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Referred: Transportation
and Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 661

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the acquisition, construction,
7 equipping, and maintenance of toll facilities funded
8 by revenue bonds and providing toll collection au-
9 thority."

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

11 * Section 1. AS 37.15 is amended by adding new sections to read:

12 ARTICLE 4. TOLL FACILITIES REVENUE BONDS.

13 Sec. 37.15.610. BOND AUTHORIZATION. For the purpose of provid-
14 ing part or all of the money to be used, with or without any grants or
15 other money that may become available, the issuance and sale of reve-
16 nue bonds of the state in the total principal sum of not to exceed
17 \$500,000,000 is authorized to acquire, construct, equip, and install
18 the additions, improvements, extensions, and facilities authorized in
19 AS 37.15.720. The principal of and interest on these bonds shall be
20 paid out of and secured by the gross revenues derived by the state
21 from the ownership, use, and operation of the toll facilities, and out
22 of any other revenues or money which the state legislature may provide
23 exclusive of any state tax or license.

24 Sec. 37.15.620. CONSTRUCTION FUND. (a) There is a special fund
25 of the state known as the toll facilities construction fund, into
26 which shall be paid the proceeds of the sale of the bonds authorized
27 by AS 37.15.610 (except any accrued interest paid on the bonds by the
28 purchaser, which shall be paid into the bond redemption fund) and any
29 grant or other money that is legally provided for the same purposes

1 for which the bonds are authorized. The money in the construction
2 fund shall be used to pay the cost of acquiring, constructing, and
3 equipping facilities authorized in AS 37.15.720 and costs incidental
4 to those activities, including costs of the authorization, issuance,
5 and sale of the bonds. To the extent provided in the bond resolution,
6 money in the construction fund may also be used for the payment of
7 interest on the bonds during the period of actual construction, and
8 for any further period, not exceeding one year after the completion
9 period of construction, as may be provided in the bond resolution.
10 Money in the construction fund may also be transferred to the bond
11 redemption fund, to the extent provided in the bond resolution, to
12 establish a reserve for the payment of the principal and interest on
13 the bonds.

14 (b) The bond resolution may provide for the investment of money
15 in the construction fund in such manner as the committee may deter-
16 mine. The interest earned upon or any profits derived from the sale
17 of this investment shall be deposited in and become a part of the
18 construction fund.

19 Sec. 37.15.630. REVENUE FUND. (a) There is another special
20 fund of the state, known as the toll facilities revenue fund, which
21 shall be completely segregated and set apart from all other funds of
22 the state, which is a trust fund for the uses and purposes provided in
23 AS 37.15.610 -- 37.15.750, and into which shall be paid all revenues,
24 fees, tolls, charges, and rentals derived by the state from the owner-
25 ship, lease, use, and operation of the facilities authorized by
26 AS 37.15.720. These revenues, fees, tolls, charges, and rentals shall
27 not include the proceeds of any state tax or license. The money in
28 the revenue fund shall only be used for the purpose of (1) paying or
29 securing the payment of the principal of and interest on the toll

1 facilities bonds and principal of and interest on any other revenue
2 bonds issued by authorization of the legislature to provide funds to
3 acquire, construct, and equip facilities authorized by AS 37.15.720
4 and to be payable out of the revenue fund; (2) paying the normal and
5 necessary costs of maintaining and operating the facilities acquired,
6 constructed, or equipped under AS 37.15.610 -- 37.15.750; (3) paying
7 the costs of renewals, replacements, and extraordinary repairs to
8 facilities acquired, constructed, or equipped under AS 37.15.610 --
9 37.15.750; (4) redeeming before their fixed maturities any and all
10 revenue bonds issued for the purpose of acquiring, constructing, and
11 equipping facilities authorized by AS 37.15.720; (5) providing funds
12 to acquire, construct, and equip necessary additions and improvements
13 to facilities authorized by AS 37.15.720; and (6) providing funds to
14 pay any and all other costs relating to the ownership, use, and opera-
15 tion of the facilities.

