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1 IN THE SENATE

BY KERTTULA AND FAIKS

2

SENATE BILL NO. 211

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."

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 governor; the commissioners of transportation and  
23 public facilities, commerce and economic development, labor, and  
24 revenue; the president of the senate and the speaker of the house of  
25 representatives, or their designees and one public member of each  
26 borough where the toll bridge or causeway is located.

27 Sec. 44.57.041. OFFICERS AND QUORUM. The members shall elect  
28 officers they determine desirable. The powers of the authority are  
29 vested in the members, and four members of the authority constitute a

1 quorum. Action may be taken and motions and resolutions adopted by  
2 the authority at a meeting by the affirmative vote of at least four  
3 members. The members of the authority serve without compensation, but  
4 they are entitled to per diem and travel expenses authorized by law  
5 under AS 39.20.180.

6 Sec. 44.57.051. STAFF. The authority shall employ an executive  
7 director who may, with the approval of the authority, employ addition-  
8 al staff as necessary. In addition to its staff of regular employees,  
9 the authority may contract for and engage the services of legal and  
10 bond counsel, consultants, experts, and financial and technical advi-  
11 sors the authority considers necessary for the purpose of conducting  
12 studies, investigations, hearings, or other proceedings. The members  
13 of the authority shall establish the compensation of the executive  
14 director, who is subject to the provisions of AS 39.25.

15 ARTICLE 2. POWERS AND DUTIES.

16 Sec. 44.57.111. POWERS AND DUTIES OF THE AUTHORITY. In further-  
17 ance of its corporate purposes, the authority has the following powers  
18 in addition to its other powers;

19 (1) to sue and be sued;

20 (2) to have a seal and alter it at pleasure;

21 (3) to make and alter bylaws for its organization and  
22 internal management;

23 (4) to acquire, whether by construction, purchase, gift or  
24 lease, and to improve, equip, operate, and maintain toll bridge and  
25 causeway projects;

26 (5) to make regulations governing the exercise of its  
27 corporate powers;

28 (6) to issue bonds to carry out any of its corporate pur-  
29 poses and powers, including the acquisition, design or construction of

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

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

12 (8) to accept gifts, grants or loans from, and enter into  
13 contracts or other transactions regarding them, with any person;

14 (9) to deposit or invest its funds, subject to agreements  
15 with bondholders;

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

23 (11) to apply to the appropriate agencies of the state, the  
24 United States, and to a foreign country and any other proper agency  
25 for the permits, licenses, or approvals as may be necessary, and to  
26 design, construct, maintain and operate toll bridges and causeways in  
27 accordance with licenses and permits, and to obtain, hold and use the  
28 licenses and permits in the same manner as any other person;

29 (12) to perform reconnaissance studies, feasibility studies,

1 and engineering, survey and design with respect to toll bridges and  
2 causeways;

3 (13) to enter into contracts or agreements with respect to  
4 the exercise of any of its powers, and do all things necessary or  
5 convenient to carry out its corporate purposes and exercise the powers  
6 granted in this chapter;

7 (14) to exercise the power of eminent domain in accordance  
8 with AS 09.55.240 - 09.55.460;

9 (15) to maintain complete and separate financial account of  
10 each toll bridge and causeway;

11 (16) to utilize a design and construction contract for  
12 projects over \$100,000,000;

13 (17) to establish, levy, and collect tolls and other charges  
14 it considers necessary for a project sufficient to pay costs of opera-  
15 tion, maintenance, rehabilitation and improvement; to pay the cost of  
16 acquisition, design or construction, including the payment, amortiza-  
17 tion and retirement of bonds or other securities or obligations  
18 assumed, issued or incurred by the authority, together with interest;  
19 and to provide reserves for those purposes;

20 (18) to pledge the tolls and other revenues, subject to  
21 prior pledges, as security for the repayment with interest of money  
22 borrowed by it or advanced to it for its authorized purposes and as  
23 security for the satisfaction of any other obligations assumed by it  
24 in regard to loans or advances;

25 (19) to receive and accept funds from the state or the  
26 federal government or a municipality upon a cooperative or other basis  
27 for the design and construction of a toll bridge or causeway author-  
28 ized under AS 44.57.011 - 44.57.331.

