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Referred: Finance

Original sponsors: Kerttula and Faiks

1 IN THE SENATE BY THE TRANSPORTATION COMMITTEE
2 CS FOR SENATE BILL NO. 211 (Transportation)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act authorizing the construction of the Knik Arm
7 Crossing and relating to the acquisition, construc-
8 tion, equipping, and maintenance of toll facilities
9 funded by revenue bonds and providing toll collection
10 authority."

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

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

13 ARTICLE 4. TOLL FACILITIES REVENUE BONDS.

14 Sec. 37.15.610. BOND AUTHORIZATION. For the purpose of provid-
15 ing part or all of the money to be used, with or without any grants or
16 other money that may become available, the issuance and sale of reve-
17 nue bonds of the state in the total principal sum of not to exceed
18 \$500,000,000 is authorized to acquire, construct, equip, and install
19 the additions, improvements, extensions, and facilities authorized in
20 AS 37.15.720 and 37.15.730. The principal of and interest on these
21 bonds are paid out of and secured by the gross revenues derived by the
22 state from the ownership, use, and operation of the toll facilities,
23 and out of any other revenue or money that the state legislature may
24 provide exclusive of any state tax or license.

25 Sec. 37.15.620. CONSTRUCTION FUND. (a) The toll facilities
26 construction fund is established for deposit of proceeds of the sale
27 of the bonds authorized by AS 37.15.610 and any grant or other money
28 that is legally provided for the same purposes for which the bonds are
29 authorized except for any accrued interest paid on the bonds by the

1 purchaser. The money in the construction fund is used to pay the cost
2 of acquiring, constructing, and equipping facilities authorized in
3 AS 37.15.720 and 37.15.730 and costs incidental to those activities,
4 including costs of the authorization, issuance, and sale of the bonds.
5 To the extent allowed in the bond resolution, money in the construc-
6 tion fund may also be used for the payment of interest on the bonds
7 during the time of actual construction, and for any additional time,
8 not exceeding one year after construction is completed. Money in the
9 construction fund may also be transferred to the bond redemption fund,
10 as permitted by the bond resolution, to establish a reserve for the
11 payment of the principal and interest on the bonds.

12 (b) The bond resolution may provide for the investment of money
13 in the construction fund as the committee determines. The interest
14 earned upon or any profit derived from the sale of the investment is
15 deposited in the construction fund.

16 Sec. 37.15.630. REVENUE FUND. (a) The toll facilities revenue
17 fund is established and shall be set apart from all other money of the
18 state. The toll facilities revenue fund is a trust fund for the pur-
19 poses under AS 37.15.610 - 37.15.760, where all revenue, fees, tolls,
20 charges, and rentals are deposited that are derived by the state from
21 the ownership, lease, use, and operation of the facilities authorized
22 by AS 37.15.720 and 37.15.730. The revenue, fees, tolls, charges, and
23 rentals may not include the proceeds of any state tax or license. The
24 money in the revenue fund may only be used to

25 (1) pay or secure the payment of the principal of and inter-
26 est on the toll facilities bonds and principal of and interest on any
27 other revenue bonds issued by authorization of the legislature to
28 provide money to acquire, construct, and equip facilities authorized
29 by AS 37.15.720 and 37.15.730 and to be payable out of the revenue

1 fund;

2 (2) pay the normal and necessary costs of maintaining and
3 operating the facilities acquired, constructed, or equipped under
4 AS 37.15.610 - 37.15.760;

5 (3) pay the costs of renewals, replacements, and extra-
6 ordinary repairs to facilities acquired, constructed, or equipped
7 under AS 37.15.610 - 37.15.760;

8 (4) redeem before their fixed maturities any and all revenue
9 bonds issued for the purpose of acquiring, constructing, and equipping
10 facilities authorized by AS 37.15.720 and 37.15.730;

11 (5) provide money to acquire, construct, and equip necessary
12 additions and improvements to facilities authorized by AS 37.15.720
13 and 37.15.730; and

14 (6) provide money to pay any and all other costs relating to
15 the ownership, use, and operation of the facilities.

16 (b) The investment of money in the revenue fund may be made as
17 the committee determines. The interest earned upon or any profits
18 derived from the sale of an investment under this subsection shall be
19 deposited in the revenue fund.