16 (b) The investment of money in the revenue fund may be made in
17 such manner as the committee may determine. The interest earned upon
18 or any profits derived from the sale of this investment shall be
19 deposited in and become a part of the revenue fund.

20 Sec. 37.15.640. REDEMPTION FUND. There is another special fund
21 of the state, known as the toll facilities revenue bond redemption
22 fund, which is a trust fund for paying and securing the payment of
23 principal of and interest and redemption premium, if any, on bonds and
24 which shall be at all times completely segregated and set apart from
25 all other funds of the state. The committee, on behalf of the state,
26 shall obligate the state to set aside and pay into the bond redemption
27 fund from the revenue fund the amount of money sufficient to pay the
28 principal of and interest and redemption premium, if any, on the bonds
29 as the payments become due and, if it considers it necessary, to set

1 aside and maintain reserves for this purpose. The bond redemption
2 fund shall be drawn upon for the purpose of paying the principal of
3 and interest and redemption premium, if any, on the bonds, and the
4 bonds do not constitute a general obligation of the state.

5 Sec. 37.15.650. BOND TERMS. (a) The toll facilities bonds
6 shall be sold in such amounts or series and at such time as determined
7 by the committee. Before selling a series of bonds, the committee
8 shall give notice inviting sealed bids in the manner it prescribes.
9 If satisfactory bids are received, the bonds offered for sale shall be
10 awarded to the highest responsible bidder. If the committee deter-
11 mines that the bids received are not satisfactory as to price or
12 responsibility of the bidders, it may reject all bids received. The
13 bonds, or each series of them, shall be sold at such a price that the
14 effective interest rate over the life of the bonds does not exceed 11
15 percent per year or that rate of interest which is 125 percent of the
16 rate of the Bond Buyer Index of 20 Municipal Bond Average Yields for
17 the week previous to the date of sale of the bonds, whichever is
18 higher. Interest is payable annually or semiannually.

19 (b) The bonds mature at the time fixed by the committee. The
20 bonds may be subject to redemption before their fixed maturities as
21 determined by the committee and with such premium or premiums as fixed
22 by the committee, but no bond may be subject to redemption before its
23 fixed maturity date unless the right so to redeem that bond is ex-
24 pressly mentioned on the face of the bond. The bonds (1) may be in
25 denominations determined by the committee; (2) may be issued in coupon
26 form or in fully registered form, and may be registrable as to princi-
27 pal or both principal and interest, all under regulations and condi-
28 tions the committee provides; (3) are payable as to principal and
29 interest at the place determined by the committee; (4) shall be signed

1 on behalf of the state by the governor and shall be attested by the
2 lieutenant governor, both of which signatures may be facsimile signa-
3 tures, and each of the interest coupons attached to them shall be
4 signed by the facsimile signatures of these officials; (5) shall have
5 the seal of the state impressed, printed, or lithographed on them, (6)
6 shall be issued under and subject to such terms, conditions, and
7 covenants, providing for the payment of the principal of them and
8 interest on them and such other terms, conditions, covenants, and
9 protective features safeguarding this payment and relating to the
10 maintenance, operation, and improvement of the toll facilities as
11 found necessary by the committee, which covenants may include a pro-
12 vision requiring the setting aside and maintenance of certain reserves
13 to secure the payment of this principal and interest.

14 (c) If found reasonably necessary, the committee may select a
15 trustee or trustees for the holders of the bonds or any series of
16 them, for the safeguarding and disbursement of any of the money in any
17 of the funds created by AS 37.15.620, 37.15.630, and 37.15.640, or for
18 such duties with respect to the authentication, delivery, and regis-
19 tration of the bonds as the committee may determine. The committee
20 shall also fix the rights, duties, powers, and obligations of the
21 trustee or trustees.

