Offered: 5/12/83
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Original sponsors: Hayes, Ward,
Adams, et al

1 IN THE HOUSE BY THE TRANSPORTATION COMMITTEE

2 CS FOR HOUSE BILL NO. 294 (Transportation) am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing an Alaska Toll Bridge and Cause-
7 way Authority; and providing 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. ALASKA TOLL BRIDGE AND CAUSEWAY AUTHORITY.

11 ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

12 Sec. 44.57.011. PURPOSE. The purpose of this chapter is to
13 develop, stimulate, and advance the economic welfare of the state and
14 further the development of public transportation systems in the vicin-
15 ity of toll bridges and causeways.

16 Sec. 44.57.021. ESTABLISHMENT OF AUTHORITY. There is estab-
17 lished the Alaska Toll Bridge and Causeway Authority. The authority
18 is a public corporation of the state in the Department of Transporta-
19 tion and Public Facilities but with separate and independent legal
20 existence.

21 Sec. 44.57.031. MEMBERSHIP OF AUTHORITY. The authority shall
22 consist of the commissioners of transportation and public facilities,
23 commerce and economic development, and revenue, or their designees and
24 four public members who are state residents and United States citizens
25 appointed by the governor. The public members of the authority serve
26 for staggered terms of five years each. A vacancy on the authority is
27 filled by appointment by the governor. A member selected to fill a
28 vacancy holds office for the balance of the term for which the mem-
29 ber's predecessor is appointed.

1 Sec. 44.57.041. OFFICERS AND QUORUM. The members shall elect
2 officers they determine desirable. The powers of the authority are
3 vested in the members, and four members of the authority constitute a
4 quorum. Action may be taken and motions and resolutions adopted by
5 the authority at a meeting by the affirmative vote of at least four
6 members. The members of the authority serve without compensation, but
7 they are entitled to per diem and travel expenses authorized by law
8 under AS 39.20.180.
9 Sec. 44.57.051. STAFF. The authority shall employ an executive
10 director who may, with the approval of the authority, employ addition-
11 al staff as necessary. In addition to its staff of regular employees,
12 the authority may contract for and engage the services of legal and
13 bond counsel, consultants, experts, and financial and technical advi-
14 sors the authority considers necessary for the purpose of conducting
15 studies, investigations, hearings, or other proceedings. The members
16 of the authority shall establish the compensation of the executive
17 director, who is subject to the provisions of AS 39.25.
18 ARTICLE 2. POWERS AND DUTIES.
19 Sec. 44.57.111. POWERS AND DUTIES OF THE AUTHORITY. In further-
20 ance of its corporate purposes, the authority has the following powers
21 in addition to its other powers
22 (1) to sue and be sued;
23 (2) to have a seal and alter it at pleasure;
24 (3) to make and alter bylaws for its organization and
25 internal management;
26 (4) to acquire real or personal property whether by pur-
27 chase, gift, lease or exchange where in the judgement of the authority
28 the action is in furtherance of its corporate purposes;
29 (5) to adopt regulations governing the exercise of its

1 corporate powers;

2 (6) to issue bonds to carry out any of its corporate pur-
3 poses and powers, including the acquisition, design or construction of
4 a project to be owned or leased, as lessor or lessee, by the authori-
5 ty, or the acquisition of an interest in a project or the establish-
6 ment or increase of reserves to secure or to pay the bonds or interest
7 on them, and the payment of all other costs or expenses of the author-
8 ity incident to and necessary or convenient to carry out its corporate
9 purposes and powers;

10 (7) to sell, lease as lessor or lessee, exchange, donate,
11 convey or encumber in any manner by mortgage or by creation of any
12 other security interest, real or personal property owned by it, or in
13 which it has an interest, when, in the judgment of the authority, the
14 action is in furtherance of its corporate purposes;

15 (8) to accept gifts or grants and enter into contracts or
16 other transactions regarding them with any person;

17 (9) to deposit or invest its funds, subject to agreements
18 with bondholders;

