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Referred: Transportation, State Affairs  
and Finance

6-1110A

1 IN THE SENATE

BY THE TRANSPORTATION COMMITTEE

2

SENATE BILL NO. 310

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. One director is the commissioner of transportation and  
27 public facilities and six directors are appointed by the governor.  
28 The six appointed members must be state residents except as provided  
29 in (1) of this subsection. One appointed member shall be a

1 representative of the tourist industry who meets one of the require-  
2 ments under (1) - (4) of this subsection, and one shall be a represen-  
3 tative of the commercial carriers who meets one of the requirements  
4 under (1) - (4) of this subsection. Appointed members shall include

5 (1) a representative of the maritime industry; a person who  
6 is not a state resident may be appointed under this paragraph;

7 (2) a member of a maritime union;

8 (3) two residents of Southeast Alaska;

9 (4) a resident of the Gulf of Alaska area west of Icy Cape;

10 and

11 (5) a person who represents the interests of the public.

12 (b) The appointed directors serve at the pleasure of the gover-  
13 nor for four-year terms. Each director shall hold office for the term  
14 of the director's appointment and until a successor is appointed and  
15 qualified. A director is qualified for reappointment. A vacancy in a  
16 directorship occurring other than by expiration of term shall be  
17 filled in the same manner as the original appointment but only for the  
18 unexpired term.

19 (c) The directors shall comply with the requirements of AS 39.50  
20 (Conflict of Interest). Each director before entering upon the direc-  
21 tor's duties shall subscribe to an oath to perform the duties of  
22 office faithfully, impartially, and justly to the best of the direc-  
23 tor's ability. A record of the oath shall be filed with the Office of  
24 the Governor.

25 (d) An appointed director is entitled to compensation at a rate  
26 of \$300 for each day the director is engaged in actual performance of  
27 duties under this chapter. The authority may provide by regulation  
28 for compensation for partial days for an appointed director. In  
29 addition, an appointed director is entitled to travel and per diem

1 expenses authorized by law for state boards and commissions under  
2 AS 39.20.180.

3 Sec. 19.70.030. OFFICERS AND QUORUM. The directors shall elect  
4 one of their number as chair. The directors shall elect a secretary  
5 and a treasurer who need not be directors, and the same person may be  
6 elected to serve both as secretary and treasurer. The powers of the  
7 authority are vested in the directors, and four voting directors of  
8 the authority constitute a quorum. Except as provided in AS 19.70.-  
9 050(7), action may be taken and motions and resolutions adopted by the  
10 authority at a meeting by the affirmative vote of at least four direc-  
11 tors. A vacancy in the directorship of the authority does not impair  
12 the right of a quorum to exercise all the powers and perform all the  
13 duties of the authority.

14 Sec. 19.70.040. STAFF. The authority shall employ a chief  
15 executive officer who serves at the pleasure of the authority. The  
16 chief executive officer may, with the approval of the authority,  
17 select and employ additional staff as necessary, including additional  
18 administrative officers. All officers and employees of the authority  
19 are in the exempt service under AS 39.25.110. In addition to its  
20 staff of employees, the authority may contract for and engage the ser-  
21 vices of consultants and professional, technical, and financial advi-  
22 sors the authority considers necessary for the purpose of developing  
23 information, conducting hearings, studies, investigations, or other  
24 proceedings, or otherwise exercising its powers.

25 ARTICLE 2. POWERS AND DUTIES.

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

- 28 (1) sue and be sued;  
29 (2) adopt and alter an official seal;

1 (3) adopt and enforce bylaws and regulations for the con-  
2 duct of its business and for the use of its services and facilities;

3 (4) maintain offices at a place in the state and at places  
4 out of the state that are served by the marine highway system;

5 (5) establish terms and conditions of employment by the  
6 authority and conduct labor negotiations with employees;

7 (6) subject to appropriation by the legislature, acquire,  
8 hold, use, and dispose of its income, revenues, funds, and money;