20 Sec. 37.15.640. BOND REDEMPTION FUND. The toll facilities
21 revenue bond redemption fund is established for deposit in trust of
22 money for paying and securing the payment of principal of and interest
23 and redemption premium, if any, on bonds and is set apart from all
24 other money of the state. The committee, on behalf of the state,
25 shall obligate the state to set aside and pay into the bond redemption
26 fund from the revenue fund an amount of money sufficient to pay the
27 principal of and interest and redemption premium, if any, on the bonds
28 as the payments become due and, if the committee considers it neces-
29 sary, to set aside and maintain a reserve for this purpose. The bond

redemption fund is drawn upon for the purpose of paying the principal of and interest and redemption premium, if any, on the bonds, and the bonds do not constitute a general obligation of the state.

Sec. 37.15.650. BOND TERMS. (a) The toll facilities bonds are sold in the amounts or series and at the time as determined by the committee. Before selling a series of bonds, the committee shall give notice inviting sealed bids. If satisfactory bids are received, the bonds offered for sale are awarded to the highest responsible bidder. If the committee determines that a bid received is not satisfactory as to price or responsibility of the bidder, the committee may reject the bid received. Bonds, or a series of bonds, may not be sold if the effective interest rate over the life of the bonds exceeds 11 percent per year or that rate of interest that is 125 percent of the rate of the Bond Buyer Index of 20 Municipal Bond Average Yields for the week previous to the date of sale of the bonds, whichever is higher. Interest is payable annually or semiannually.

(b) The bonds mature at the time fixed by the committee. The bonds may be subject to redemption before their fixed maturities as determined by the committee and with the premium fixed by the committee, but a bond may not be subject to redemption before its fixed maturity date unless the right to redeem that bond is expressly mentioned on the face of the bond. The bonds

(1) may be in denominations determined by the committee;

(2) may be issued in coupon form or in fully registered form, and may be registrable as to principal or both principal and interest, all under regulations and conditions the committee provides;

(3) are payable as to principal and interest at the place determined by the committee;

(4) shall be signed on behalf of the state by the governor

1 and shall be attested to by the lieutenant governor, both of which
2 signatures may be facsimile signatures, and each of the interest
3 coupons attached to them shall be signed by the facsimile signatures
4 of these officials;

5 (5) shall have the seal of the state impressed, printed, or
6 lithographed on them; and

7 (6) shall be issued under and subject to the terms, condi-
8 tions, and covenants, providing for the payment of the principal of
9 and interest on the bonds and the other terms, conditions, covenants,
10 and protective features safeguarding this payment and relating to the
11 maintenance, operation, and improvement of the toll facilities as
12 found necessary by the committee, which covenants may include a pro-
13 vision requiring the setting aside and maintenance of certain reserves
14 to secure the payment of the principal and interest.

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

23 (d) In the committee's determination of all of the matters and
24 questions relating to the issuance and sale of the bonds and the
25 fixing of the maturities, terms, conditions, and covenants of the
26 bonds as provided in (a) - (c) of this section, the decisions of the
27 committee shall be those found to be reasonably necessary for the best
28 interests of the state and its inhabitants, and those that will accom-
29 plish the most advantageous sale of the bonds, with due regard,

however, (1) to necessary or normal costs of maintenance and operation; (2) to renewals and replacements of and repairs to the toll facilities; (3) to all improvements to toll facilities and property of toll facilities owned, used, operated, or leased in connection with toll facilities; and (4) to the future growth and expansion of all of the facilities and the possibility of additional revenue bond financing for toll facilities purposes. A decision of the committee, as expressed in any bond resolution, is final when any bonds have been issued under the bond resolution.

(e) A bond resolution may provide that the bonds issued contain a recital that they are issued under AS 37.15.610 - 37.15.760, and any bonds containing this recital are conclusively considered to be valid and to have been issued in conformity with AS 37.15.610 - 37.15.760.

(f) The validity of the authorization and issuance of bonds is not affected by any proceeding for the acquisition or construction of the additions, improvements, or facilities for which the bonds have been issued or by any contract in connection with the acquisition or construction.