19 (10) to enter into contracts with the United States or a
20 person and, subject to the laws of the United States, with a foreign
21 country or its agencies, for the financing, design, construction,
22 acquisition, operation, and maintenance of all or any part of a toll
23 bridge or causeway, either inside or outside the state, and for the
24 security of any bonds of the authority issued or to be issued for the
25 project;

26 (11) to apply to the appropriate agencies of the state, the
27 United States, and to a foreign country and any other proper agency
28 for the permits, licenses, or approvals as may be necessary, and to
29 design, construct, maintain and operate toll bridges and causeways in

1 accordance with licenses and permits, and to obtain, hold and use the
2 licenses and permits in the same manner as any other person;
3 (12) to perform reconnaissance studies, feasibility studies,
4 and engineering, survey and design with respect to toll bridges and
5 causeways;
6 (13) to enter into contracts or agreements with respect to
7 the exercise of any of its powers, and do all things necessary or
8 convenient to carry out its corporate purposes and exercise the powers
9 granted in this chapter;
10 (14) to maintain complete and separate financial account of
11 each toll bridge and causeway;
12 (15) to utilize a design and construction contract for
13 projects over $100,000,000;
14 (16) to establish, levy, and collect tolls and other charges
15 it considers necessary for a project sufficient to pay costs of opera-
16 tion, maintenance, rehabilitation and improvement; to pay the cost of
17 acquisition, design or construction, including the payment, amortiza-
18 tion and retirement of bonds or other securities or obligations
19 assumed, issued or incurred by the authority, together with interest;
20 and to provide reserves for those purposes;
21 (17) to pledge the tolls and other revenues, subject to
22 prior pledges, as security for the repayment with interest of money
23 borrowed by it or advanced to it for its authorized purposes and as
24 security for the satisfaction of any other obligations assumed by it
25 in regard to loans or advances;
26 (18) to receive and accept funds from the state or the
27 federal government or a municipality upon a cooperative or other basis
28 for the design and construction of a toll bridge or causeway author-
29 ized under AS 44.57.011 - 44.57.331.

1 Sec. 44.57.121. LIMITATION ON POWERS. The authority has only
2 those powers expressly granted in this chapter, reasonably implied
3 from this chapter, or reasonably necessary or convenient to carry out
4 its corporate purposes and to exercise the powers expressly granted in
5 or reasonably implied from this chapter. The authority does not have
6 powers of eminent domain, taxation, land use planning, zoning, permit-
7 ting, or other similar governmental powers.

8 ARTICLE 3. FINANCIAL PROVISIONS.

9 Sec. 44.57.211. BONDS FOR THE AUTHORITY. The authority may
10 borrow money and may issue its bonds on which the principal and inter-
11 est are payable from money derived from the tolls, fees, charges and
12 other revenue from projects financed under AS 44.57.011 - 44.57.331.
13 Before issuing bonds for a project under this chapter an authority
14 shall submit to the state bond committee a description of the bond
15 issue and an independent economic feasibility analysis of the project
16 and expected revenues. This information may be contained in a pre-
17 liminary prospectus, offering circular or official statement relating
18 to the bond issue. Bonds may not be issued unless the state bond
19 committee finds, based upon the information submitted by the authority
20 under this subsection and other information that is reasonably avail-
21 able to it, that the project revenues can be reasonably expected to be
22 adequate for payment of the principal and interest on the bonds to be
23 issued, and that issuance of the bonds by the authority would not be
24 expected to adversely affect the ability of the state or its political
25 subdivisions to market bonds. Bonds may not be issued unless approved
26 by law.

27 Sec. 44.57.221. TRUST INDENTURES AND TRUST AGREEMENTS. (a) In
28 the discretion of the authority, an issue of bonds may be secured by a
29 trust indenture or trust agreement between the authority and a

