

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 192

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "The Alaska Toll Bridge Authority Act; and providing
7 for an effective date."

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

9 * Section 1. AS 44 is amended by adding a new chapter to read:

10 CHAPTER 57

11 ALASKA TOLL BRIDGE AUTHORITY

12 ARTICLE 1. CREATION AND ORGANIZATION

13 Sec. 44.57.010. ALASKA TOLL BRIDGE AUTHORITY CREATED - MEMBERS.

14 There is hereby created the Alaska Toll Bridge Authority composed of
15 the Governor, the Commissioner of the Department of Highways, the
16 Commissioner of the Department of Administration, the Commissioner of
17 the Department of Public Works, and the Commissioner of the Department
18 of Revenue. The Alaska toll bridge authority is a public corporation
19 of the state. The authority is an instrumentality of the state within
20 the Department of Highways, but has a legal existence independent of
21 and separate from the state.

22 (a) If the office of any commissioner is discontinued or
23 abolished by law, the governor shall appoint any person or officer
24 of the state to fill any vacancy resulting from the abolition or
25 discontinuance of the office.

26 (b) All of the members of the authority shall serve thereon
27 without compensation, but they shall receive their necessary actual
28 traveling expenses incurred in the discharge of their duties.

29 Sec. 44.57.020. MAJORITY RULE. A majority of the members of the

1 authority may act for the authority. The authority shall establish
2 such rules and regulations as may be deemed wise and lay down policies
3 of procedure and generally supervise and control the operation of the
4 functions vested in it by law and said authority is hereby clothed
5 with all necessary powers to carry out said functions. The authority
6 shall appoint an executive secretary who shall serve at its pleasure
7 and who shall be the chief administrative officer of the authority.
8 The authority shall act collectively with recorded resolutions or
9 motions adopted by a majority of the authority at regular or special
10 meetings, notice of which meetings shall be given to all members pur-
11 suant to the rules of said authority. Three members shall constitute
12 a quorum at any meeting, but no resolution, motion, or other decision
13 of the authority shall be adopted or passed without a favorable vote
14 of at least three members.

15 Sec. 44.57.030. AUTHORITY MAY EMPLOY PERSONNEL. The authority
16 may appoint other officers, hire employees and agents, and engage
17 professional and technical services and advice upon employment or
18 independent contract basis. The authority shall prescribe the duties
19 and compensation of association personnel.

20 Sec. 44.57.040. SUITS. The authority may sue and be sued in the
21 name of the Alaska Toll Bridge Authority.

22 ARTICLE 2. POWERS AND DUTIES

23 Sec. 44.57.120. TOLL BRIDGES AUTHORIZED - INVESTIGATIONS. The
24 Alaska toll bridge authority is empowered, in accordance with the
25 provisions of this chapter, to provide for the establishing and con-
26 structing of toll bridges upon any public highways of this state
27 together with approaches thereto wherever the same is considered neces-
28 sary or advantageous and practicable for crossing any stream, body of
29 water, gulch, navigable water, swamp or other topographical formation

1 whether the same is within this state or constitutes a boundary between
2 this state and an adjoining country. The necessity or advantage and
3 practicability of any such toll bridge shall be determined by the
4 Alaska toll bridge authority and the feasibility of financing any toll
5 bridge in the manner provided by this chapter shall be a primary
6 consideration and determined according to the best judgment of the
7 Alaska toll bridge authority. For the purpose of obtaining information
8 for the consideration of the authority upon the construction of any
9 toll bridge or any other matters pertaining thereto it shall be the
10 duty of any cognizant officer or employee of the state upon the request
11 of the authority to make reasonable examination, investigation, survey
12 or reconnaissance for the determination of material facts pertaining
13 thereto and report the same to the authority. The cost of any such
14 examination, investigation, survey or reconnaissance shall be borne
15 by the department or office conducting the same from the funds pro-
16 vided for such department or office for its usual functions.

