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1 IN THE HOUSE

BY CATO

2

HOUSE BILL NO. 23

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to ferries and ferry terminals and  
7 establishing the Alaska Marine Highway Authority."

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  
10 authority for the operation, management, and planning and construction of  
11 facilities for the marine highway system that is independent of the state  
12 government. The authority shall be the exclusive state agency directly  
13 associated with the operation, management, planning and construction of  
14 facilities for the 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  
21 the state in the Department of Transportation and Public Facilities  
22 but has a legal existence independent of and separate from the state  
23 and has continuing succession until its existence is terminated by  
24 law.

25 Sec. 19.70.020. DIRECTORS. (a) The authority consists of seven  
26 directors appointed by the governor as follows: a representative of  
27 commercial carriers, a representative of the maritime industry, a  
28 representative of the tourism industry, and four members of the public  
29 representing regions served by the marine highway as follows: (1) one

1 member from region one (extending from Dixon Entrance to Skagway); (2)  
2 one member from region two (Kodiak Island); (3) one member from region  
3 three (Prince William Sound); and (4) one member from region four  
4 (Interior Alaska). The appointment of each director is subject to  
5 confirmation by the legislature.

6 (b) The directors serve at the pleasure of the governor for  
7 four-year terms. Each director shall hold office for the term of the  
8 director's appointment and until a successor is appointed and qual-  
9 ified. A director is qualified for reappointment. A vacancy in a  
10 directorship occurring other than by expiration of term shall be  
11 filled in the same manner as the original appointment but only for the  
12 unexpired term.

13 (c) The directors must be residents of the state and qualified  
14 voters and shall comply with the requirements of AS 39.50 (conflict of  
15 interest). Each director before entering upon the director's duties  
16 shall take and subscribe to an oath to perform the duties of office  
17 faithfully, impartially, and justly to the best of the director's  
18 ability. A record of the oath shall be filed with the Office of the  
19 Governor.

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

23 Sec. 19.70.030. OFFICERS AND QUORUM. The directors shall elect  
24 one of their number as chairman. The directors shall elect a secre-  
25 tary and a treasurer who need not be directors, and the same person  
26 may be elected to serve both as secretary and treasurer. The powers  
27 of the authority are vested in the directors, and four voting direc-  
28 tors of the authority constitute a quorum. Action may be taken and  
29 motions and resolutions adopted by the authority at any meeting by the

1 affirmative vote of at least four directors. A vacancy in the direc-  
2 torship of the authority does not impair the right of a quorum to  
3 exercise all the powers and perform all the duties of the authority.

4 Sec. 19.70.040. STAFF. The authority shall employ an executive  
5 director who serves at the pleasure of the authority as its chief  
6 administrative officer. The executive director may with the approval  
7 of the authority select and employ additional staff as necessary.  
8 Employees of the authority other than legal counsel and the executive  
9 director are in the classified service under AS 39.25. In addition to  
10 its staff of regular employees, the authority may contract for and  
11 engage the services of consultants, and professional, technical and  
12 financial advisors the authority considers necessary for the purpose  
13 of developing information, conducting hearings, studies, investiga-  
14 tions or other proceedings, or otherwise exercising its powers.

15 ARTICLE 2. POWERS AND DUTIES.

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

- 18 (1) sue and be sued;
- 19 (2) adopt and alter an official seal;
- 20 (3) make and enforce bylaws and regulations for the conduct  
21 of its business and for the use of its services and facilities;
- 22 (4) maintain offices at any place in the state and at  
23 places out of the state that are served by the marine highway system;
- 24 (5) subject to appropriation by the legislature, acquire,  
25 hold, use and dispose of its income, revenues, funds and money;
- 26 (6) acquire, hold, use, lease, rent, construct and dispose  
27 of real and personal property for its purposes;
- 28 (7) operate, maintain, improve, and extend a system of  
29 ferries connecting with the public roads and highways of the state and

1 including the boats, vessels, wharves, docks, approaches, landings and  
2 appurtenances the authority determines to be necessary or desirable  
3 for safe and efficient operation of the ferry system so as to best  
4 serve the public;

5 (8) do all acts and things necessary, convenient, or desir-  
6 able to carry out the powers expressly granted or necessarily implied  
7 in this chapter;

8 (9) establish rates and tariffs, after public hearings;

9 (10) modify routes, after public hearings.

