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Referred: State Affairs and
Finance

1 IN THE HOUSE

BY SWANSON

2 HOUSE BILL NO. 457

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act creating the Alaska Transportation Authority;
7 and providing for an effective date."

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

9 * Section 1. AS 44.57 is repealed and re-enacted to read:

10 CHAPTER 57. ALASKA TRANSPORTATION AUTHORITY.

11 ARTICLE 1. CREATION AND ORGANIZATION.

12 Sec. 44.57.011. ALASKA TRANSPORTATION AUTHORITY CREATED. (a)

13 There is created the Alaska Transportation Authority composed of the
14 governor, the commissioner of the Department of Highways, the commis-
15 sioner of the Department of Administration, the commissioner of the
16 Department of Public Works, and the commissioner of the Department of
17 Revenue. The Alaska Transportation Authority is a public corporation
18 of the state. The authority is an instrumentality of the state within
19 the Department of Public Works, but has a legal existence independent
20 of and separate from the state.

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

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

28 Sec. 44.57.021. MANAGEMENT OF AUTHORITY. A majority of the mem-
29 bers of the authority may act for the authority. The authority shall

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

13 Sec. 44.57.031. AUTHORITY MAY EMPLOY PERSONNEL. The authority
14 may appoint other officers, hire employees and agents, and engage
15 professional and technical services and advice upon employment or
16 independent contract basis. The authority shall prescribe the duties
17 and compensation of its personnel.

18 Sec. 44.57.041. SUITS. The authority may sue and be sued in the
19 name of the Alaska Transportation Authority.

20 ARTICLE 2. POWERS AND DUTIES.

21 Sec. 44.57.051. TRANSPORTATION FACILITIES AUTHORIZED. The
22 authority may, in accordance with the provisions of this chapter,
23 provide for the acquisition, construction, maintenance and operation
24 of transportation facilities. The necessity or advantage and practi-
25 cability of a facility shall be determined by the authority and the
26 feasibility of financing such a program in the manner provided by this
27 chapter shall be a primary consideration and determined according to
28 the best judgment of the authority. For the purpose of obtaining
29 information for the consideration of the authority for the acquisition

1 or construction of a facility or any other matters pertaining to it,
2 it is the duty of any cognizant officer or employee of the state upon
3 the request of the authority to make reasonable examination, investi-
4 gation, survey or reconnaissance for the determination of material
5 facts pertaining to it and report the same to the authority. The cost
6 of the examination, investigation, survey or reconnaissance shall be
7 borne by the department or office conducting it from the funds provided
8 for the department or office for its usual functions.

9 Sec. 44.57.061. GENERAL POWERS OF THE AUTHORITY AND OFFICIALS
10 AND FINANCIAL STATEMENTS. The Alaska Transportation Authority, the
11 officials of the authority, and all state officials are empowered to
12 do those acts and make agreements not inconsistent with law which may
13 be necessary or desirable in connection with the duties and powers con-
14 ferred upon them respectively by law regarding the acquisition, con-
15 struction, maintenance, operation and insurance of a transportation
16 facility or the safeguarding of the funds and revenues required for the
17 acquisition and construction and the payment of the indebtedness
18 incurred for them. The authority shall keep full, complete and separate
19 accounts of each facility and annually prepare balance sheet and income
20 and profit and loss statements showing the financial condition of each
21 facility, which statement shall be open to the inspection of holders of
22 bonds issued by the authority at all reasonable times.

23 Sec. 44.57.071. ACQUISITION AND CONSTRUCTION OF TRANSPORTATION
24 FACILITIES. When, in the judgment of the Department of Public Works,
25 it is considered in the best interest of the transportation system of
26 the state that a new transportation facility be acquired or constructed
27 and operated by the state, the department shall submit its recommenda-
28 tion to that effect to the authority together with preliminary
29 estimates of the cost of acquisition or construction and an estimate of

1 the amount necessary to be raised for that purpose by the issuance of
2 revenue bonds, and a statement of the probable amount of money, property
3 materials or labor to be contributed from other sources in aid of the
4 construction. If the authority concurs in the recommendation of the
5 Department of Public Works or on its own motion determines to acquire
6 or construct a transportation facility, it shall adopt a resolution
7 declaring that public interest and necessity require the acquisition or
8 construction of the facility and may thereafter issue bonds for that
9 purpose as provided for in sec. 131 of this chapter.

10 Sec. 44.57.081. AUTHORITY TO ACQUIRE RIGHT-OF-WAY IN CONSTRUCTING.
11 When the authority authorizes the construction of a transportation
12 facility the Department of Public Works is empowered to secure right-of-
13 way for it and for approaches to it by gift or purchase, or by condem-
14 nation in the manner provided by law for the taking of private property
15 for public purposes.