22 (d) In its determination of all of the matters and questions
23 relating to the issuance and sale of the bonds and the fixing of the
24 maturities, terms, conditions, and covenants of them as provided in
25 (a), (b), and (c) of this section, the decisions of the committee
26 shall be those found to be reasonably necessary for the best interests
27 of the state and its inhabitants, and those which will accomplish the
28 most advantageous sale of the bonds, with due regard, however, (1) to
29 necessary or normal costs of maintenance and operation; (2) to

1 renewals and replacements of and repairs to the toll facilities; (3)
2 to all improvements to them and facilities of them owned, used, op-
3 erated, or leased in connection with them; and (4) to the future
4 growth and expansion of all of the facilities and the possibility of
5 additional revenue bond financing for toll facilities purposes. Any
6 such decisions of the committee, as expressed in any bond resolution,
7 are final and conclusive when any bonds have been issued under the
8 bond resolution.

9 (e) A bond resolution may provide that the bonds issued contain
10 a recital that they are issued under AS 37.15.610 -- 37.15.750, and
11 any such bonds containing this recital are conclusively considered to
12 be valid and to have been issued in conformity with AS 37.15.610 --
13 37.15.750.

14 (f) The validity of the authorization and issuance of bonds is
15 not affected by any proceedings for the acquisition or construction of
16 the additions, improvements, or facilities for which the bonds have
17 been issued or by any contracts in connection with the acquisition or
18 construction.

19 Sec. 37.15.660. BOND RESOLUTION. The committee is authorized
20 and directed to adopt the bond resolution and prepare all other docu-
21 ments and proceedings necessary for the issuance, sale, and delivery
22 of the bonds or any part or series of them. The bond resolution shall
23 fix the principal amount, denomination, date, maturities, place or
24 places of payment, rights of redemption, if any, terms, form, condi-
25 tions, and covenants of the bonds or each series of them. The commit-
26 tee shall also determine and provide for the date and manner of sale
27 of the bonds, and shall provide whether the notice of sale is to be
28 published elsewhere in addition to the publication required by AS 37.-
29 15.650.

1 Sec. 37.15.670. ENFORCEMENT BY HOLDER. The holder of any bonds
2 or the trustee for the holders of the bonds or any series of them,
3 may, by appropriate proceedings in the courts of record of the state,
4 compel the transfer, setting aside, and payment of money and the
5 enforcement of all of the terms, conditions, and covenants as required
6 and provided in AS 37.15.610 -- 37.15.750 and in the bond resolution.

7 Sec. 37.15.680. AMOUNTS REQUIRED FOR PAYMENTS. The committee
8 shall, before December 31 of each year, commencing with the year in
9 which the bonds are issued, certify to the commissioner of revenue and
10 the commissioner of transportation and public facilities the amounts
11 required in the next ensuing calendar year by the bond resolution or
12 resolutions to be paid out of the revenue fund into the bond redemp-
13 tion fund and to be paid into and maintained in any reserve fund or
14 account or any other fund or account created by the bond resolution or
15 resolutions. The committee shall also certify to the commissioners
16 the last date or dates upon which payments may be made.

17 Sec. 37.15.690. BOND NEGOTIABILITY. The bonds and the coupons
18 attached to them are fully negotiable instruments under the laws of
19 the state.

20 Sec. 37.15.700. REFUNDING. (a) The bonds or any part of them
21 may be refunded at or before their maturity by the issuance of refund-
22 ing revenue bonds of the state if in the opinion of the committee
23 refunding is advantageous to and in the best interest of the state and
24 its inhabitants.

25 (b) The issuance of refunding bonds need not be authorized by an
26 Act of the legislature, and the committee shall adopt the resolution
27 and prepare all other documents and proceedings necessary for the
28 issuance, exchange or sale, and delivery of the bonds. All provisions
29 of AS 37.15.610 -- 37.15.750 applicable to revenue bonds are

1 applicable to the refunding bonds and to the issuance, sale, or ex-
2 change of them, except as otherwise provided in this section.

3 (c) Refunding bonds may be issued in a principal amount suffi-
4 cient to provide funds for the payment of all bonds to be refunded by
5 them, and, in addition, for the payment of all expenses incident to
6 the calling, retiring, or paying of the outstanding bonds, and the
7 issuance of the refunding bonds. These expenses include the differ-
8 ence in amount between the par value of the refunding bonds and any
9 amount less than par for which the refunding bonds are sold, any
10 amount necessary to be made available for the payment of interest on
11 the refunding bonds from the date of sale of them to the date of
12 payment of the bonds to be refunded or to the date upon which the
13 bonds to be refunded will be paid under the call of them or agreement
14 with the holders of them, and the premium, if any, necessary to be
15 paid in order to call or retire the outstanding bonds and the interest
16 accruing on them to the date of the call or retirement.

