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Referred: Transportation, Judiciary
and Finance

6-0443A

1 IN THE SENATE

BY COGHILL

2

SENATE BILL NO. 124

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act authorizing the Department of Transportation
7 and Public Facilities to construct the Lynn Canal
8 Highway Project, consisting of roads and of vessels
9 and ferry terminals for the Alaska marine highway
10 system, serving the principal communities of northern
11 Lynn Canal; relating to the disposition of certain
12 claims and actions arising from the state's activ-
13 ities in completing that project; changing Rules 79
14 and 82, Alaska Rules of Civil Procedure; and provid-
15 ing for an effective date."

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

17 * Section 1. FINDINGS. The legislature finds that

18 (1) lack of direct road access between communities in the Rail-
19 belt and the state capital at Juneau has been a source of unhappiness among
20 residents of all areas of the state;

21 (2) within the last decade, road connections to ports situated
22 along northern Lynn Canal have been significantly improved:

23 (A) the state Department of Transportation and Public
24 Facilities and agencies having similar functions in British Columbia
25 and Yukon have planned and carried out improvements to the highway
26 between Haines Junction and the port of Haines; the road remains the
27 principal access route between the state's population centers in
28 western Alaska and the state capital;

29 (B) the agencies also have completed construction of the

1 Klondike Highway joining Whitehorse and the Alaska Highway in Canada's
2 Yukon to the port of Skagway, opening a second means of road access by
3 Alaskans and residents of Canada to a northern Southeast Alaska port;

4 (3) to accommodate international and intrastate movement of
5 passengers and goods for the benefit of the residents of the state, there
6 is a need to construct a highway that would provide a direct link between
7 the state capital at Juneau and the existing highways at Haines and Skag-
8 way;

9 (4) recognizing the limitations imposed by topography, the most
10 reasonable, expeditious, and cost effective plan for construction and
11 maintenance of the Lynn Canal Highway Project involves a combination of
12 road, vessel, and ferry terminal construction for the three communities,
13 including

14 (A) extension of the Haines Highway south from Haines to a
15 point near the south end of the Chilkat Peninsula on the west side of
16 Lynn Canal;

17 (B) extension of Alaska Highway 7 (Glacier Highway) from
18 its terminus at Echo Cove north of Juneau to a point approximately
19 nine miles north of Comet on the east side of Lynn Canal;

20 (C) construction of ferry terminals at each of the loca-
21 tions where these highways terminate;

22 (D) construction of at least two shuttle ferries to move
23 passengers and vehicles between these ferry terminals across Lynn
24 Canal; and

25 (E) planning and construction of a road on the west side of
26 Lynn Canal to connect the communities of Haines and Skagway;

27 (5) completion of the Lynn Canal Highway Project would better
28 integrate and further diversify the economies of the communities of north-
29 ern Lynn Canal, allowing for construction of power transmission and

1 pipeline interties between Haines and Skagway, opening land adjacent to the
2 new highways to recreation and mineral exploration, and expanding employ-
3 ment opportunities in both communities;

4 (6) completion of the Lynn Canal Highway Project would material-
5 ly change existing transportation patterns affecting the communities of
6 northern Lynn Canal, allowing the Alaska marine highway system to terminate
7 mainline marine services for Southeast Alaska at its Juneau/Auke Bay
8 terminal, and permitting the system to reschedule existing vessels in use
9 on mainline routes to improve service for residents of other communities in
10 Southeast Alaska;

11 (7) because of the interrelated effects on the communities of
12 northern Lynn Canal, the proposed transportation links constitute a single
13 project, and the Lynn Canal Highway Project should be authorized, designed,
14 and completed as a unit; and

15 (8) because improvement of the public's access to the state
16 capital is a matter of common interest to the whole state, the Department
17 of Transportation and Public Facilities should give priority to prompt
18 construction of the Lynn Canal Highway Project.

19 * Sec. 2. PURPOSE. It is the purpose of this Act

20 (1) to authorize the Department of Transportation and Public
21 Facilities to construct the Lynn Canal Highway Project and its related
22 facilities as described;

23 (2) to give the department specific directions regarding how the
24 Lynn Canal Highway Project is to be completed; and

25 (3) to provide certain safeguards pertaining to the project's
26 construction.