16 Sec. 44.57.091. RIGHT-OF-WAY ACROSS STATE LAND, STREETS, ROADS
17 AND COMPENSATION. The right-of-way is hereby given, dedicated and set
18 apart upon which to acquire, construct and maintain transportation
19 facilities or approaches to them or other highway crossings, and
20 transportation facilities of them, through, over or across any of the
21 lands which are now or may be the property of this state, including
22 highways, and through, over or across the streets, alleys, lanes and
23 roads within a city, borough, or other political subdivision of the
24 state. If property belonging to a city, borough or other political
25 subdivision of the state is required to be taken for the acquisition or
26 construction of a facility or an approach to it or should the property
27 be injured or damaged by the acquisition or construction, compensation
28 for it as may be proper or necessary and as shall be agreed upon may
29 be paid by the authority to the particular borough, city, or other

1 political subdivision of the state owning the property, or condemnation
2 proceedings may be brought for the determination of the compensation.

3 Sec. 44.57.101. RESOLUTION OF NECESSITY IN ACQUIRING RIGHT-OF-
4 WAY AND EFFECT. (a) Before proceeding with an action to secure a
5 right-of-way or to construct a transportation facility under this
6 chapter the authority shall first pass a resolution that public
7 interest and necessity require the acquisition of right-of-way for and
8 the construction of the facility. The resolution shall state and be
9 conclusive evidence

10 (1) of the public necessity of the construction;

11 (2) that the property is necessary for it; and

12 (3) that the proposed construction is planned or located in
13 a manner which will be most compatible with the greatest public good
14 and the least private injury.

15 (b) When it becomes necessary for the Department of Public Works
16 to condemn real estate to be used in connection with a transportation
17 facility, the attorney general of the state shall represent the depart-
18 ment. In eminent domain proceedings to acquire property for any of the
19 purposes of this chapter, real property, personal property, franchises,
20 rights, easements or other property or privileges appurtenant to them
21 appropriated or dedicated to a public use or purpose by a person,
22 firm, private, public or municipal corporation, borough, city district
23 or political subdivision of the state, may be condemned and taken, and
24 the acquisition and use as provided in this section for the same public
25 use or purpose to which the property has been so appropriated, dedicated
26 or for any other public use or purpose, shall be considered a superior
27 and permanent right and necessity, and a more necessary use and purpose
28 than the public use or purpose to which the property has already been
29 appropriated or dedicated. It is not necessary in an eminent domain

1 proceeding under this chapter to plead or prove any acts or proceedings
2 preliminary or prior to the adoption of the resolution referred to in
3 (a) of this section describing the property sought to be taken and
4 directing the proceedings.

5 Sec. 44.57.111. REVENUES AND APPLICATION. (a) The authority
6 may establish, levy and collect tolls and other charges it may consider
7 necessary, proper or desirable, in connection with the use of a
8 transportation facility which it is or may be authorized at any time
9 to acquire, construct, own, operate or control, and the aggregate of
10 the tolls and charges shall be at least sufficient

11 (1) to meet the combined expenses of operation, maintenance
12 and improvement,

13 (2) to pay the cost of acquisition or construction, includ-
14 ing the payment, amortization and retirement of bonds or other securi-
15 ties or obligations assumed, issued or incurred by the authority,
16 together with interest,

17 (3) to provide reserves for those purposes.

18 (b) The authority may, subject to prior pledges, if any, pledge
19 the tolls and other revenues or any part of them as security for the
20 repayment with interest of money borrowed by it or advanced to it for
21 its authorized purposes and as security for the satisfaction of any
22 other obligations assumed by it in connection with the loans or ad-
23 vances. There shall be allocated to the cost of the acquisition,
24 construction, operation, maintenance and improvement of the facilities
25 and projects, a proportion of the general expenses of the authority it
26 considers properly chargeable to them.

27 Sec. 44.57.121. COOPERATIVE FUNDS. The Alaska Transportation
28 Authority may receive and accept funds from the state or the federal
29 government or any municipality upon a cooperative or other basis for

1 the acquisition or construction of transportation facilities authorized
2 under this chapter and the authority and the state are empowered to
3 enter into and perform agreements, including without limitation agree-
4 ments to cease toll collection on any bridge under 23 U.S.C.A. sec. 129
5 with the federal government, which may be required for the securing of
6 the funds.

7 ARTICLE 3. FINANCIAL PROVISIONS.

8 Sec. 44.57.131. BONDS OF THE AUTHORITY. (a) The authority may
9 borrow money and may issue bonds for it, including but not limited to
10 bonds on which the principal and interest are payable,

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

13 (2) exclusively from the income and receipts or other money
14 derived from designated projects whether or not they are financed in
15 whole or in part with the proceeds of the bonds, or

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

18 (b) Bonds shall be authorized by resolution of the authority, and
19 shall be dated and shall mature as the resolution may provide, except
20 that no bond may mature more than 40 years from the date of its issue.
21 Bonds shall bear interest at the rate or rates, be in the denominations,
22 be in the form, either coupon or registered, carry the registration
23 privileges, be executed in the manner, be payable in the medium of
24 payment, at the place or places, and be subject to the terms of redemp-
25 tion which the resolution or a subsequent resolution may provide.

