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Referred: Transportation and  
Finance

1 IN THE HOUSE

BY GRUSSENDORF

2 HOUSE BILL NO. 661

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Alaska Marine Highway Author-  
7 ity."

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

9 \* Section 1. PURPOSE. The purpose of this Act is to establish an author-  
10 ity for the operation, management, and planning and construction of facilities  
11 for the marine highway system that is independent of the state government.  
12 The authority shall be the exclusive state agency directly associated with  
13 the operation, management, planning, and construction of facilities for the  
14 marine highway system.

15 \* Sec. 2. AS 19 is amended by adding a new chapter to read:

16 CHAPTER 70. ALASKA MARINE HIGHWAY AUTHORITY.

17 ARTICLE 1. CREATION AND ORGANIZATION.

18 Sec. 19.70.010. ALASKA MARINE HIGHWAY AUTHORITY. The Alaska  
19 Marine Highway Authority is established. The authority is a public  
20 corporation of the state. The corporation is an instrumentality of the  
21 state in the Department of Transportation and Public Facilities but has  
22 a legal existence independent of and separate from the state and has  
23 continuing succession until its existence is terminated by law.

24 Sec. 19.70.020. DIRECTORS. (a) The authority consists of five  
25 directors including the commissioner of transportation and public facili-  
26 ties, who is a director ex officio with voting privileges; three  
27 directors appointed by the governor from communities in the state served  
28 by the marine highway system; and one director appointed by the governor  
29 from a community in the state not served by the marine highway system.

1 (b) The directors appointed by the governor serve at his pleasure  
2 for four-year terms. Each director shall hold office for the term of  
3 his appointment and until his successor is appointed and qualifies. A  
4 director is qualified for reappointment. A vacancy in a directorship  
5 occurring other than by expiration of term shall be filled in the same  
6 manner as the original appointment but only for the unexpired term.

7 (c) The directors must be residents of the state and qualified  
8 voters at the time of appointment and shall comply with the requirements  
9 of AS 39.50 (conflict of interest). Each director before entering upon  
10 his duties shall take and subscribe to an oath to perform the duties of  
11 his office faithfully, impartially and justly to the best of his ability.  
12 A record of the oath shall be filed with the Office of the Governor.

13 (d) The directors of the authority serve without compensation, but  
14 are entitled to travel and per diem expenses as provided in AS 39.20.180.

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

25 Sec. 19.70.040. STAFF. The authority shall employ an executive  
26 director who serves at the pleasure of the authority as its chief admin-  
27 istrative officer. The executive director may with the approval of the  
28 authority select and employ additional staff as necessary. Employees of  
29 the authority other than legal counsel and the executive director are in

1 the classified service under AS 39.25. In addition to its staff of  
2 regular employees, the authority may contract for and engage the ser-  
3 vices of consultants and professional, technical and financial advisors  
4 the authority considers necessary for the purpose of developing informa-  
5 tion, conducting hearings, studies, investigations or other proceedings,  
6 or otherwise exercising its powers.

7 ARTICLE 2. POWERS AND DUTIES.

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

- 10 (1) sue and be sued;
- 11 (2) adopt and alter an official seal;
- 12 (3) make and enforce bylaws and regulations for the conduct  
13 of its business and for the use of its services and facilities;
- 14 (4) maintain offices at any place in the state and at places  
15 out of the state which are served by the marine highway system;
- 16 (5) acquire, hold, use and dispose of its income, revenues,  
17 funds and money;
- 18 (6) acquire, hold, use, lease, rent, construct and dispose of  
19 real and personal property for its purposes;
- 20 (7) exercise the power of eminent domain according to the  
21 provisions of this chapter and the procedures set out in AS 09.55.240 -  
22 09.55.460;
- 23 (8) operate, maintain, improve and extend a system of ferries  
24 connecting with the public roads and highways of the state and including  
25 such boats, vessels, wharves, docks, approaches, landings and appurte-  
26 nances as the authority determines to be necessary or desirable for safe  
27 and efficient operation of the ferry system so as to best serve the  
28 public;
- 29 (9) do all acts and things necessary, convenient or desirable

1 to carry out the powers expressly granted or necessarily implied in this  
2 chapter.

3 Sec. 19.70.055. "ALASKA MARINE HIGHWAY SYSTEM": NAME AUTHORIZED.  
4 The authority is authorized to operate its ferry system under the name  
5 "Alaska marine highway system".

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

11 ARTICLE 3. ACQUISITION OF PROPERTY.

12 Sec. 91.70.070. ACQUISITION OF LAND, RIGHTS-OF-WAY, AND MATERIALS  
13 BY PURCHASE OR EMINENT DOMAIN. The authority, as part of the cost of  
14 constructing, maintaining, or improving a ferry system, may purchase,  
15 acquire, take over, or condemn under the right and power of eminent  
16 domain land in fee simple or easements that it considers necessary for  
17 present public use, either temporary or permanent, or that it considers  
18 necessary and reasonable for the public use. By the same means, the  
19 authority may obtain material, including clay, gravel, sand, or rock, or  
20 the land necessary to obtain the material, including access to it. The  
21 authority may so acquire the land or materials notwithstanding the fact  
22 that title to it is vested in the state or a department, agency, com-  
23 mission or institution of the state.

24 Sec. 19.70.080. DECLARATION OF TAKING. A declaration of taking,  
25 in the form of an order signed by a majority of the directors of the  
26 authority, declaring that the real property, or an interest in it, or  
27 any easement is necessary for the public use of the authority, is suf-  
28 ficient to vest title in the authority. However, a declaration of  
29 taking is not effective until eminent domain proceedings have been in-

1 stituted in the proper court, and a copy of the declaration of taking is  
2 filed in the office of the recorder located in the recording district  
3 where the land is located. The authority may pay or have paid, from the  
4 appropriate fund, into court the amount it considers represents a rea-  
5 sonable valuation for the land, easement or materials taken.

