority and shall
24 audit these records annually. If an external or private audit is
25 satisfactory in the judgment of the Department of Administration,
26 it may be accepted in lieu of the state audit.

27 Sec. 24. AWARD OF CONTRACTS. If the estimated cost of a
28 project exceeds \$2,500.00, the contract shall be awarded to the
29 lowest responsible bidder after advertising for bids. This is

1 not to be construed to limit the power of the authority to con-
2 struct a project itself or by agreement with the federal or state
3 government.

4 Sec. 25. LIMITATION OF STATE POWER. The state pledges that
5 it will do nothing to diminish or impair the power of the author-
6 ity so as to affect the security of the authority's financial
7 obligations. The state further pledges that it will do nothing
8 to alter the powers of the authority which would be inconsistent
9 with contractual agreements between the authority and the federal
10 government.

11 Sec. 26. EXEMPTION FROM TAXATION. The purpose of the
12 authority is to benefit the people of the state by increasing
13 their commerce, prosperity and general well-being. Because the
14 authority has this purpose, it is free of all taxes and assess-
15 ment in this state. Bonds issued by the authority, their trans-
16 fer, and their income shall also be free of taxes and assess-
17 ments, with the exception of inheritance and estate taxes. The
18 provisions of this section do not prevent the authority from
19 entering into agreements with political subdivisions of the state
20 to make payments in lieu of taxes.

21 Sec. 27. REFUNDING BONDS. a. The authority may provide
22 for the issuance, sale, or exchange of refunding bonds to redeem
23 or retire bonds issued by it upon the terms, at the times, and in
24 the manner which it deems advisable or as provided in contracts
25 between the authority and bondholders.

26 b. All provisions of this Act applicable to the issuance
27 of bonds are applicable to funding or refunding bonds.

28 c. The state reserves the right, except with projects con-
29 structed through interstate or international agreements, to

1 require the authority to redeem outstanding authority bonds
2 eight years after issuance and at a maximum premium of 5%, or
3 within a shorter period or at a lower premium as may be provided
4 in contracts between the authority and bondholders. The author-
5 ity may contract and legally bind itself to a longer redemption
6 period or a higher premium, but this may not restrict the rights
7 of the state as provided by this section.

8 Sec. 28. APPROPRIATION. Appropriations necessary for the
9 initial operation of the authority are authorized.

10 Sec. 29. EFFECTIVE DATE. This Act takes effect on the day
11 after its passage and approval or on the day it becomes law with-
12 out such approval.

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