10 Sec. 19.70.055. DUTIES OF AUTHORITY. The authority shall

11 (1) assist the residents, businesses, and communities of  
12 the state in obtaining the best and most frequent possible marine  
13 passenger and freight service;

14 (2) schedule vessel sailings to maximize the frequency of  
15 service to all ports;

16 (3) encourage and integrate with other public and private  
17 carriers to the greatest extent possible to provide ferry service  
18 within the state and between Alaskan ports and ports outside the state  
19 in order to provide maximum service within the state;

20 (4) require pre-payment for reservations;

21 (5) provide reservation access and marketing information  
22 throughout the state;

23 (6) encourage vessel construction, maintenance, and service  
24 in the state to the greatest extent possible;

25 (7) employ residents of the state to the greatest extent  
26 legally possible;

27 (8) recognize Alaska-based unions and employee associations  
28 to the greatest extent legally possible.

29 Sec. 19.70.060. "ALASKA MARINE HIGHWAY SYSTEM": NAME

1 AUTHORIZED. The authority is authorized to operate its ferry system  
2 under the name "Alaska marine highway system".

3 Sec. 19.70.070. COMPREHENSIVE LONG-RANGE PLAN. The authority,  
4 with the cooperation of the Department of Transportation and Public  
5 Facilities, shall prepare a comprehensive long-range plan for the  
6 development and improvement of the marine highway system and revise  
7 and update the plan, subject to legislative approval, at least every  
8 five years.

9 ARTICLE 3. ACQUISITION OF PROPERTY.

10 Sec. 19.70.080. ACQUISITION OF LAND AND EASEMENTS. The authori-  
11 ty, as part of the cost of constructing, maintaining, or improving a  
12 ferry system, may acquire by purchase, gift, or exchange land in fee  
13 simple or easements that it considers necessary for present public  
14 use, either temporary or permanent, or that it considers necessary and  
15 reasonable for the public use. By the same means, the authority may  
16 obtain material, including clay, gravel, sand, or rock, or the land  
17 necessary to obtain the material, including access to it. The author-  
18 ity may so acquire the land or materials notwithstanding the fact that  
19 title to it is vested in the state or a department, agency, commis-  
20 sion, or institution of the state.

21 Sec. 19.70.090. AUTHORITY TO PURCHASE PROPERTY FOR THE PURPOSE  
22 OF EXCHANGE. When a majority of the directors of the authority de-  
23 clares that it is in the best public interest of the state to do so,  
24 the authority may acquire by purchase, gift, or exchange privately or  
25 publicly owned land or an interest in it for the purpose of exchanging  
26 it for privately or publicly owned land that the authority is author-  
27 ized by law to acquire.

28 Sec. 19.70.100. VACATING OF LAND OR RIGHTS IN LAND. The author-  
29 ity may vacate land, or part of it, or rights in land acquired for use

1 in the marine highway system by executing and filing a deed in the  
2 appropriate recording district. Upon vacating, title reverts to the  
3 persons, heirs, successors, or assigns in whom it was vested at the  
4 time of the taking. The authority may transfer land no longer con-  
5 sidered necessary for use in the marine highway system to the Depart-  
6 ment of Natural Resources for disposal. The proceeds of disposal by  
7 the Department of Natural Resources shall be credited to the funds  
8 from which the purchase was originally made.

9 ARTICLE 4. FERRY TERMINAL FACILITIES.

10 Sec. 19.70.110. ACQUISITION AND MAINTENANCE OF FERRY TERMINAL  
11 FACILITIES. The authority may construct, purchase, or lease ferry  
12 terminal facilities at locations it selects for the loading and un-  
13 loading of passengers and vehicles under their own power, on and off  
14 ferries. The authority shall repair and maintain these facilities.

15 Sec. 19.70.120. CONNECTION OF FACILITIES TO HIGHWAYS. The  
16 authority may connect ferry terminal facilities with local highway  
17 systems.

18 Sec. 19.70.130. REGULATIONS. The authority may adopt rules and  
19 regulations governing the use of ferry terminal facilities by the  
20 public that it considers necessary and proper in the public interest.

21 Sec. 19.70.140. EXISTING FACILITIES NOT AFFECTED. A ferry  
22 terminal facility in existence and serving the public on January 1,  
23 1959, is not affected by AS 19.70.110 - 19.70.140.

24 ARTICLE 5. GENERAL PROVISIONS.

25 Sec. 19.70.150. ANNUAL REPORT. By January 15 of each year, the  
26 authority shall submit to the governor and the legislature a compre-  
27 hensive report describing the operations, income, and expenditures for  
28 the preceding fiscal year.