29 ARTICLE 3. FINANCIAL PROVISIONS.

1           Sec. 44.57.211. BONDS FOR THE AUTHORITY.   The authority may  
2 borrow money and may issue its bonds on which the principal and inter-  
3 est are payable from money derived from the tolls, fees, charges and  
4 other revenue from projects financed under AS 44.57.011 - 44.57.331 if

5           (1) appropriations are insufficient to cover the cost of  
6 acquiring, designing, or constructing the project; and

7           (2) the amount of interest the authority will pay on its  
8 bonds is not more than alternative costs of securing money to pay for  
9 the acquisition, design, or construction of the project.

10          Sec. 44.57.221. TRUST INDENTURES AND TRUST AGREEMENTS. (a) In  
11 the discretion of the authority, an issue of bonds may be secured by a  
12 trust indenture or trust agreement between the authority and a corpo-  
13 rate trustee (which may be a trust company, bank, or national banking  
14 association, with corporate trust powers, located inside or outside  
15 the state) or by a secured loan agreement or other instrument or under  
16 a resolution giving powers to a corporate trustee by means of which  
17 the authority may

18           (1) make and enter into any and all the covenants and  
19 agreements with the trustee or the holders of the bonds which the  
20 authority may determine to be necessary or desirable, including,  
21 without limitation, covenants, provisions, limitations and agreements  
22 as to

23           (A) the application, investment, deposit, use and  
24 disposition of the proceeds of bonds of the authority or of money  
25 or other property of the authority or in which it has an inter-  
26 est;

27           (B) the fixing and collection of tolls, charges, fees  
28 or other consideration for, and the other terms to be incorporat-  
29 ed in, contracts with respect to a project;

1 (C) the assignment by the authority of its rights in  
2 contracts with respect to a project or in a mortgage or other  
3 security interest created with respect to a project to a trustee  
4 for the benefit of bondholders;

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

7 (E) the vesting in a trustee of rights, powers,  
8 duties, funds or property in trust for the benefit of bondhold-  
9 ers, including, without limitation, the right to enforce payment,  
10 performance, and all other rights of the authority or of the  
11 bondholders, under a lease, power of contract, contract of sale,  
12 mortgage, security agreement, or trust agreement with respect to  
13 a project by injunction or other proceeding or by taking posses-  
14 sion of by agent or otherwise and operating a project and col-  
15 lecting rents or other consideration and applying the same in  
16 accordance with the trust agreement;

17 (2) pledge, mortgage or assign money, leases, agreements,  
18 property or other rights or assets of the authority either presently  
19 in hand or to be received in the future, or both; and

20 (3) provide for any other matters of like or different  
21 character which in any way affect the security or protection of the  
22 bonds.

23 (b) Notwithstanding any other provisions of this chapter, the  
24 trust agreement shall contain a covenant by the authority that it will  
25 at all times maintain rates, tolls, fees or charges sufficient to pay,  
26 and that a contract entered into by the authority shall contain rates,  
27 tolls, fees or charges sufficient to pay the costs of operation and  
28 maintenance of the project, the principal of and interest on bonds  
29 issued under the trust agreement as the same severally become due and

1 payable, to provide for debt service coverage as considered necessary  
2 by the authority for the marketing of its bonds and to provide for  
3 renewals, replacements and improvements of the project, and to main-  
4 tain reserves required by the terms of the trust agreement.

5 (c) For the purpose of securing any one or more issues of its  
6 bonds, the authority may establish one or more special funds, called  
7 "capital reserve funds", and shall pay into those capital reserve  
8 funds the proceeds of the sale of its bonds and any other money which  
9 may be made available to the authority for the purposes of those funds  
10 from any other source. The funds shall be established only if the  
11 authority determines that the establishment would enhance the market-  
12 ability of the bonds. All money held in a capital reserve fund,  
13 except as provided in this section, shall be used as required, solely  
14 for (1) the payment of the principal of, and interest on, bonds or of  
15 the sinking fund payments with respect to those bonds, (2) the pur-  
16 chase or redemption of bonds, or (3) the payment of a redemption  
17 premium required to be paid when those bonds are redeemed before  
18 maturity; however, money in a fund may not be withdrawn from it at any  
19 time in an amount which would reduce the amount of that fund to less  
20 than the capital reserve requirement set out in (2) of this subsec-  
21 tion, except for the purpose of making, with respect to those bonds,  
22 payment, when due, of principal, interest, redemption premiums and the  
23 sinking fund payments for the payment of which other money of the  
24 authority is not available. Income or interest earned by, or incre-  
25 ment to, a capital reserve fund, due to the investment of the fund or  
26 any other amounts in it, may be transferred by the authority to other  
27 funds or accounts of the authority to the extent that the transfer  
28 does not reduce the amount of the capital reserve fund below the  
29 capital reserve fund requirement.