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

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

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

1 was originally made.

2 ARTICLE 4. GENERAL PROVISIONS.

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

7 Sec. 19.70.130. ANNUAL REPORT. By March 1 of each year, the  
8 authority shall submit to the governor and the legislature a compre-  
9 hensive report describing the operations, income and expenditures for  
10 the preceding calendar year.

11 Sec. 19.70.140. ANNUAL AUDIT. The authority shall have its finan-  
12 cial records audited annually by a certified public accountant. The  
13 legislative auditor may prescribe the form and content of the financial  
14 records of the authority and shall have access to those records at any  
15 time.

16 Sec. 19.70.150. BUDGET AND APPROPRIATIONS. The authority shall  
17 submit its annual budget to the legislature through the governor as  
18 provided for state agencies by the Executive Budget Act (AS 37.07). It  
19 may expend money directly appropriated by the legislature only as autho-  
20 rized by the legislature.

21 Sec. 19.70.160. PUBLIC RECORDS; OPEN MEETINGS. The provisions of  
22 AS 09.25.110 - 09.25.125 (public records) and AS 44.62.310 - 44.62.312  
23 (open meetings) apply to the authority. The authority shall publish a  
24 proposed agenda of each meeting and shall afford the public an oppor-  
25 tunity to be heard in accordance with AS 44.62.312.

26 Sec. 19.70.900. DEFINITIONS. In this chapter, unless the context  
27 requires otherwise,

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

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

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

10 Sec. 19.70.910. SHORT TITLE. This chapter may be cited as the  
11 Alaska Marine Highway Authority Act.

12 \* Sec. 3. AS 19.60.010 is amended to read:

13 Sec. 19.60.010. ACQUISITION AND MAINTENANCE OF FERRY TERMINAL  
14 FACILITIES. The authority [DEPARTMENT] shall construct, purchase or  
15 lease ferry terminal facilities at locations it selects for the loading  
16 and unloading of passengers and vehicles under their own power, on and  
17 off ferries. The authority [DEPARTMENT] shall repair and maintain these  
18 facilities.

19 \* Sec. 4. AS 19.60.020 is amended to read:

20 Sec. 19.60.020. CONNECTION OF FACILITIES TO HIGHWAYS. The depart-  
21 ment shall [MAY] connect ferry terminal facilities with local highway  
22 systems.

23 \* Sec. 5. AS 19.60.030 is amended to read:

24 Sec. 19.60.030. REGULATIONS. The authority [DEPARTMENT] may adopt  
25 [RULES AND] regulations governing the use of ferry terminal facilities  
26 by the public which it considers necessary and proper in the public  
27 interest.

28 \* Sec. 6. AS 19.60.040 is amended to read:

29 Sec. 19.60.040. PRIVATE ENTERPRISE NOT AFFECTED. Any person may

1 construct a ferry terminal facility upon obtaining the approval of the  
2 authority [DEPARTMENT] as to its location. A ferry terminal facility  
3 constructed by a person other than the authority [DEPARTMENT] is subject  
4 to reasonable [RULES AND] regulations governing its use which the author-  
5 ity [DEPARTMENT] considers necessary and proper in the public interest.

6 \* Sec. 7. AS 19.60.050 is amended to read:

7 Sec. 19.60.050. APPROVAL OF AUTHORITY [DEPARTMENT] REQUIRED FOR  
8 CONSTRUCTION. A ferry terminal facility may [SHALL] not be constructed  
9 without the approval of the authority [DEPARTMENT].

10 \* Sec. 8. AS 19.60.070(1) is amended to read:

11 (1) "authority" ["DEPARTMENT"] means the Alaska Marine High-  
12 way Authority [DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES];

13 \* Sec. 9. AS 35.27.020 is amended by adding a new subsection to read:

14 (h) The requirements of this chapter apply to the Alaska Marine  
15 Highway Authority. Fulfillment of the duties of the department under  
16 this chapter is the sole responsibility of the authority with respect to  
17 the public buildings and facilities of the authority.

18 \* Sec. 10. AS 35.27.030 is amended by adding a new paragraph to read:

19 (5) "authority" means the Alaska Marine Highway Authority.

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

21 (1) plan, design, construct, and maintain all state modes of  
22 transportation and transportation facilities and all docks, floats,  
23 breakwaters, buildings and similar facilities, except that the depart-  
24 ment has no planning, design, construction, or maintenance responsibili-  
25 ties for transportation modes or facilities under the jurisdiction of  
26 the Alaska Marine Highway Authority;

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

28 (7) manage, operate, and maintain state transportation faci-  
29 lities and all docks, floats, breakwaters and buildings, including all

1 state highways, vessels, railroads, pipelines, airports, and aviation  
2 facilities, except that the department has no management, operational,  
3 or maintenance responsibilities for transportation facilities, vessels,  
4 or equipment under the jurisdiction of the Alaska Marine Highway Author-  
5 ity;

6 \* Sec. 13. APPOINTMENT OF FIRST DIRECTORS OF ALASKA MARINE HIGHWAY AU-  
7 THORITY. The governor shall designate the terms of the directors of the  
8 Alaska Marine Highway Authority first appointed under AS 19.70.020. Of the  
9 four directors first appointed

- 10 (1) one shall serve a term of one year;
- 11 (2) one shall serve a term of two years;
- 12 (3) one shall serve a term of three years;
- 13 (4) one shall serve a term of four years.

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