Sec. 37.15.660. BOND RESOLUTION. The committee is authorized and directed to adopt the bond resolution and prepare all other documents and proceedings necessary for the issuance, sale, and delivery of the bonds or any part or series of them. The bond resolution shall fix the principal amount, denomination, date, maturities, place or places of payment, rights of redemption, if any, terms, form, conditions, and covenants of the bonds or each series of them. The committee shall also determine and provide for the date and manner of sale of the bonds, and shall provide whether the notice of sale is to be published elsewhere in addition to the publication required by AS 37.15.650.

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 - 37.15.760 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 a bond resolution to be
12 paid out of the revenue fund into the bond redemption fund and to be
13 paid into and maintained in any reserve fund or account or any other
14 fund or account created by a bond resolution. The committee shall
15 also certify to the commissioners the last date upon which payments
16 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 - 37.15.760 applicable to revenue bonds are applicable

1 to the refunding bonds and to the issuance, sale, or exchange of the
2 bonds, except as otherwise provided in this section.

3 (c) Refunding bonds may be issued in a principal amount suffi-
4 cient to provide money 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 the bonds or
14 agreement with the holders of them, and the premium, if any, necessary
15 to be paid in order to call or retire the outstanding bonds and the
16 interest accruing on the outstanding bonds to the date of the call or
17 retirement.

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

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

29 Sec. 37.15.730. KNIK ARM CROSSING. Notwithstanding the

1 provisions of AS 37.15.720 the first state toll facility to be con-
2 structed is the Knik Arm Crossing near Anchorage.

3 Sec. 37.15.740. TOLL FACILITY CHARGES. The commissioner of
4 transportation and public facilities shall fix and collect the fees,
5 charges, tolls, and rentals derived by the state from the ownership,
6 lease, use, and operation of the facilities authorized by AS 37.15.720
7 and 37.15.730 and improvements of the facilities as will provide
8 revenues sufficient to comply with all of the covenants of the bond
9 resolution.

10 Sec. 37.15.750. STATUTORY CONSTRUCTION. AS 37.15.610 - 37.15.-
11 760 shall be liberally construed in order to carry out the purposes
12 for which the provisions were enacted, and all existing laws in con-
13 flict with AS 37.15.610 - 37.15.760 are superseded as necessary to
14 accomplish the purposes of AS 37.15.610 - 37.15.760.

15 Sec. 37.15.760. DEFINITIONS. In AS 37.15.610 - 37.15.760,
16 unless the context requires otherwise

17 (1) "bond redemption fund" means the toll facilities reve-
18 nue bond redemption fund created by AS 37.15.640, including any ac-
19 counts that are created in that fund after the effective date of this
20 Act;

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

23 (3) "bonds" means the toll facilities revenue bonds autho-
24 rized by AS 37.15.610 - 37.15.760;

25 (4) "committee" means the state bond committee created by
26 AS 37.15.110, or any other committee, body, department, or officer of
27 the state that or who succeeds to the rights, powers, duties, and
28 obligations of the state bond committee by act of the legislature;

29 (5) "construction fund" means the toll facilities

1 construction fund created by AS 37.15.620;

2 (6) "revenue fund" means the toll facilities revenue fund
3 created by AS 37.15.630;

4 (7) "toll facilities" means highways, roads, bridges,
5 crossings, and causeways upon which tolls, charges, rentals, or other
6 user fees are placed by the commissioner of transportation and public
7 facilities.

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

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

10 (1) acquire property;

11 (2) exercise the power of eminent domain;

12 (3) take immediate possession of real property, or any
13 interest in it under a declaration of taking or by other lawful means;

14 (4) acquire rights-of-way for present or future use;

15 (5) control access to highways;

16 (6) regulate roadside development;

17 (7) preserve and maintain the scenic beauty along state
18 highways;

19 (8) dispose of property acquired for highway purposes;

20 (9) accept and dispose of federal funds or property avail-
21 able for highway construction, maintenance, or equipment;

22 (10) enter into contracts or agreements relating to highways
23 with the federal government, municipalities, a political subdivision,
24 or with a foreign government, if the contract is approved by the
25 federal government; [AND]

26 (11) establish, levy, and collect tolls, fees, charges, and
27 rentals for the use of state roads, highways, bridges, crossings, and
28 causeways; and

29 (12) exercise any other power necessary to carry out the

1 **purpose of AS 19.05 - 19.25.**