17 Sec. 44.57.130. TOLL BRIDGES - GENERAL POWERS OF THE AUTHORITY
18 AND OFFICIALS - FINANCIAL STATEMENTS. The Alaska toll bridge authority,
19 the officials thereof and all state officials are empowered to do such
20 acts and make such agreements not inconsistent with law as may be
21 necessary or desirable in connection with the duties and powers con-
22 ferred upon them respectively by law regarding the construction,
23 maintenance, operation and insurance of such toll bridges or the safe-
24 guarding of the funds and revenues required for such construction and
25 the payment of the indebtedness incurred therefor. The Alaska toll
26 bridge authority shall keep full, complete and separate accounts of
27 each toll bridge and annually shall prepare balance sheet and income
28 and profit and loss statements showing the financial condition of each
29 such toll bridge, which statement shall be open to the inspection of

1 holders of bonds issued by said authority at all reasonable times.

2 Sec. 44.57.140. CONSTRUCTION OF TOLL BRIDGES. Whenever in the
3 judgment of the highway department it is considered in the best
4 interest of the public highways of the state that any new toll bridge
5 or bridges be constructed upon any public highway and across any
6 stream, body of water, gulch, navigable water, swamp or other topo-
7 graphical formation and operated by the state the highway department
8 shall submit its recommendation to that effect to the Alaska toll
9 bridge authority together with preliminary estimates of the cost of
10 such construction and an estimate of the amount necessary to be raised
11 for such purpose by the issuance of revenue bonds, and a statement of
12 the probable amount of money, property, materials or labor to be
13 contributed from other sources in aid of any such construction. If
14 the Alaska toll bridge authority concurs in the recommendation of the
15 highway department or on its own motion determines to construct any
16 toll bridge or toll bridges, the Alaska toll bridge authority shall
17 adopt a resolution declaring that public interest and necessity require
18 the construction of such toll bridge or bridges, and may thereafter
19 issue bonds therefor as provided herein.

20 Sec. 44.57.150. AUTHORITY TO ACQUIRE RIGHT OF WAY IN CONSTRUCTING
21 A TOLL BRIDGE. Whenever the Alaska toll bridge authority shall autho-
22 rize the construction of a toll bridge, the highway department is
23 empowered to secure right of way therefor and for approaches thereto
24 by gift or purchase, or by condemnation in the manner provided by law
25 for the taking of private property for public highway purposes.

26 Sec. 44.57.160. TOLL BRIDGES - RIGHT OF WAY ACROSS STATE LAND,
27 STREETS, ROADS - COMPENSATION. The right of way is hereby given,
28 dedicated and set apart upon which to locate, construct and maintain
29 bridges or approaches thereto or other highway crossings, and trans-

1 portation facilities thereof or thereto, through, over or across any
2 of the lands which are now or may be the property of this state, in-
3 cluding highways, and through, over or across the streets, alleys,
4 lanes and roads within any city, borough, or other political subdivision
5 of the state. If any property belonging to any city, borough or other
6 political subdivision of the state is required to be taken for the
7 construction of any such bridge or approach thereto or should any such
8 property be injured or damaged by such construction, such compensation
9 therefor as may be proper or necessary and as shall be agreed upon may
10 be paid by the Alaska toll bridge authority to the particular borough,
11 city, or other political subdivision of the state owning such property,
12 or condemnation proceedings may be brought for the determination of
13 such compensation.

14 Sec. 44.57.170. TOLL BRIDGES - RESOLUTION OF NECESSITY IN
15 ACQUIRING RIGHT OF WAY - EFFECT OF. Before proceeding with any action
16 to secure any right of way or to construct any toll bridge under the
17 provisions of this chapter the Alaska toll bridge authority shall have
18 first passed a resolution that public interest and necessity require
19 the acquisition of right of way for and the construction of such toll
20 bridge. Such resolution shall state and be conclusive evidence

- 21 (1) of the public necessity of such construction;
22 (2) that such property is necessary therefor and,
23 (3) that such proposed construction is planned or located
24 in a manner which will be most compatible with the greatest public
25 good and the least private injury.

