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1 IN THE SENATE

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 371

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act creating the Alaska Marine Highway Authority."

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

8 \* Section 1. AS 19 is amended by adding a new chapter to read:

9 CHAPTER 70. ALASKA MARINE HIGHWAY AUTHORITY.

10 ARTICLE 1. CREATION AND ORGANIZATION.

11 Sec. 19.70.010. ALASKA MARINE HIGHWAY AUTHORITY. There is created  
12 the Alaska Marine Highway Authority. The authority is a public corpora-  
13 tion of the state. The corporation is an instrumentality of the state  
14 within the Department of Transportation and Public Facilities but has a  
15 legal existence independent of and separate from the state and has  
16 continuing succession until its existence is terminated by law.

17 Sec. 19.70.020. MEMBERSHIP AND VACANCIES. The authority consists  
18 of five directors: The commissioner of transportation and public  
19 facilities, who shall be a director ex officio with voting privileges;  
20 three directors appointed by the governor from communities in the state  
21 served by the marine highway system; and one director appointed by the  
22 governor from a community in the state not served by the marine highway  
23 system. The appointment of each director other than the commissioner  
24 of transportation and public facilities is subject to confirmation by  
25 the legislature. The directors appointed by the governor serve at his  
26 pleasure for four-year terms. They must be residents of the state and  
27 qualified voters at the time of appointment and shall comply with the  
28 requirements of AS 39.50 (conflict of interest). The directors first  
29 appointed shall have terms of one, two, three and four years respectively.

1 Each director shall hold office for the term of his appointment and  
2 until his successor has been appointed and qualified. A director is  
3 qualified for reappointment. A vacancy in a directorship occurring  
4 other than by expiration of term shall be filled in the same manner as  
5 the original appointment but only for the unexpired term. Each director  
6 before entering upon his duties shall take and subscribe to an oath to  
7 perform the duties of his office faithfully, impartially and justly to  
8 the best of his ability. A record of the oath shall be filed with the  
9 Office of the Governor. The directors of the authority serve without  
10 compensation, but are entitled to travel and per diem expenses as pro-  
11 vided in AS 39.20.180.

12 Sec. 19.70.030. OFFICERS AND QUORUM. The directors shall elect  
13 one of their number as chairman. The directors shall elect a secretary  
14 and a treasurer who need not be directors, and the same person may be  
15 elected to serve both as secretary and treasurer. The powers of the  
16 authority are vested in the directors, and three directors of the  
17 authority constitute a quorum. Action may be taken and motions and  
18 resolutions adopted by the authority at any meeting by the affirmative  
19 vote of at least three directors. A vacancy in the directorship of the  
20 authority does not impair the right of a quorum to exercise all the  
21 powers and perform all the duties of the authority.

22 Sec. 19.70.040. STAFF. The authority shall employ an executive  
23 secretary who serves at the pleasure of the authority as its chief  
24 administrative officer. The executive secretary may with the approval  
25 of the authority select and employ additional staff as necessary. Em-  
26 ployees of the authority other than legal counsel and the executive  
27 secretary are in the classified service under AS 39.25. In addition to  
28 its staff of regular employees, the authority may contract for and en-  
29 gage the services of consultants and professional, technical and

1 financial advisors the authority considers necessary for the purpose of  
2 developing information, conducting hearings, studies, investigations or  
3 other proceedings, or otherwise exercising its powers.

4 ARTICLE 2. POWERS AND DUTIES.

5 Sec. 19.70.050. POWERS OF AUTHORITY. In addition to other powers  
6 granted in this chapter, the authority may

7 (1) sue and be sued;

8 (2) adopt and alter an official seal;

9 (3) make and enforce bylaws and regulations for the conduct  
10 of its business and for the use of its services and facilities;

11 (4) maintain offices at any place in the state and at places  
12 out of the state which are served by the marine highway system;

13 (5) acquire, hold, use and dispose of its income, revenues,  
14 funds and money;

15 (6) acquire, hold, use, lease, rent, construct and dispose of  
16 real and personal property for its purposes;

17 (7) exercise the power of eminent domain according to the  
18 provisions of this chapter and the procedures set out in AS 09.55.240 -  
19 09.55.460;

20 (8) operate, maintain, improve and extend a system of ferries  
21 connecting with the public streets and highways of the state and in-  
22 cluding such boats, vessels, wharves, docks, approaches, landings and  
23 appurtenances as the authority determines to be necessary or desirable  
24 for safe and efficient operation of the ferry system so as to best serve  
25 the public;

26 (9) do all acts and things necessary, convenient or desirable  
27 to carry out the powers expressly granted or necessarily implied in this  
28 chapter.

29 Sec. 19.70.055. "ALASKA MARINE HIGHWAY SYSTEM": NAME AUTHORIZED.

1 The authority is authorized to operate its ferry system under the name  
2 "Alaska marine highway system".

3 Sec. 19.70.060. COMPREHENSIVE LONG-RANGE PLAN. The authority,  
4 with the cooperation of the Department of Transportation and Public  
5 Facilities, shall prepare a comprehensive long-range plan for the  
6 development and improvement of the marine highway system. The plan  
7 shall be revised and updated at least every five years.