27 * Sec. 3. AS 19.65 is amended by adding a new section to read:

28 ARTICLE 2. VESSEL OPERATIONS.

29 Sec. 19.65.100. SHUTTLE SERVICE ACROSS NORTHERN LYNN CANAL.

1 Notwithstanding the provision in AS 19.60.010 giving the Department of
2 Transportation and Public Facilities authority to acquire and maintain
3 ferry terminals at locations it selects, the Department of Transporta-
4 tion and Public Facilities shall provide cross-canal vessel services
5 between a ferry terminal located on the east side of Lynn Canal north
6 of Berner's Bay and a ferry terminal on the west side of Lynn Canal
7 proximate to the southern end of the Chilkat Peninsula.

8 * Sec. 4. PROJECT AUTHORIZED. (a) The Department of Transportation and
9 Public Facilities shall design and construct a highway and related facil-
10 ities as follows:

11 (1) a highway from the northern end of Alaska Highway 7 (Glacier
12 Highway) at Echo Cove, north to the vicinity of a point nine miles north of
13 Comet;

14 (2) a ferry landing in the vicinity of a point nine miles north
15 of Comet, consisting of a ramp, breakwater, and vehicle staging area;

16 (3) a highway from Haines to a point near the southern end of
17 the Chilkat Peninsula;

18 (4) a ferry landing near the southern end of the Chilkat Penin-
19 sula, consisting of a ramp, breakwater, and vehicle staging area;

20 (5) shuttle ferries of a size and capacity sufficient to accom-
21 modate peak traffic demands between the two ferry landings;

22 (6) a highway connecting the communities of Haines and Skagway,
23 following a route from the present end of the road in the northern end of
24 Lutak Inlet, around Sanka Point, north through the Ferebee River valley,
25 through a tunnel under Halutu Ridge, then north along Taiya Inlet to Dyea.

26 (b) The highways authorized by (a) of this section shall be con-
27 structed to specifications applicable to the construction of a federal aid
28 "primary system" highway under 23 U.S.C. 103(b), as those specifications
29 have been approved by the United States Secretary of Transportation under

1 23 U.S.C. 109.

2 * Sec. 5. LIMITATIONS. (a) Notwithstanding AS 19.10.170(b), in the
3 preparation of plans for construction of roads authorized by this Act, the
4 Department of Transportation and Public Facilities

5 (1) shall prepare the initial design of the Lynn Canal Highway
6 Project through the use of aerial surveying methods, to the maximum extent
7 possible;

8 (2) may not contract for surveying, mapping, and engineering and
9 design services; the department shall perform all work relating to roads
10 for the Lynn Canal Highway Project prior to their actual construction using
11 personnel employed by the department.

12 (b) To meet costs of preparation incurred under (a) of this section,
13 the charges made by the Department of Transportation and Public Facilities
14 against amounts appropriated for the Lynn Canal Highway Project adminis-
15 tration may not exceed 15 percent of the estimated actual cost of the
16 project's construction.

17 (c) The Department of Transportation and Public Facilities shall
18 include construction of ferry landings, ramps, vehicle staging areas, and
19 breakwaters as an integral part of the general contract for construction of
20 the highway. When constructing ferry facilities for the Lynn Canal Highway
21 Project, the department shall, to the maximum extent possible, use the
22 design and engineering done for the ferry ramp in Ketchikan for the MV
23 Chilkat.

24 * Sec. 6. CLAIMS. In a claim or other legal action against the state
25 arising from the state's activities in completing the Lynn Canal Highway
26 Project, if the state is the prevailing party, the party or parties that
27 brought the claim or maintained the action shall pay or reimburse

28 (1) all costs, including attorney fees, and expenses of prepara-
29 tion, trial, and appeal incurred by the state in defending against the

1 claim or legal action; and

2 (2) any financial losses that are determined by the person
3 conducting the administrative hearing or by the court to be directly at-
4 tributable to construction delays resulting from the assertion of the claim
5 or commencement of the legal action.

6 * Sec. 7. Section 6 of this Act has the effect of changing Rules 79 and
7 82, Alaska Rules of Civil Procedure, by limiting the discretion of the
8 court and the clerk of court in the award of costs and attorney fees if a
9 person has commenced an action or proceeding against the state arising from
10 the state's activities in completing the Lynn Canal Highway Project and the
11 state, as defendant, prevails.

12 * Sec. 8. Section 3 of this Act takes effect upon completion of con-
13 struction of the roads, vessels, and facilities authorized by sec. 4(a)-
14 (1) - (5) of this Act.

15 * Sec. 9. Except for sec. 3, this Act takes effect immediately under
16 AS 01.10.070(c).