1 corporate trustee (which may be a trust company, bank, or national
2 banking association, with corporate trust powers, located inside or
3 outside the state) or by a secured loan agreement or other instrument
4 or under a resolution giving powers to a corporate trustee by means of
5 which the authority may
6 (1) make and enter into any and all the covenants and
7 agreements with the trustee or the holders of the bonds which the
8 authority may determine to be necessary or desirable, including,
9 without limitation, covenants, provisions, limitations and agreements
10 as to
11 (A) the application, investment, deposit, use and
12 disposition of the proceeds of bonds of the authority or of money
13 or other property of the authority or in which it has an inter-
14 est;
15 (B) the fixing and collection of tolls, charges, fees
16 or other consideration for, and the other terms to be incorporat-
17 ed in, contracts with respect to a project;
18 (C) the assignment by the authority of its rights in
19 contracts with respect to a project or in a mortgage or other
20 security interest created with respect to a project to a trustee
21 for the benefit of bondholders;
22 (D) the terms and conditions upon which additional
23 bonds of the authority may be issued;
24 (E) the vesting in a trustee of rights, powers,
25 duties, funds or property in trust for the benefit of bondhold-
26 ers, including, without limitation, the right to enforce payment,
27 performance, and all other rights of the authority or of the
28 bondholders, under a lease, power of contract, contract of sale,
29 mortgage, security agreement, or trust agreement with respect to

1 a project by injunction or other proceeding or by taking posses-
2 sion of by agent or otherwise and operating a project and col-
3 lecting rents or other consideration and applying the same in
4 accordance with the trust agreement;
5 (2) pledge, mortgage or assign money, leases, agreements,
6 property or other rights or assets of the authority either presently
7 in hand or to be received in the future, or both; and
8 (3) provide for any other matters of like or different
9 character which in any way affect the security or protection of the
10 bonds.
11 (b) Notwithstanding any other provisions of this chapter, the
12 trust agreement shall contain a covenant by the authority that it will
13 at all times maintain rates, tolls, fees or charges sufficient to pay,
14 and that a contract entered into by the authority shall contain rates,
15 tolls, fees or charges sufficient to pay the costs of operation and
16 maintenance of the project, the principal of and interest on bonds
17 issued under the trust agreement as the same severally become due and
18 payable, to provide for debt service coverage as considered necessary
19 by the authority for the marketing of its bonds and to provide for
20 renewals, replacements and improvements of the project, and to main-
21 tain reserves required by the terms of the trust agreement.
22 (c) For the purpose of securing any one or more issues of its
23 bonds, the authority may establish one or more special funds, called
24 "capital reserve funds", and shall pay into those capital reserve
25 funds the proceeds of the sale of its bonds and any other money which
26 may be made available to the authority for the purposes of those funds
27 from any other source. The funds shall be established only if the
28 authority determines that the establishment would enhance the market-
29 ability of the bonds. All money held in a capital reserve fund,

1 except as provided in this section, shall be used as required, solely
2 for (1) the payment of the principal of, and interest on, bonds or of
3 the sinking fund payments with respect to those bonds, (2) the pur-
4 chase or redemption of bonds, or (3) the payment of a redemption
5 premium required to be paid when those bonds are redeemed before
6 maturity; however, money in a fund may not be withdrawn from it at any
7 time in an amount which would reduce the amount of that fund to less
8 than the capital reserve requirement set out in (2) of this subsec-
9 tion, except for the purpose of making, with respect to those bonds,
10 payment, when due, of principal, interest, redemption premiums and the
11 sinking fund payments for the payment of which other money of the
12 authority is not available. Income or interest earned by, or incre-
13 ment to, a capital reserve fund, due to the investment of the fund or
14 any other amounts in it, may be transferred by the authority to other
15 funds or accounts of the authority to the extent that the transfer
16 does not reduce the amount of the capital reserve fund below the
17 capital reserve fund requirement.
18 (d) If the authority decides to issue bonds secured by a capital
19 reserve fund, the bonds may not be issued if the amount in the capital
20 reserve fund is less than the amount that may be established by reso-
21 lution of the authority (called the "capital reserve fund require-
22 ment"), unless the authority, at the time of issuance of the obliga-
23 tions, deposits in the capital reserve fund from the proceeds of the
24 obligations to be issued or from other sources, an amount which,
25 together with the amount then in the fund, will not be less than the
26 capital reserve fund requirement.
27 (e) In computing the amount of a capital reserve fund for the
28 purpose of this section, securities in which all or a portion of the
29 funds are invested shall be valued by some reasonable method