1           (d) If the authority decides to issue bonds secured by a capital  
2 reserve fund, the bonds may not be issued if the amount in the capital  
3 reserve fund is less than the amount that may be established by reso-  
4 lution of the authority (called the "capital reserve fund require-  
5 ment"), unless the authority, at the time of issuance of the obliga-  
6 tions, deposits in the capital reserve fund from the proceeds of the  
7 obligations to be issued or from other sources, an amount which,  
8 together with the amount then in the fund, will not be less than the  
9 capital reserve fund requirement.

10           (e) In computing the amount of a capital reserve fund for the  
11 purpose of this section, securities in which all or a portion of the  
12 funds are invested shall be valued by some reasonable method estab-  
13 lished by the authority by resolution. Valuation on a particular date  
14 shall include the amount of any interest earned or accrued to that  
15 date.

16           (f) The chairman of the authority shall annually, no later than  
17 January 2, make and deliver to the governor and the legislature a  
18 certificate stating the sum, if any, required to restore any capital  
19 reserve fund to the capital reserve fund requirement. The legislature  
20 may appropriate a sum, and all sums appropriated during the then  
21 current fiscal year by the legislature for restoration shall be depos-  
22 ited by the authority in the proper capital reserve fund. Nothing in  
23 this section creates a debt or liability of the state.

24           (g) When the authority has created and established a capital  
25 reserve fund, the commissioner of revenue may lend surplus money in  
26 the general fund to the authority for deposit in a capital reserve  
27 fund in an amount equal to the capital reserve fund requirement. The  
28 loans shall be made on the terms and conditions that may be agreed  
29 upon by the commissioner of revenue and the authority, including

1 without limitation terms and conditions providing that the loans need  
2 not be repaid until the obligations of the authority secured and to be  
3 secured by the capital reserve fund are no longer outstanding.

4 (h) If the authority decides to covenant to issue or to issue  
5 bonds secured by a capital reserve fund, the bonds may not be issued  
6 until 10 days after the authority has mailed notification to the State  
7 Bond Committee and the Legislative Budget and Audit Committee by  
8 certified mail of its intention to establish a capital reserve fund to  
9 secure the bond issue. The notification shall include the amount of  
10 the capital reserve fund to be established, the amount of bonds pro-  
11 posed to be issued, and the total cost of the project for which the  
12 bonds are to be issued. The notification shall be accompanied by an  
13 estimate by the authority of the need to withdraw money from the  
14 capital reserve fund during the term of the bond issue, the amount  
15 that it may be necessary to withdraw, and the time at which withdraw-  
16 als are estimated to be needed. The authority shall annually prepare  
17 a revised estimate, considering the same factors, and a statement of  
18 all withdrawals that have occurred from the date of issuance of the  
19 bonds to the end of the calendar year. The revised estimate and  
20 statement shall be submitted to the State Bond Committee and the  
21 Legislative Budget and Audit Committee by January 30 of the succeeding  
22 year.

23 ARTICLE 4. GENERAL PROVISIONS.

24 Sec. 44.57.311. DEFINITIONS. In this chapter

25 (1) "authority" means the Alaska Toll Bridge and Causeway  
26 Authority;

27 (2) "design and construction contract" means one contract  
28 for both design and construction of a toll bridge or causeway;

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

1 or causeway constructed or acquired under this chapter on which tolls  
2 are charged, together with all appurtenances, additions, alterations,  
3 improvements, and replacements, and approaches, and lands and inter-  
4 ests therein used, and buildings and improvements as may be determined  
5 by the authority.

6 Sec. 44.57.321. STATE APPROPRIATIONS FOR TOLL BRIDGES AND CAUSE-  
7 WAYS NOT AFFECTED. This chapter does not prevent the state from  
8 making appropriations from time to time in aid of the acquisition,  
9 design, or construction under this chapter of a toll bridge or cause-  
10 way or property, franchise, or right appurtenant to it, or the trans-  
11 portation facilities of it, or for the purpose of making preliminary  
12 surveys, plans, and estimates of the cost of it, and meeting other  
13 preliminary expenses the legislature considers proper.

14 Sec. 44.57.331. CITATION OF CHAPTER. This chapter may be cited  
15 as the Alaska Toll Bridge and Causeway Authority Act.