8 ARTICLE 3. ACQUISITION OF PROPERTY.

9 Sec. 19.70.070. ACQUISITION OF LAND, RIGHTS-OF-WAY, AND MATERIALS  
10 BY PURCHASE OR EMINENT DOMAIN. The authority, as part of the cost of  
11 constructing, maintaining or improving a ferry system, may purchase,  
12 acquire, take over or condemn under the right and power of eminent  
13 domain land in fee simple or easements which it considers necessary for  
14 present public use, either temporary or permanent, or which it considers  
15 necessary and reasonable for the public use. By the same means, the  
16 authority may obtain material, including clay, gravel, sand, or rock, or  
17 the land necessary to obtain the material, including access to it. The  
18 authority may so acquire the land or materials notwithstanding the fact  
19 that title to it is vested in the state or a department, agency, com-  
20 mission or institution of the state.

21 Sec. 19.70.080. DECLARATION OF TAKING. A declaration of taking,  
22 in the form of an order signed by a majority of the directorship of the  
23 authority, declaring that the real property, or an interest in it, or  
24 any easement is necessary for the public use of the authority, is suf-  
25 ficient to vest title in the authority. However, a declaration of  
26 taking is not effective until eminent domain proceedings have been in-  
27 stituted in the proper court, and a copy of the declaration of taking is  
28 filed in the office of the recorder located in the recording district  
29 where the land is located. The authority may pay or have paid, from the

1 appropriate fund, into court the amount it considers represents a rea-  
2 sonable valuation for the land, easement or materials taken.

3 Sec. 19.70.090. AUTHORITY TO CONDEMN OR ACQUIRE PUBLICLY OWNED  
4 PROPERTY FOR THE PURPOSE OF EXCHANGE. When property, which is devoted  
5 to or held for another public use for which the power of eminent domain  
6 may be exercised, is taken for purposes set out in this chapter, the  
7 authority may, with the consent of the person or agency in charge of the  
8 other public use, condemn other real property to be exchanged for the  
9 real property so taken. This section does not limit the authorization  
10 of the authority to acquire, other than by condemnation, property for  
11 those purposes in any other manner.

12 Sec. 19.70.100. AUTHORITY TO PURCHASE PROPERTY FOR THE PURPOSE OF  
13 EXCHANGE. When a majority of the directorship of the authority declares  
14 that it is in the best public interest of the state to do so, the  
15 authority may acquire by purchase or otherwise privately or publicly  
16 owned land or an interest in it for the purpose of exchanging it for  
17 privately or publicly owned land which the authority is authorized by  
18 law to acquire.

19 Sec. 19.70.110. VACATING OF LAND OR RIGHTS IN LAND. The authority  
20 may vacate land, or part of it, or rights in land acquired for use in  
21 the marine highway system by executing and filing a deed in the approp-  
22 riate recording district. Upon vacating, title reverts to the persons,  
23 heirs, successors, or assigns in whom it was vested at the time of the  
24 taking. The authority may transfer land considered no longer necessary  
25 for use in the marine highway system to the Department of Natural  
26 Resources for disposal. The proceeds of disposal by the Department of  
27 Natural Resources shall be credited to the funds from which the purchase  
28 was originally made.

29 ARTICLE 4. GENERAL PROVISIONS.

1           Sec. 19.70.120. TAX EXEMPTION. All property of the authority is  
2 public property devoted to an essential public and governmental function  
3 and purpose and is exempt from all taxes of the state or a political  
4 subdivision of the state.

5           Sec. 19.70.130. PURPOSE. The purpose of this chapter is to estab-  
6 lish an authority for the operation, management, and planning and  
7 construction of facilities for the marine highway system that is inde-  
8 pendent of the state government. The authority shall be the exclusive  
9 state agency directly associated with the operation, management, plan-  
10 ning and construction of facilities for the marine highway system.

11           Sec. 19.70.140. ANNUAL REPORT. Before March 1 of each year, the  
12 authority shall submit to the governor and the legislature a compre-  
13 hensive report describing the operations, income and expenditures for  
14 the preceding calendar year.

15           Sec. 19.70.150. ANNUAL AUDIT. The authority shall have its  
16 financial records audited annually by a certified public accountant.  
17 The legislative auditor may prescribe the form and content of the  
18 financial records of the authority and shall have access to these rec-  
19 ords at any time.

20           Sec. 19.70.160. BUDGET AND APPROPRIATIONS. The authority shall  
21 submit its annual budget to the legislature through the governor as  
22 provided for state agencies by the Executive Budget Act (AS 37.07). It  
23 may expend money directly appropriated by the legislature only as  
24 authorized by the legislature.

25           Sec. 19.70.170. PUBLIC RECORDS; OPEN MEETINGS. The provisions of  
26 AS 09.25.110 - 09.25.120 and AS 44.62.310 - 44.62.312 apply to the  
27 authority. The authority shall publish a proposed agenda of its  
28 meetings and afford the public an opportunity to be heard in accordance  
29 with AS 44.62.312.

