

1 IN THE HOUSE

BY CATO, TAYLOR AND GOLL

2

HOUSE BILL NO. 81

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH 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, planning, and construction of  
11 facilities for the marine highway system with a legal existence independent  
12 of and separate from the state government. The authority shall be the  
13 exclusive state agency directly associated with the operation, management,  
14 planning, and construction of 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 Icy Cape);  
2 (2) one member from region two (Kodiak Island); (3) one member from  
3 region three (Prince William Sound); and (4) one member from region  
4 four (Interior Alaska).

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

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

18 (d) The directors of the authority serve without compensation,  
19 but are entitled to travel and per diem expenses authorized by law for  
20 state boards and commissions under AS 39.20.180.

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

1 exercise all the powers and perform all the duties of the authority.

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

13 ARTICLE 2. POWERS AND DUTIES.

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

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

1 desirable for safe and efficient operation of the ferry system so as  
2 to best serve the public;

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

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

7 (10) modify routes, after public hearings.

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

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

12 (2) schedule vessel sailings to maximize the frequency of  
13 service to all ports;

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

18 (4) require pre-payment for reservations;

19 (5) provide reservation access and marketing information  
20 throughout the state;

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

23 (7) employ residents of the state to the greatest extent  
24 legally possible;

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

27 Sec. 19.70.060. USE OF NAME AUTHORIZED. The authority is auth-  
28 orized to operate its ferry system under the name "Alaska Marine  
29 Highway System".

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

8                           ARTICLE 3. ACQUISITION OF PROPERTY.

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

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

26           Sec. 19.70.100. VACATING OF LAND OR RIGHTS IN LAND. The author-  
27 ity may vacate land or rights in land acquired for use in the marine  
28 highway system by executing and filing a deed in the appropriate  
29 recording district. Upon vacating, title reverts to the persons,

1 heirs, successors, or assigns in whom it was vested at the time of the  
2 taking. The authority may transfer land not considered necessary for  
3 use in the marine highway system to the Department of Natural Re-  
4 sources for disposal. The proceeds of disposal by the Department of  
5 Natural Resources shall be credited to the funds from which the pur-  
6 chase was originally made.

7 ARTICLE 4. FERRY TERMINAL FACILITIES.

8 Sec. 19.70.110. ACQUISITION AND MAINTENANCE OF FERRY TERMINAL  
9 FACILITIES. The authority may construct, purchase, or lease ferry  
10 terminal facilities at locations it selects for the loading and un-  
11 loading of passengers and vehicles under their own power, on and off  
12 ferries. The authority shall repair and maintain these facilities.  
13 Construction and purchasing under this section are governed by AS 36.-  
14 30 (State Procurement Code).

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 regula-  
19 tions governing the use of ferry terminal facilities by the public.

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

23 ARTICLE 5. GENERAL PROVISIONS.

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

28 Sec. 19.70.160. ANNUAL AUDIT. The authority shall have its  
29 financial records audited annually by a certified public accountant.

1 The legislative auditor may prescribe the form and content of the  
2 financial records of the authority and shall have access to those  
3 records at any time.

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

9 Sec. 19.70.180. NAMING OF VESSEL OR FACILITY. (a) A vessel or  
10 facility of the marine highway system constructed or acquired by the  
11 authority must be named by law.

12 (b) A maritime vessel must bear the name of an Alaska glacier.

13 (c) A vessel used principally on the inland waterways of the  
14 state must bear the name of an historical vessel that used the rivers  
15 of the state.

16 Sec. 19.70.199. DEFINITIONS. In this chapter, unless the con-  
17 text requires otherwise,

18 (1) "authority" means the Alaska Marine Highway Authority;

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

26 (3) "ferry" means a vessel used in the common carriage of  
27 passengers and self-propelled vehicles in intrastate or interstate  
28 commerce.

29 Sec. 19.70.200. SHORT TITLE. This chapter may be cited as the

1 Alaska Marine Highway Authority Act.

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

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

8 \* Sec. 4. AS 35.27.030(1) is amended to read:

9 (1) "building" or "facility" means a permanent improvement  
10 constructed by the department or authority; the term

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

12 (i) schools, office buildings, and court build-  
13 ings;

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

16 (iii) boats and vessels of the marine highway  
17 system;

18 (iv) transportation facilities which accommodate  
19 traveling passengers;

20 (B) excludes other transportation facilities;

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

22 (4) "authority" means the Alaska Marine Highway Authority.

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

24 (50) Alaska Marine Highway Authority (AS 19.70.010).

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

26 (1) plan, design, construct, and maintain all state modes  
27 of transportation and transportation facilities and all docks, floats,  
28 breakwaters, buildings, and similar facilities, except that the de-  
29 partment is not responsible for planning, design, construction, or

1 maintenance of transportation modes or facilities under the jurisdic-  
2 tion of the Alaska Marine Highway Authority;

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

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

11 \* Sec. 9. AS 19.60 and AS 19.65 are repealed.