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Referred: Transportation, Judiciary
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6-0443E

1 IN THE SENATE

BY COGHILL

2 SPONSOR SUBSTITUTE FOR 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; relating to the disposition of certain claims
11 and actions arising from the state's activities in
12 completing that project; changing Rules 79 and 82,
13 Alaska Rules of Civil Procedure; and providing for an
14 effective date."

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

16 * Section 1. FINDINGS. The legislature finds that

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

20 (2) within the last decade, the road connection to the port of
21 Haines has been significantly improved as the state Department of Transpor-
22 tation and Public Facilities and agencies having similar functions in
23 British Columbia and Yukon have planned and carried out improvements to the
24 highway between Haines Junction and the port of Haines; the road remains
25 the principal access route between the state's population centers in west-
26 ern Alaska and the state capital;

27 (3) to accommodate international and intrastate movement of
28 passengers and goods for the benefit of the residents of the state, there
29 is a need to construct a highway that would provide a direct link between

1 the state capital at Juneau and the existing highway at Haines;

2 (4) recognizing the limitations imposed by topography, the most
3 reasonable, expeditious, and cost effective plan for construction and
4 maintenance of the Lynn Canal Highway Project involves a combination of
5 road, vessel, and ferry terminal construction, including

6 (A) extension of the Haines Highway south from Haines to a
7 point near the south end of the Chilkat Peninsula on the west side of
8 Lynn Canal;

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

12 (C) construction of ferry terminals at each of the loca-
13 tions where these highways terminate; and

14 (D) construction of at least two shuttle ferries to move
15 passengers and vehicles between these ferry terminals across Lynn
16 Canal;

17 (5) completion of the Lynn Canal Highway Project would better
18 integrate and further diversify the economies of the communities of Haines
19 and Juneau, opening land adjacent to the new highways to recreation and
20 mineral exploration, and expanding employment opportunities in both commu-
21 nities;

22 (6) completion of the Lynn Canal Highway Project would material-
23 ly change existing transportation patterns affecting the communities of
24 northern Lynn Canal, allowing the Alaska marine highway system to terminate
25 mainline marine services for Southeast Alaska at its Juneau/Auke Bay termi-
26 nal, and permitting the system to reschedule existing vessels in use on
27 mainline routes to improve service for residents of other communities in
28 Southeast Alaska; and

29 (7) because improvement of the public's access to the state

1 capital is a matter of common interest to the whole state, the Department
2 of Transportation and Public Facilities should give priority to prompt
3 construction of the Lynn Canal Highway Project.

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

5 (1) to authorize the Department of Transportation and Public
6 Facilities to construct the Lynn Canal Highway Project and its related
7 facilities as described;

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

10 (3) to provide certain safeguards pertaining to the project's
11 construction.

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

13 ARTICLE 2. VESSEL OPERATIONS.

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

15 Notwithstanding the provision in AS 19.60.010 giving the Department of
16 Transportation and Public Facilities authority to acquire and maintain
17 ferry terminals at locations it selects, the Department of Transporta-
18 tion and Public Facilities shall provide cross-canal vessel services
19 between a ferry terminal located on the east side of Lynn Canal north
20 of Berner's Bay and a ferry terminal on the west side of Lynn Canal
21 proximate to the southern end of the Chilkat Peninsula.

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

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

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

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

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

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

7 (b) The highways authorized by (a) of this section shall be con-
8 structed to specifications applicable to the construction of a federal aid
9 "primary system" highway under 23 U.S.C. 103(b), as those specifications
10 have been approved by the United States Secretary of Transportation under
11 23 U.S.C. 109.

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

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

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

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

27 (c) The Department of Transportation and Public Facilities shall
28 include construction of ferry landings, ramps, vehicle staging areas, and
29 breakwaters as an integral part of the general contract for construction of

1 the highway. When constructing ferry facilities for the Lynn Canal Highway
2 Project, the department shall, to the maximum extent possible, use the
3 design and engineering done for the ferry ramp in Ketchikan for the MV
4 Chilkat.

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

9 (1) all costs, including attorney fees, and expenses of prepara-
10 tion, trial, and appeal incurred by the state in defending against the
11 claim or legal action; and

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

16 * Sec. 7. Section 6 of this Act has the effect of changing Rules 79 and
17 82, Alaska Rules of Civil Procedure, by limiting the discretion of the
18 court and the clerk of court in the award of costs and attorney fees if a
19 person has commenced an action or proceeding against the state arising from
20 the state's activities in completing the Lynn Canal Highway Project and the
21 state, as defendant, prevails.

22 * Sec. 8. Section 3 of this Act takes effect upon completion of con-
23 struction of the roads, vessels, and facilities authorized by sec. 4(a) of
24 this Act.

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