1           Sec. 19.70.180. DUTY STATION OR PORT CHANGE FOR EMPLOYEES OF THE  
2 MARINE HIGHWAY SYSTEM. No employee of the marine highway system may be  
3 relieved at a duty station or port which is outside the state. Appro-  
4 priate state duty stations or ports for relief changes shall be desig-  
5 nated by the authority.

6           Sec. 19.70.190. DEFINITIONS. In this chapter, unless the context  
7 requires otherwise,

8                   (1) "authority" means the Alaska Marine Highway Authority  
9 established by this chapter;

10                   (2) "capital improvement" means a project for the construc-  
11 tion, rehabilitation, rebuilding, enlarging or improving of all or any  
12 part of the marine highway system, including, without limitation, boats,  
13 vessels, wharves, docks, approaches, landings, offices, and appurte-  
14 nances as determined by the authority to be necessary or desirable for  
15 efficient operation of the marine highway system and to best serve the  
16 public;

17                   (3) "ferry" means a vessel used in the common carriage of  
18 passengers and self-propelled vehicles in intrastate commerce.

19           Sec. 19.70.200. SHORT TITLE. This chapter may be cited as the  
20 Alaska Marine Highway Authority Act.

21 \* Sec. 2. AS 19.60.010 is amended to read:

22           Sec. 19.60.010. ACQUISITION AND MAINTENANCE OF FERRY TERMINAL  
23 FACILITIES. The authority [DEPARTMENT] shall construct, purchase or  
24 lease ferry terminal facilities at locations it selects for the loading  
25 and unloading of passengers and vehicles under their own power, on and  
26 off ferries. The authority [DEPARTMENT] shall repair and maintain these  
27 facilities.

28 \* Sec. 3. AS 19.60.020 is amended to read:

29           Sec. 19.60.020. CONNECTION OF FACILITIES TO HIGHWAYS. The

1 Department of Transportation and Public Facilities shall [DEPARTMENT  
2 MAY] connect ferry terminal facilities with local highway systems.

3 \* Sec. 4. AS 19.60.030 is amended to read:

4 Sec. 19.60.030. REGULATIONS. The authority [DEPARTMENT] may adopt  
5 [RULES AND] regulations governing the use of ferry terminal facilities  
6 by the public which it considers necessary and proper in the public  
7 interest.

8 \* Sec. 5. AS 19.60.040 is amended to read:

9 Sec. 19.60.040. PRIVATE ENTERPRISE NOT AFFECTED. Any person may  
10 construct a ferry terminal facility upon obtaining the approval of the  
11 authority [DEPARTMENT] as to its location. A ferry terminal facility  
12 constructed by a person other than the authority [DEPARTMENT] is subject  
13 to reasonable [RULES AND] regulations governing its use which the  
14 authority [DEPARTMENT] considers necessary and proper in the public  
15 interest.

16 \* Sec. 6. AS 19.60.050 is amended to read:

17 Sec. 19.60.050. APPROVAL OF AUTHORITY [DEPARTMENT] REQUIRED FOR  
18 CONSTRUCTION. A ferry terminal facility shall not be constructed with-  
19 out the approval of the authority [DEPARTMENT].

20 \* Sec. 7. AS 19.60.070(1) is amended to read:

21 (1) "authority" ["DEPARTMENT"] means the Alaska Marine High-  
22 way Authority [DEPARTMENT OF PUBLIC WORKS];

23 \* Sec. 8. AS 35.27.020 is amended by adding a new subsection to read:

24 (f) Fulfillment of the duties of the department under this chapter  
25 are the sole responsibility of the Alaska Marine Highway Authority with  
26 respect to the public buildings and facilities of the authority. The  
27 requirements of this chapter are intended to apply fully to the author-  
28 ity.

29 \* Sec. 9. AS 35.27.030 is amended by adding a new paragraph to read:

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(3) "authority" means the Alaska Marine Highway Authority.

\* Sec. 10. AS 42.25.180 is amended to read:

Sec. 42.25.180. STATE-OPERATED FERRIES. Nothing in this chapter prevents a [THE] state agency from operating ferries or ferry systems inside or outside the state.

\* Sec. 11. AS 44.42.020(a)(1) is amended to read:

(1) plan, design, construct and maintain all state modes of transportation and transportation facilities, communication facilities, and all docks, floats, breakwaters, buildings and similar facilities, except that the department has no planning, design, construction or maintenance responsibilities for transportation modes or facilities under the jurisdiction of the Alaska Marine Highway Authority;

\* Sec. 12. AS 44.42.020(a)(7) is amended to read:

(7) manage, operate, and maintain state transportation facilities, communication facilities, and all docks, floats, breakwaters and buildings, including all state highways, vessels, railroads, pipelines, airports, and aviation facilities, except that the department has no management, operational, or maintenance responsibilities for transportation facilities, vessels, or equipment under the jurisdiction of the Alaska Marine Highway Authority;

\* Sec. 13. AS 19.65 is repealed.

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