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6-1110E

Original sponsor(s): Transportation Committee

1 IN THE SENATE BY THE TRANSPORTATION COMMITTEE
2 CS FOR SENATE BILL NO. 310 (Transportation)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - SECOND 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 or designate a representative to conduct labor
7 negotiations with employees;

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

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

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

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

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

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

25 (12) modify routes, after public hearings.

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

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

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

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

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

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

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

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

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

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

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

26 ARTICLE 3. ACQUISITION OF PROPERTY.

27 Sec. 19.70.080. ACQUISITION OF LAND AND EASEMENTS. The authori-
28 ty, as part of the cost of constructing, maintaining, or improving the
29 marine highway system, may acquire by purchase, gift, or exchange land

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

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

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

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

26 ARTICLE 4. FERRY TERMINAL FACILITIES.

27 Sec. 19.70.110. ACQUISITION AND MAINTENANCE OF FERRY TERMINAL
28 FACILITIES. The authority may construct, purchase, or lease ferry
29 terminal facilities at locations it selects for the loading and

1 unloading of passengers and vehicles under their own power, on and off
2 ferries. The authority shall repair and maintain these facilities.
3 Construction and purchasing under this section are governed by AS 36.-
4 30 (State Procurement Code).

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

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

10 Sec. 19.70.140. EXISTING FACILITIES NOT AFFECTED. A ferry
11 terminal facility in existence and serving the public on January 1,
12 1959, is not affected by AS 19.70.110 - 19.70.140.

13 ARTICLE 5. GENERAL PROVISIONS.

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

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

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

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

1 authority must be named by law.

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

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

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

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

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

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

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

21 * Sec. 3. AS 23.40.040 is amended to read:

22 Sec. 23.40.040. COLLECTIVE BARGAINING AGREEMENT. The Alaska
23 Marine Highway Authority [COMMISSIONER OF TRANSPORTATION AND PUBLIC
24 FACILITIES] or an authorized representative, in accordance with
25 AS 23.40.020 - 23.40.030, may negotiate and enter into collective
26 bargaining agreements concerning wages, hours, working conditions, and
27 other employment benefits with the employees of the authority [DIVI-
28 SION OF MARINE TRANSPORTATION] engaged in operating the state ferry
29 system as masters or members of the crews of vessels or their

1 bargaining agent. A collective bargaining agreement entered into by
2 the authority is not final without the concurrence of the commissioner
3 of transportation and public facilities. The authority [COMMISSIONER
4 OF TRANSPORTATION AND PUBLIC FACILITIES] may make provision in the
5 collective bargaining agreement for the settlement of labor disputes
6 by arbitration.

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

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

12 * Sec. 5. AS 35.27.030(1) is amended to read:

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

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

16 (i) schools, office buildings, and court build-
17 ings;

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

20 (iii) boats and vessels of the marine highway
21 system;

22 (iv) transportation facilities which accommodate
23 traveling passengers;

24 (B) excludes other transportation facilities;

25 * Sec. 6. AS 35.27.030 is amended by adding a new paragraph to read:

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

27 * Sec. 7. AS 39.25.110(11) is amended to read:

28 (11) the officers and employees of the following boards,
29 commissions, and authorities:

- 1 (A) Alaska Gas Pipeline Financing Authority;
2 (B) Alaska Permanent Fund Corporation;
3 (C) [REPEALED
4 (D)] Alaska Industrial Development and Export Authori-
5 ty;
6 (D) [(E)] Alaska Commercial Fisheries Entry Commis-
7 sion;
8 (E) [(F)] Alaska Commission on Postsecondary Educa-
9 tion;
10 (F) Alaska Marine Highway Authority;

11 * Sec. 8. AS 39.50.200(b) is amended by adding a new paragraph to read:

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

13 * Sec. 9. AS 44.42.020(a)(1) is amended to read:

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

20 * Sec. 10. AS 44.42.020(a)(7) is amended to read:

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

28 * Sec. 11. INITIAL APPOINTMENT OF MEMBERS OF THE ALASKA MARINE HIGHWAY
29 AUTHORITY. Notwithstanding AS 19.70.020(b), enacted by sec. 2 of this Act,

- 1 the terms of the initially appointed members of the Alaska Marine Highway
2 Authority shall be staggered as set out in AS 39.05.055(4).
3 * Sec. 12. AS 19.60, AS 19.65, and AS 39.25.110(16) are repealed.