1 established by the authority by resolution. Valuation on a particular
2 date shall include the amount of any interest earned or accrued to
3 that date.
4 (f) The chairman of the authority shall annually, no later than
5 January 2, make and deliver to the governor and the legislature a
6 certificate stating the sum, if any, required to restore any capital
7 reserve fund to the capital reserve fund requirement. The legislature
8 may appropriate a sum, and all sums appropriated during the then
9 current fiscal year by the legislature for restoration shall be depos-
10 ited by the authority in the proper capital reserve fund. Nothing in
11 this section creates a debt or liability of the state.
12 (g) If the authority decides to covenant to issue or to issue
13 bonds secured by a capital reserve fund, the bonds may not be issued
14 until 30 days after the authority has mailed notification to the State
15 Bond Committee and the Legislative Budget and Audit Committee by
16 certified mail of its intention to establish a capital reserve fund to
17 secure the bond issue. The notification shall include the amount of
18 the capital reserve fund to be established, the amount of bonds pro-
19 posed to be issued, and the total cost of the project for which the
20 bonds are to be issued. The notification shall be accompanied by an
21 estimate by the authority of the need to withdraw money from the
22 capital reserve fund during the term of the bond issue, the amount
23 that it may be necessary to withdraw, and the time at which withdraw-
24 als are estimated to be needed. The authority shall annually prepare
25 a revised estimate, considering the same factors, and a statement of
26 all withdrawals that have occurred from the date of issuance of the
27 bonds to the end of the calendar year. The revised estimate and
28 statement shall be submitted to the State Bond Committee and the
29 Legislative Budget and Audit Committee by January 30 of the succeeding

1 year.

2 Sec. 44.57.231. VALIDITY OF PLEDGE. It is the intention of the
3 legislature that a pledge made in respect of bonds shall be perfected
4 and shall be valid and binding from the time the pledge is made; that
5 the money or property so pledged and thereafter received by the
6 authority shall immediately be subject to the lien of the pledge
7 without physical delivery or further act; and that the lien of the
8 pledge shall be valid and binding against all parties having claims of
9 any kind in tort, contract, or otherwise against the authority ir-
10 respective of whether the parties have notice. Neither the resolu-
11 tion, trust agreement or any other instrument by which a pledge is
12 created need be recorded or filed under the provisions of the Uniform
13 Commercial Code to be perfected or to be valid, binding, or effective
14 against the parties. This section does not affect title to or convey-
15 ances of real property, and does not limit the applicability of
16 AS 34.15.290.

17 Sec. 44.57.241. NONLIABILITY ON BONDS. (a) Neither the members
18 of the authority nor a person executing the bonds are liable person-
19 ally on the bonds or are subject to personal liability or accountabil-
20 ity by reason of the issuance of the bonds.

21 (b) The bonds issued by the authority do not constitute an in-
22 debtedness or other liability of the state or of a political subdivi-
23 sion of the state, but shall be payable solely from the income and
24 receipts or other funds or property of the authority. The authority
25 may not pledge the faith or credit of the state or of a political
26 subdivision of the state, except the authority, to the payment of a
27 bond, and the issuance of a bond by the authority does not directly or
28 indirectly or contingently obligate the state or a political subdivi-
29 sion of the state to apply money from, levy or pledge any form of

1 taxation to the payment of the bond.

2 Sec. 44.57.251. PLEDGE OF THE STATE. The state pledges to and
3 agrees with the holders of bonds issued under this chapter and with
4 the federal agency which loans or contributes funds in respect to a
5 project, that the state will not limit or alter the rights and powers
6 vested in the authority by this chapter to fulfill the terms of a
7 contract made by the authority with the holders or federal agency, or
8 in any way impair the rights and remedies of the holders until the
9 bonds, together with the interest on them with interest on unpaid
10 installments of interest, and all costs and expenses in connection
11 with an action or proceeding by or on behalf of the holders, are fully
12 met and discharged. The authority is authorized to include this
13 pledge and agreement of the state, insofar as it refers to holders of
14 bonds of the authority, in a contract with the holders, and insofar as
15 it relates to a federal agency, in a contract with the federal agency.