9 (7) acquire, hold, use, lease, rent, construct, and dispose  
10 of personal property for its purposes, except that the authority may  
11 dispose of a ferry only on approval of at least five of its directors;

12 (8) acquire, hold, use, lease, or rent real property and  
13 dispose of real property under AS 19.70.100;

14 (9) operate, maintain, improve, and extend a system of  
15 ferries connecting with the public roads and highways of the state and  
16 including the boats, vessels, wharves, docks, approaches, landings,  
17 and appurtenances the authority determines to be necessary or desir-  
18 able for safe and efficient operation of the ferry system so as to  
19 best serve the public;

20 (10) do all acts and things necessary, convenient, or desir-  
21 able to carry out the powers expressly granted or necessarily implied  
22 in this chapter;

23 (11) establish rates and tariffs, after public hearings;

24 (12) modify routes, after public hearings.

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

26 (1) assist the residents, businesses, and communities of  
27 the state in obtaining the best and most frequent possible marina  
28 passenger and freight service;

29 (2) schedule vessel sailings to maximize the frequency of

1 service to all ports;

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

6 (4) require a non-refundable deposit for reservations;

7 (5) provide reservation access and marketing information  
8 throughout the state;

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

11 (7) employ residents of the state to the greatest extent  
12 legally possible;

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

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

18 Sec. 19.70.070. COMPREHENSIVE LONG-RANGE PLAN. The authority,  
19 with the cooperation of the Department of Transportation and Public  
20 Facilities, shall prepare a comprehensive long-range plan for the  
21 development and improvement of the marine highway system and shall  
22 revise and update the plan at least every five years. The comprehen-  
23 sive long-range plan and revisions and updates of the plan are subject  
24 to legislative approval by law.

25 ARTICLE 3. ACQUISITION OF PROPERTY.

26 Sec. 19.70.080. ACQUISITION OF LAND AND EASEMENTS. The authori-  
27 ty, as part of the cost of constructing, maintaining, or improving the  
28 marine highway system, may acquire by purchase, gift, or exchange land  
29 in fee simple or easements that it considers necessary and reasonable

1 service to all ports;

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

6 (4) require a non-refundable deposit for reservations;

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27 ty, as part of the cost of constructing, maintaining, or improving the  
28 marine highway system, may acquire by purchase, gift, or exchange land  
29 in fee simple or easements that it considers necessary and reasonable

1 for either temporary or permanent public use. By the same means, the  
2 authority may obtain material, including clay, gravel, sand, or rock,  
3 or the land necessary to obtain the material, including access to it.  
4 The authority may acquire the land or materials notwithstanding the  
5 fact that title to it is vested in the state or a department, agency,  
6 commission, or institution of the state.

7 Sec. 19.70.090. AUTHORITY TO PURCHASE PROPERTY FOR THE PURPOSE  
8 OF EXCHANGE. When a majority of the directors of the authority de-  
9 clares that it is in the best public interest of the state, the au-  
10 thority may acquire by purchase, gift, or exchange privately or pub-  
11 licly owned land or an interest in land for the purpose of exchanging  
12 the land for privately or publicly owned land that the authority is  
13 authorized by law to acquire.

14 Sec. 19.70.100. DISPOSAL OF LAND OR RIGHTS IN LAND. (a) The  
15 authority may vacate land or rights in land acquired for use in the  
16 marine highway system by executing and filing a deed in the approp-  
17 riate recording district. Upon vacating, title reverts to the per-  
18 sons, heirs, successors, or assigns in whom it was vested at the time  
19 of the taking.

20 (b) The authority may transfer land not considered necessary for  
21 use in the marine highway system to the Department of Natural Re-  
22 sources for disposal. The proceeds of disposal by the Department of  
23 Natural Resources shall be credited to the funds from which the pur-  
24 chase was originally made.