26 (c) All bonds, regardless of form or character, shall be negoti-
27 able instruments for all the purposes of the Uniform Commercial Code.

28 (d) All bonds may be sold at public or private sale in the
29 manner, for the price, and at the time which the authority may

1 determine.

2 (e) Before the issuance of any bonds, the authority shall make
3 provision by lease or other agreement regarding the project or projects
4 being financed by the issue of the bonds for rentals or other considera-
5 tions at least sufficient, in the judgment of the authority, to pay the
6 principal of and interest on the bonds as they become due and to create
7 and maintain the reserves the authority considers necessary or desirable
8 and to meet all obligations in connection with the lease or other
9 agreement and all costs necessary to service the bonds unless the lease
10 or agreement provides that the obligations are to be met or costs are
11 to be paid by a part other than the authority.

12 (f) The superior court has jurisdiction to hear and determine
13 suits, actions or proceedings relating to the authority, including
14 suits, actions or proceedings brought to foreclose or otherwise enforce
15 a mortgage, pledge, assignment or security interest or brought by or
16 for the benefit or security of a holder of its bonds or by a trustee
17 for or other representative of the holders.

18 Sec. 44.57.141. TRUST INDENTURES AND TRUST AGREEMENTS. In the
19 discretion of the authority, an issue of bonds may be secured by a
20 trust indenture or trust agreement between the authority and a corporate
21 trustee (which may be a trust company, bank, or national banking associ-
22 ation, with corporate trust powers, located inside or outside the state)
23 or by a secured loan agreement or other instrument or under a resolution
24 giving powers to a corporate trustee (referred to in this section as
25 trust agreement) by means of which the authority may

26 (1) make and enter into any and all the covenants and agree-
27 ments with the trustee or the holders of the bonds which the authority
28 may determine to be necessary or desirable, including, without limita-
29 tion, covenants, provisions, limitations and agreements as to

1 (A) the application, investment, deposit, use and dis-
2 position of the proceeds of bonds of the authority or of money or
3 other property of the authority or in which it has an interest;

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

6 (2) pledge, mortgage or assign money, leases, agreements,
7 property or other assets of the authority either presently in hand or
8 to be received in the future; and

9 (3) provide for any other matters of like or different charac-
10 ter which in any way affect the security or protection of the bonds.

11 Sec. 44.57.151. VALIDITY OF PLEDGE. It is the intention of the
12 legislature that a pledge made in respect of bonds shall be valid and
13 binding from the time the pledge is made; that the money or property
14 so pledged and thereafter received by the authority shall immediately
15 be subject to the lien of the pledge without physical delivery or
16 further act; and that the lien of the pledge shall be valid and binding
17 as against all parties having claims of any kind in tort, contract or
18 otherwise against the authority irrespective of whether the parties
19 have notice. Neither the resolution, trust agreement nor any other
20 instrument by which a pledge is created need be recorded or filed under
21 the provisions of the Uniform Commercial Code to be valid, binding or
22 effective against the parties.

23 Sec. 44.57.161. NONLIABILITY ON BONDS. (a) Neither the members
24 of the authority nor a person executing the bonds is liable personally
25 on the bonds or subject to personal liability or accountability by
26 reason of the issuance of the bonds.

27 (b) The bonds issued by the authority may not constitute an
28 indebtedness or other liability of the state or of a political subdivi-
29 sion of the state, except the authority, but shall be payable solely

1 from the income and receipts or other funds or property of the authori-
2 ty. The authority may not pledge the faith or credit of the state or
3 of a political subdivision of the state (except the authority) to the
4 payment of a bond and the issuance of a bond by the authority shall
5 not directly or indirectly or contingently obligate the state or a
6 political subdivision of the state to apply money from, or levy or
7 pledge any form of taxation whatever to the payment of the bond.

8 Sec. 44.57.171. PLEDGE OF THE STATE. The state does hereby
9 pledge to and agree with the holders of bonds issued under this chapter
10 and with the federal agency which loans or contributes funds in respect
11 of a project, that the state will not limit or alter the rights and
12 powers vested in the authority by this chapter to fulfill the terms
13 of any contract made by the authority with the holders or federal
14 agency, or in any way impair the rights and remedies of the holders
15 until the bonds, together with the interest on them, with interest on
16 unpaid installments of interest, and all costs and expenses in connec-
17 tion with any action or proceeding by or on behalf of the holders, are
18 fully met and discharged. The authority is authorized to include
19 this pledge and agreement of the state, insofar as it refers to holders
20 of bonds of the authority, in a contract with the holders, and insofar
21 as it relates to a federal agency, in a contract with a federal agency.