26 When it becomes necessary for the highway department to condemn any
27 real estate to be used in connection with any such bridge, the attorney
28 general of the state shall represent the highway department. In
29 eminent domain proceedings to acquire property for any of the purposes

1 of this chapter, any toll bridge, real property, personal property,
2 franchises, rights, easements or other property or privileges appurte-
3 nant thereto appropriated or dedicated to a public use or purpose by
4 any person, firm, private, public or municipal corporation, borough,
5 city, district or any political subdivision of the state, may be con-
6 demned and taken, and the acquisition and use thereof as herein
7 provided for the same public use or purpose to which such property has
8 been so appropriated, dedicated, or for any other public use or purpose,
9 shall be deemed a superior and permanent right and necessity, and a
10 more necessary use and purpose than the public use or purpose to which
11 such property has already been appropriated or dedicated. It shall
12 not be necessary in any eminent domain proceedings hereunder to plead
13 or prove any acts or proceedings preliminary or prior to the adoption
14 of the resolution hereinbefore referred to describing the property
15 sought to be taken and directing such proceedings.

16 Sec. 44.57.180. REVENUES AND APPLICATION. The authority is
17 hereby authorized to establish, levy and collect such tolls and other
18 charges as it may deem necessary, proper or desirable, in connection
19 with any crossing, transportation or terminal facility or other project
20 which it is or may be authorized at any time to construct, own,
21 operate or control, and the aggregate of said tolls and charges shall
22 be at least sufficient

23 (1) to meet the combined expenses of operation, maintenance
24 and improvement thereof,

25 (2) to pay the cost of acquisition or construction, in-
26 cluding the payment, amortization and retirement of bonds or other
27 securities or obligations assumed, issued or incurred by the authority,
28 together with interest thereon and

29 (3) to provide reserves for such purposes;

1 and the authority is hereby authorized and empowered, subject to prior
2 pledges, if any, to pledge such tolls and other revenues or any part
3 thereof as security for the repayment with interest of any moneys
4 borrowed by it or advanced to it for its authorized purposes and as
5 security for the satisfaction of any other obligations assumed by it
6 in connection with such loans or advances. There shall be allocated
7 to the cost of the acquisition, construction, operation, maintenance
8 and improvement of such facilities and projects, such proportion of
9 the general expenses of the authority as it shall deem properly
10 chargeable thereto.

11 Sec. 44.57.190. COOPERATIVE FUNDS. The Alaska toll bridge
12 authority is empowered to receive and accept funds from the state of
13 Alaska or the federal government or any municipality upon a cooperative
14 or other basis for the construction of any toll bridge authorized
15 under this chapter and the authority and the state are empowered to
16 enter into and perform such agreements, including without limitation
17 agreements to cease toll collection on any bridge pursuant to 23
18 U.S.C.A. § 129 with the federal government, as may be required for
19 the securing of such funds.

20 ARTICLE 3. FINANCIAL PROVISIONS.

21 Sec. 44.57.210. BONDS OF THE AUTHORITY. (a) The authority may
22 borrow money for any of its corporate purposes, including the payment
23 or securing of any of its obligations, and may issue bonds therefor,
24 including but not limited to bonds on which the principal and interest
25 are payable

26 (1) exclusively from the income and receipts or other money
27 derived from the project financed with the proceeds of the bonds,

28 (2) exclusively from the income and receipts or other money
29 derived from designated projects whether or not they are financed in

1 whole or in part with the proceeds of the bonds, or

2 (3) from its income and receipts or other assets generally,
3 or a designated part or parts of them.

4 (b) Bonds shall be authorized by resolution of the authority,
5 and shall be dated and shall mature as the resolution may provide,
6 except that no bond shall mature more than 40 years from the date of
7 its issue. Bonds shall bear interest at the rate or rates, be in the
8 denominations, be in the form, either coupon or registered, carry the
9 registration privileges, be executed in the manner, be payable in the
10 medium of payment, at the place or places, and be subject to the terms
11 of redemption which the resolution or a subsequent resolution may
12 provide.