25 ARTICLE 4. FERRY TERMINAL FACILITIES.

26 Sec. 19.70.110. ACQUISITION AND MAINTENANCE OF FERRY TERMINAL  
27 FACILITIES. The authority may construct, purchase, or lease ferry  
28 terminal facilities at locations it selects for the loading and un-  
29 loading of passengers and vehicles under their own power, on and off

1 ferries. The authority shall repair and maintain these facilities.  
2 Construction and purchasing under this section are governed by AS 36.-  
3 30 (State Procurement Code).

4 Sec. 19.70.120. CONNECTION OF FACILITIES TO HIGHWAYS. The  
5 authority may connect ferry terminal facilities with local highway  
6 systems.

7 Sec. 19.70.130. REGULATIONS. The authority may adopt regula-  
8 tions governing the use of ferry terminal facilities by the public.

9 Sec. 19.70.140. EXISTING FACILITIES NOT AFFECTED. A ferry  
10 terminal facility in existence and serving the public on January 1,  
11 1959, is not affected by AS 19.70.110 - 19.70.140.

12 ARTICLE 5. GENERAL PROVISIONS.

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

17 Sec. 19.70.160. ANNUAL AUDIT. The authority shall have its  
18 financial records audited annually by a certified public accountant.  
19 The legislative auditor may prescribe the form and content of the  
20 financial records of the authority and shall have access to those  
21 records at any time.

22 Sec. 19.70.170. BUDGET AND APPROPRIATIONS. The authority shall  
23 submit its annual budget to the legislature through the governor as  
24 provided for state agencies by the Executive Budget Act (AS 37.07).  
25 The authority shall expend money appropriated by the legislature as  
26 authorized by the legislature.

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

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

2 (c) A vessel used principally on the inland waterways of the  
3 state must bear the name of an historical vessel that used the rivers  
4 of the state.

5 Sec. 19.70.199. DEFINITIONS. In this chapter, unless the con-  
6 text requires otherwise,

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

8 (2) "capital improvement" means a project for the construc-  
9 tion, rehabilitation, rebuilding, enlarging, or improving of all or  
10 part of the marine highway system, including, without limitation,  
11 boats, vessels, wharves, docks, approaches, landings, offices, and  
12 appurtenances as determined by the authority to be necessary or desir-  
13 able for efficient operation of the marine highway system and to best  
14 serve the public;

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

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

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

21 Sec. 35.27.025. APPLICATION TO ALASKA MARINE HIGHWAY AUTHORITY.  
22 This chapter applies to the Alaska Marine Highway Authority. Compli-  
23 ance with this chapter is the sole responsibility of the authority  
24 with respect to the public buildings and facilities of the authority.

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

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

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

29 (i) schools, office buildings, and court

1 buildings;

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

4 (iii) boats and vessels of the marine highway  
5 system;

6 (iv) transportation facilities which accommodate  
7 traveling passengers;

8 (B) excludes other transportation facilities;

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

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

11 \* Sec. 6. AS 39.25.110 is amended by adding a new paragraph to read:

12 (28) Alaska Marine Highway Authority and its officers and  
13 employees.

14 \* Sec. 7. AS 39.50.200(b) is amended by adding a new paragraph to read:

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

16 \* Sec. 8. AS 44.42.020(a)(1) is amended to read:

17 (1) plan, design, construct, and maintain all state modes  
18 of transportation and transportation facilities and all docks, floats,  
19 breakwaters, buildings, and similar facilities, except that the de-  
20 partment is not responsible for planning, design, construction, or  
21 maintenance of transportation modes or facilities under the jurisdic-  
22 tion of the Alaska Marine Highway Authority;

23 \* Sec. 9. AS 44.42.020(a)(7) is amended to read:

24 (7) manage, operate, and maintain state transportation  
25 facilities and all docks, floats, breakwaters, and buildings, includ-  
26 ing all state highways, vessels, railroads, pipelines, airports, and  
27 aviation facilities, except that the department is not responsible for  
28 management, operation, or maintenance of transportation facilities,  
29 vessels, or equipment under the jurisdiction of the Alaska Marine

- 1     Highway Authority;  
2     \* Sec. 10. AS 19.60 and AS 19.65 are repealed.