22 Sec. 44.57.181. EXEMPTION FROM TAXATION. The real and personal
23 property of the authority and its assets, income and receipts are
24 declared to be property of a political subdivision of the state and,
25 together with a transportation facility acquired or constructed under
26 this chapter is exempt from all taxes and special assessments of the
27 state or a political subdivision of the state, including, without
28 limitation, all boroughs, cities, municipalities, school districts,
29 public utility districts and other taxing units. All bonds of the

1 authority are declared to be issued by a political subdivision of the
2 state and for an essential public and governmental purpose and to be
3 a public instrumentality and the bonds, and the interest on them, the
4 income from them and the transfer of the bonds, and all assets, income
5 and receipts pledged to pay or secure the payment of the bonds, or
6 interest on them, shall at all times be exempt from taxation by or
7 under the authority of the state, except for inheritance and estate
8 taxes and taxes on transfers by or in contemplation of death.

9 Sec. 44.57.191. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The
10 bonds of the authority are securities in which all public officers and
11 bodies of the state and all municipalities and municipal subdivisions,
12 all insurance companies and associations and other persons carrying on
13 an insurance business, all banks, bankers, trust companies, savings
14 banks, savings associations, including savings and loan associations
15 and building and loan associations, investment companies and other
16 persons carrying on a banking business, all administrators, guardians,
17 executors, trustees and other fiduciaries, and all other persons what-
18 soever who are now or may hereafter be authorized to invest in bonds
19 or other obligations of the state, may properly and legally invest
20 funds including capital in their control or belonging to them. Notwith-
21 standing any other provisions of law, the bonds of the authority are
22 also securities which may be deposited with and may be received by all
23 public officers and bodies of this state and all municipalities and
24 municipal subdivisions for any purpose for which the deposit of bonds
25 or other obligations of the state is now or may hereafter be authorized.

26 ARTICLE 4. GENERAL PROVISIONS.

27 Sec. 44.57.201. TRANSPORTATION AUTHORITY FUND. There is estab-
28 lished a transportation authority fund which shall be administered by
29 the authority exclusively for the purpose of investing as authorized

1 by sec. 211 of this chapter. The authority may pledge the money in
2 the transportation authority fund to secure the payment of bonds issued
3 for the purpose of acquiring, constructing, maintaining and operating
4 transportation facilities.

5 Sec. 44.57.211. INVESTMENTS BY AUTHORITY. The authority shall
6 place the money held in the fund established under sec. 201 of this
7 chapter into any of the following:

8 (1) bonds, notes, and bills which constitute direct obliga-
9 tions of the United States;

10 (2) obligations of agencies and instrumentalities of the
11 United States;

12 (3) bank certificates of deposit which are secured as to
13 the payment of principal and interest in accordance with Alaska law;

14 (4) commercial paper of prime or equivalent quality, as
15 rated by a nationally recognized rating organization, which is issued
16 by corporations organized and operating in the United States with
17 assets in excess of \$500,000,000;

18 (5) bonds, notes, debentures and other evidence of indebted-
19 ness of corporations; and

20 (6) grade AA and AAA corporation securities.

21 Sec. 44.57.221. STATE APPROPRIATIONS FOR TRANSPORTATION FACILITIES
22 NOT AFFECTED. This chapter does not prevent the state from making
23 appropriations from time to time in aid of the acquisition or construc-
24 tion under this chapter of transportation facilities or property,
25 franchises, or rights appurtenant to them or for the purpose of making
26 preliminary surveys, plans, and estimates of the cost of them, and
27 meeting other preliminary expenses as the legislature considers proper.

28 Sec. 44.57.231. REGULATIONS. The authority may adopt regulations
29 to implement the purposes of this chapter.

1 Sec. 44.57.241. DEFINITIONS. In this chapter

2 (1) "authority" means the Alaska Transportation Authority;

3 (2) "department" means the Department of Public Works;

4 (3) "transportation facility" or "facility" means any mode
5 of conveyance, existing or to be developed in the future, which moves
6 persons or goods, and includes, but is not limited to, roads, oil and
7 gas pipelines, bridges, ships, ferries, airports, aircraft, hovercraft,
8 railroads, rapid mass transit systems and docks, together with all
9 appurtenances, additions, alterations, improvements and replacements
10 of them, and approaches to them, and lands and interests in lands used
11 for them, and buildings and improvements on the buildings as may be
12 determined by the authority.

13 * Sec. 2. This Act takes effect July 1, 1971.
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