13 (c) All bonds, regardless of form or character, shall be nego-
14 tiable instruments for all the purposes of the Uniform Commercial Code.

15 (d) All bonds may be sold at public or private sale in the
16 manner, for the price or prices, and at the time or times which the
17 authority may determine.

18 (e) The superior court shall have jurisdiction to hear and
19 determine suits, actions or proceedings relating to the authority,
20 including suits, actions or proceedings brought by or for the benefit
21 or security of a holder of its bonds or by a trustee for or other
22 representative of the holders.

23 Sec. 44.57.220. TRUST INDENTURES AND TRUST AGREEMENTS. In the
24 discretion of the authority, an issue of bonds may be secured by a
25 trust indenture or trust agreement between the authority and a corporate
26 trustee (which may be a trust company, bank, or national banking
27 association, with corporate trust powers, located inside or outside the
28 state) or by a secured loan agreement or other instrument or under a
29 resolution giving powers to a corporate trustee (hereinafter in this

1 section referred to as "Trust Agreement") by means of which the
2 authority may:

3 (1) make and enter into any and all the covenants and
4 agreements with the trustee or the holders of the bonds which the
5 authority may determine to be necessary or desirable, including, with-
6 out limitation, covenants, provisions, limitations and agreements as to

7 (A) the application, investment, deposit, use and
8 disposition of the proceeds of bonds of the authority or of
9 money or other property of the authority or in which it has an
10 interest;

11 (B) the terms and conditions upon which additional
12 bonds of the authority may be issued;

13 (2) pledge, mortgage or assign money, leases, agreements,
14 property or other assets of the authority either presently in hand or
15 to be received in the future, or both; and

16 (3) provide for any other matters of like or different
17 character which in any way affect the security or protection of the
18 bonds.

19 Sec. 44.57.230. VALIDITY OF PLEDGE. It is the intention of the
20 legislature that a pledge made in respect of bonds shall be valid and
21 binding from the time the pledge is made; that the money or property
22 so pledged and thereafter received by the authority shall immediately
23 be subject to the lien of the pledge without physical delivery or
24 further act; and that the lien of the pledge shall be valid and binding
25 as against all parties having claims of any kind in tort, contract or
26 otherwise against the authority irrespective of whether the parties
27 have notice. Neither the resolution, trust agreement nor any other
28 instrument by which a pledge is created need be recorded or filed under
29 the provisions of the Uniform Commercial Code to be valid, binding

1 or effective against the parties.

2 Sec. 44.57.240. NONLIABILITY ON BONDS. (a) Neither the members
3 of the authority nor a person executing the bonds shall be liable
4 personally on the bonds or be subject to personal liability or account-
5 ability by reason of the issuance of the bonds.

6 (b) The bonds issued by the authority shall not constitute an
7 indebtedness or other liability of the state or of a political sub-
8 division of the state, except the authority, but shall be payable
9 solely from the income and receipts or other funds or property of the
10 authority. The authority may not pledge the faith or credit of the
11 state or of a political subdivision of the state (except the authority)
12 to the payment of a bond and the issuance of a bond by the authority
13 shall not directly or indirectly or contingently obligate the state
14 or a political subdivision of the state to apply money from, or levy
15 or pledge any form of taxation whatever to the payment of the bond.

16 Sec. 44.57.250. PLEDGE OF THE STATE. The state does hereby
17 pledge to and agree with the holders of bonds issued under this
18 chapter and with the federal agency which loans or contributes funds
19 in respect to a project, that the state will not limit or alter the
20 rights and powers vested in the authority by this chapter to fulfill
21 the terms of any contract made by the authority with the holders or
22 federal agency, or in any way impair the rights and remedies of the
23 holders until the bonds, together with the interest on them, with
24 interest on unpaid installments of interest, and all costs and
25 expenses in connection with any action or proceeding by or on behalf
26 of the holders, are fully met and discharged. The authority is autho-
27 rized to include this pledge and agreement of the state, insofar as
28 it refers to holders of bonds of the authority, in a contract with
29 the holders, and insofar as it relates to a federal agency, in a

1 contract with such an agency.