17 Sec. 37.15.710. BONDS AS LEGAL INVESTMENTS. Toll facilities
18 bonds are legal investments for all banks, trust companies, savings
19 banks, savings and loan associations, and other persons carrying on a
20 banking business, all insurance companies and other persons carrying
21 on an insurance business, and all executors, administrators, trustees,
22 and other fiduciaries. The bonds may be accepted as security for
23 deposits of all funds of the state and its political subdivisions.

24 Sec. 37.15.720. STATE TOLL FACILITIES. The state is authorized
25 to acquire, construct, equip, and maintain toll bridges, highways,
26 roads, and causeways found to be necessary by the commissioner of
27 transportation and public facilities.

28 Sec. 37.15.730. TOLL FACILITY CHARGES. The commissioner of
29 transportation and public facilities shall fix and collect such fees,

1 charges, tolls, and rentals derived by the state from the ownership,
2 lease, use, and operation of the facilities authorized by AS 37.15.720
3 and improvements of them as will provide revenues sufficient to comply
4 with all of the covenants of the bond resolution.

5 Sec. 37.15.740. STATUTORY CONSTRUCTION. AS 37.15.610 -- 37.15.-
6 750 shall be liberally construed in order to carry out the purposes
7 for which they were enacted, and all existing laws in conflict with
8 any of these sections are superseded insofar as necessary to accom-
9 plish the purposes of and carry out the provisions of these sections.

10 Sec. 37.15.750. DEFINITIONS. As used in AS 37.15.610 -- 37.15.-
11 750, unless the context requires otherwise:

12 (1) "bond redemption fund" means the toll facilities reve-
13 nue bond redemption fund created by AS 37.15.640, including any ac-
14 counts which are created in that fund after the effective date of this
15 Act;

16 (2) "bond resolution" means the resolution authorizing the
17 issuance of bonds, adopted by the committee under AS 37.15.660;

18 (3) "bonds" means the toll facilities revenue bonds autho-
19 rized by AS 37.15.610 -- 37.15.750;

20 (4) "committee" means the state bond committee created by
21 AS 37.15.110, or any other committee, body, department, or officer of
22 the state which or who succeeds to the rights, powers, duties, and
23 obligations of the state bond committee by lawful Act of the legisla-
24 ture;

25 (5) "construction fund" means the toll facilities construc-
26 tion fund created by AS 37.15.620;

27 (6) "revenue fund" means the toll facilities revenue fund
28 created by AS 37.15.630;

29 (7) "toll facilities" means highways, roads, bridges, and

1 causeways upon which tolls, charges, rentals, or other user fees are
2 placed by the commissioner of transportation and public facilities.

3 * Sec. 2. AS 19.05.040 is amended to read:

4 Sec. 19.05.040. POWERS OF DEPARTMENT. The department may

- 5 (1) acquire property;
- 6 (2) exercise the power of eminent domain;
- 7 (3) take immediate possession of real property, or any
8 interest in it under a declaration of taking or by other lawful means;
- 9 (4) acquire rights-of-way for present or future use;
- 10 (5) control access to highways;
- 11 (6) regulate roadside development;
- 12 (7) preserve and maintain the scenic beauty along state
13 highways;
- 14 (8) dispose of property acquired for highway purposes;
- 15 (9) accept and dispose of federal funds or property avail-
16 able for highway construction, maintenance, or equipment;
- 17 (10) enter into contracts or agreements relating to highways
18 with the federal government, municipalities, a political subdivision,
19 or with a foreign government, if the contract is approved by the
20 federal government; [AND]
- 21 (11) establish, levy, and collect tolls, fees, charges, and
22 rentals for the use of state roads, highways, bridges, and causeways;
- 23 (12) exercise any other power necessary to carry out the
24 purpose of AS 19.05 -- 19.25.
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