29 Sec. 19.70.160. ANNUAL AUDIT. The authority shall have its

1 financial records audited annually by a certified public accountant.  
2 The legislative auditor may prescribe the form and content of the  
3 financial records of the authority and shall have access to those  
4 records at any time.

5 Sec. 19.70.170. BUDGET AND APPROPRIATIONS. The authority shall  
6 submit its annual budget to the legislature through the governor as  
7 provided for state agencies by the Executive Budget Act (AS 37.07).  
8 It may expend money directly appropriated by the legislature only as  
9 authorized by the legislature.

10 Sec. 19.70.180. NAMING OF VESSEL OR FACILITY. (a) A vessel or  
11 facility of the Alaska marine highway system constructed or acquired  
12 by the authority under this chapter or AS 19.60 may be given a name  
13 only by law.

14 (b) A maritime vessel shall bear the name of an Alaska glacier.

15 (c) A vessel used principally on the inland waterways of the  
16 state shall bear the name of an historical vessel that used the rivers  
17 of the state.

18 Sec. 19.70.199. DEFINITIONS. In this chapter, unless the con-  
19 text requires otherwise,

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

22 (2) "capital improvement" means a project for the construc-  
23 tion, rehabilitation, rebuilding, enlarging, or improving of all or  
24 any part of the marine highway system, including, without limitation,  
25 boats, vessels, wharves, docks, approaches, landings, offices, and  
26 appurtenances as determined by the authority to be necessary or desir-  
27 able for efficient operation of the marine highway system and to best  
28 serve the public;

29 (3) "ferry" means a vessel used in the common carriage of

1 passengers and self-propelled vehicles in intrastate commerce.

2 Sec. 19.70.200. SHORT TITLE. This chapter may be cited as the  
3 Alaska Marine Highway Authority Act.

4 \* Sec. 3. AS 35.27 is amended by adding a new section to read:

5 Sec. 35.27.025. APPLICATION TO ALASKA MARINE HIGHWAY AUTHORITY.  
6 The requirements of this chapter apply to the Alaska Marine Highway  
7 Authority. Compliance with this chapter is the sole responsibility of  
8 the authority with respect to the public buildings and facilities of  
9 the authority.

10 \* Sec. 4. AS 35.27.030(2) is amended to read:

11 (2) "building" or "facility" means a permanent improvement  
12 constructed by the department or authority; the term

13 (A) includes, but is not limited to,

14 (i) schools, office buildings, and court build-  
15 ings;

16 (ii) other buildings which the commissioner deter-  
17 mines are designed for substantial public use;

18 (iii) boats and vessels of the marine highway  
19 system;

20 (iv) transportation facilities which accommodate  
21 traveling passengers;

22 (B) excludes other transportation facilities; [.]

23 \* Sec. 5. AS 35.27.030 is amended by adding a new paragraph to read:

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

25 \* Sec. 6. AS 39.50.200(b) is amended by adding a new paragraph to read:

26 (48) Alaska Marine Highway Authority (AS 19.70.010).

27 \* Sec. 7. AS 44.42.020(a)(1) is amended to read:

28 (1) plan, design, construct and maintain all state modes of  
29 transportation and transportation facilities and all docks, floats,

1        breakwaters, buildings and similar facilities, except that the depart-  
2        ment is not responsible for planning, design, construction, or mainte-  
3        nance of transportation modes or facilities under the jurisdiction of  
4        the Alaska Marine Highway Authority;

5        \* Sec. 8. AS 44.42.020(a)(7) is amended to read:

6                    (7) manage, operate, and maintain state transportation  
7        facilities and all docks, floats, breakwaters and buildings, including  
8        all state highways, vessels, railroads, pipelines, airports, and  
9        aviation facilities, except that the department is not responsible for  
10       management, operation, or maintenance of transportation facilities,  
11       vessels, or equipment under the jurisdiction of the Alaska Marine  
12       Highway Authority;

13       \* Sec. 9. AS 19.60.010 - 19.60.070, and AS 19.65 are repealed.

14       \* Sec. 10. APPOINTMENT OF FIRST DIRECTORS OF ALASKA MARINE HIGHWAY  
15       AUTHORITY. The governor shall designate the terms of the directors of the  
16       Alaska Marine Highway Authority first appointed under AS 19.70.020. Of the  
17       seven directors first appointed

- 18                    (1) two shall serve a term of two years;  
19                    (2) two shall serve a term of three years;  
20                    (3) three shall serve a term of four years.