2 Sec. 44.57.260. EXEMPTION FROM TAXATION. The real and personal
3 property of the authority and its assets, income and receipts are
4 declared to be property of a political subdivision of the state and,
5 together with any toll bridge constructed under this chapter shall be
6 exempt from all taxes and special assessments of the state or a
7 political subdivision of the state, including, without limitation,
8 all boroughs, cities, municipalities, school districts, public utility
9 districts and other taxing units. All bonds of the authority are
10 declared to be issued by a political subdivision of the state and for
11 an essential public and governmental purpose and to be a public in-
12 strumentality and the bonds, and the interest on them, the income
13 from them and the transfer of the bonds, and all assets, income and
14 receipts pledged to pay or secure the payment of the bonds, or interest
15 on them, shall at all times be exempt from taxation by or under the
16 authority of the state, except for inheritance and estate taxes and
17 taxes on transfers by or in contemplation of death.

18 Sec. 44.57.270. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The
19 bonds of the authority are securities in which all public officers and
20 bodies of the state and all municipalities and municipal subdivisions,
21 all insurance companies and associations and other persons carrying on
22 an insurance business, all banks, bankers, trust companies, savings
23 banks, savings associations, including savings and loan associations
24 and building and loan associations, investment companies and other
25 persons carrying on a banking business, all administrators, guardians,
26 executors, trustees and other fiduciaries, and all other persons
27 whatsoever who are now or may hereafter be authorized to invest in
28 bonds or other obligations of the state, may properly and legally
29 invest funds including capital in their control or belonging to them.

1 Notwithstanding any other provisions of law, the bonds of the authority
2 are also securities which may be deposited with and may be received by
3 all public officers and bodies of this state and all municipalities
4 and municipal subdivisions for any purpose for which the deposit of
5 bonds or other obligations of the state is now or may hereafter be
6 authorized.

7 ARTICLE 4. GENERAL PROVISIONS.

8 Sec. 44.57.300. DEFINITIONS. In this chapter

9 (1) "toll bridge" or "project" means a bridge constructed
10 or acquired under this chapter upon which tolls are charged, together
11 with all such appurtenances, additions, alterations, improvements and
12 replacements thereof, and approaches thereto, and lands and interests
13 therein used therefor, and buildings and improvements thereon as may
14 be determined by the authority;

15 (2) "the authority" means the Alaska Toll Bridge Authority;

16 (3) "the state" means the state of Alaska.

17 Sec. 44.57.310. PURPOSE. The purpose of this chapter is to
18 develop, stimulate, and advance the business prosperity and economic
19 welfare of Alaska and its citizens.

20 Sec. 44.57.320. STATE APPROPRIATIONS FOR TOLL BRIDGES NOT
21 AFFECTED. Nothing in this chapter prevents the state from making
22 appropriations from time to time in aid of the acquisition or con-
23 struction pursuant to this chapter of any toll bridge or property,
24 franchises, or rights appurtenant thereto, or the transportation
25 facilities thereof or thereto, or for the purpose of making preliminary
26 surveys, plans, and estimates of the cost thereof, and meeting other
27 preliminary expenses as the legislature deems proper.

28 Sec. 44.57.330. REGULATIONS. The authority may adopt regulations
29 to implement the purposes of this chapter.

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Sec. 44.57.340. SEVERABILITY. The provisions of this chapter are severable, and if a provision is held invalid by a court of competent jurisdiction, the invalidation shall not affect or impair any of the remaining provisions.

* Sec. 2. This Act takes effect on the day after its passage and approval or on the day it becomes law without approval.