16 Sec. 44.57.261. EXEMPTION FROM TAXATION. The real and personal
17 property of the authority and its assets, income and receipts are
18 declared to be the property of a political subdivision of the state
19 and, together with any project financed under this chapter are exempt
20 from all taxes and special assessments of the state or a political
21 subdivision of the state. All bonds of the authority are declared to
22 be issued by a political subdivision of the state and for an essential
23 public and governmental purpose and to be a public instrumentality,
24 and the bonds, and the interest on them, the income from them and the
25 transfer of the bonds, and all assets, income and receipts pledged to
26 pay or secure the payment of the bonds, or interest on them, shall at
27 all times be exempt from taxation by or under the authority of the
28 state, except for inheritance and estate taxes and taxes on transfers
29 by or in contemplation of death. Nothing in this section affects or

1 limits an exemption from license fees, property taxes, or excise,
2 income, or other taxes, provided under any other law, nor does it
3 create a tax exemption with respect to the interest of any business
4 enterprise or other person, other than the authority, in any property,
5 assets, income, receipts, project or lease whether or not financed
6 under this chapter.
7 Sec. 44.57.271. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The
8 bonds of the authority are securities in which all public officers and
9 bodies of the state and all municipalities and municipal subdivisions,
10 all insurance companies and associations and other persons carrying on
11 an insurance business, all banks, bankers, trust companies, savings
12 banks, savings associations, including without limitation savings and
13 loan associations and building and loan associations, investment
14 companies and other persons carrying on banking business, all adminis-
15 trators, guardians, executors, trustees and other fiduciaries, and all
16 other persons who are now or may afterward be authorized to invest in
17 bonds or other obligations of the state, may properly and legally
18 invest money including capital in their control or belonging to them.
19 Notwithstanding any other provisions of law, the bonds of the author-
20 ity are also securities that may be deposited with and may be received
21 by all public officers and bodies of the state and all municipalities
22 and municipal subdivisions for any purpose for which the deposit of
23 bonds or other obligations of the state is now or may afterward be
24 authorized.
25 Sec. 44.57.281. AUDIT. The legislative auditor shall audit or
26 shall cause to have audited annually the financial records of the
27 authority. The legislative auditor may prescribe the form and content
28 of the financial records of the authority and shall have access to
29 these records at any reasonable time.

1 ARTICLE 4. GENERAL PROVISIONS.

2 Sec. 44.57.311. DEFINITIONS. In this chapter

3 (1) "authority" means the Alaska Toll Bridge and Causeway

4 Authority;

5 (2) "design and construction contract" means one contract

6 for both design and construction of a toll bridge or causeway;

7 (3) "toll bridge or causeway" or "project" means a bridge

8 or causeway constructed or acquired under this chapter on which tolls

9 are charged, together with all appurtenances, additions, alterations,

10 improvements, and replacements, and approaches, and lands and inter-

11 ests therein used, and buildings and improvements as may be determined

12 by the authority.

13 Sec. 44.57.321. STATE APPROPRIATIONS FOR TOLL BRIDGES AND CAUSE-

14 WAYS NOT AFFECTED. This chapter does not prevent the state from

15 making appropriations from time to time in aid of the acquisition,

16 design, or construction under this chapter of a toll bridge or cause-

17 way or property, franchise, or right appurtenant to it, or the trans-

18 portation facilities of it, or for the purpose of making preliminary

19 surveys, plans, and estimates of the cost of it, and meeting other

20 preliminary expenses the legislature considers proper.

21 Sec. 44.57.331. CITATION OF CHAPTER. This chapter may be cited

22 as the Alaska Toll Bridge and Causeway Authority Act.

23 * Sec. 2. INITIAL TERMS. The governor shall designate the terms of the

24 public members of the authority first appointed under AS 44.57.031 as

25 follows: one shall serve a term of two years, one shall serve a term of

26 three years, one shall serve a term of four years, and one shall serve a

27 term of five years.

28 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-

29 10.070(c).