

HOUSE BILL NO. 10

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES MACKIE, C.Davis, Baker, Kubina, Grussendorf, Parnell

Introduced: 1/21/91

Referred: Transportation, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to ferries and ferry terminals and establishing the Alaska Marine
2 Highway Authority."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1. PURPOSE.** The purpose of this Act is to establish an authority for the operation,
5 management, planning, and construction of facilities for the marine highway system with a legal
6 existence independent of and separate from the state government. The authority shall be the exclusive
7 state agency directly associated with the operation, management, planning, and construction of facilities
8 for the marine highway system.

9 * **Sec. 2.** AS 19 is amended by adding a new chapter to read:

10 **CHAPTER 55. ALASKA MARINE HIGHWAY AUTHORITY.**

11 **ARTICLE 1. CREATION AND ORGANIZATION.**

12 **Sec. 19.55.010. ALASKA MARINE HIGHWAY AUTHORITY.** (a) The Alaska Marine
13 Highway Authority is established. The authority is a public corporation of the state. The
14 corporation is an instrumentality of the state in the Department of Transportation and Public

1 Facilities but has a legal existence independent of and separate from the state and has continuing
2 succession until its existence is terminated by law.

3 (b) The powers and duties of the authority are vested in the board of directors of the
4 authority.

5 Sec. 19.55.020. BOARD OF DIRECTORS. (a) The board of directors of the authority
6 consists of five directors. One director is the commissioner of transportation and public facilities
7 and four directors are appointed by the governor. The four appointed directors must be state
8 residents who have a knowledge of the marine highway system. At least two appointed directors
9 must be residents of Southeast Alaska and at least one appointed director must be a resident of
10 the Gulf of Alaska area west of Icy Cape.

11 (b) The appointed directors serve for four-year terms and until a successor is appointed,
12 but may be removed at the pleasure of the governor. A director is qualified for reappointment.
13 A vacancy in an appointed directorship occurring other than by expiration of term shall be filled
14 in the same manner as the original appointment but only for the unexpired term.

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

19 (d) An appointed director is entitled to compensation at a rate of \$150 for each day the
20 director is engaged in actual performance of duties under this chapter. The board of directors
21 of the authority may provide by regulation for compensation for partial days for an appointed
22 director. In addition, an appointed director is entitled to travel and per diem expenses authorized
23 for state boards and commissions under AS 39.20.180.

24 Sec. 19.55.030. OFFICERS AND QUORUM. The directors shall elect one of their
25 number as chair of the board of directors. The directors shall elect a secretary and a treasurer
26 who need not be directors, and the same person may be elected to serve both as secretary and
27 treasurer. Three voting directors constitute a quorum of the board of directors. Except as
28 provided in AS 19.55.050(7), action may be taken and motions and resolutions adopted by the
29 board of directors at a meeting by the affirmative vote of at least three directors. A vacancy in
30 the board of directors does not impair the right of a quorum to exercise all the powers and
31 perform all the duties of the board.

1 Sec. 19.55.040. STAFF. (a) The board of directors shall employ a chief executive officer
2 who serves at the pleasure of the board. The board may delegate its powers and duties to the
3 chief executive officer. The chief executive officer may, with the approval of the board, select
4 and employ additional staff as necessary, including additional administrative officers.

5 (b) All employees of the authority are in the exempt service under AS 39.25.110.

6 (c) In addition to its staff of employees, the board of directors may contract for and
7 engage the services of consultants and professional, technical, and financial advisors the authority
8 considers necessary for the purpose of developing information, conducting hearings, studies,
9 investigations, or other proceedings, or otherwise exercising its powers.

10 ARTICLE 2. POWERS AND DUTIES.

11 Sec. 19.55.050. POWERS OF AUTHORITY. In addition to other powers granted in this
12 chapter, the authority may

13 (1) sue and be sued;

14 (2) adopt and alter an official seal;

15 (3) adopt and enforce bylaws and regulations for the conduct of its business and
16 for the use of its services and facilities;

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

19 (5) establish terms and conditions of employment by the authority and conduct
20 or designate a representative to conduct labor negotiations with employees;

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

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

26 (8) acquire, hold, use, lease, or rent real property and dispose of real property
27 under AS 19.55.100;

28 (9) operate, maintain, improve, and extend a system of ferries connecting with the
29 public roads and highways of the state and including the boats, vessels, wharves, docks,
30 approaches, landings, and appurtenances the authority determines to be necessary or desirable for
31 safe and efficient operation of the ferry system so as to best serve the public;

1 (10) do all acts and things necessary, convenient, or desirable to carry out the
2 powers expressly granted or necessarily implied in this chapter;

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

4 (12) modify routes, after public hearings.

5 Sec. 19.55.055. DUTIES OF AUTHORITY. The authority shall

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

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

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

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

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

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

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

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

19 Sec. 19.55.060. USE OF NAME AUTHORIZED. The authority is authorized to operate
20 its ferry system under the name "Alaska Marine Highway System."

21 Sec. 19.55.070. COMPREHENSIVE LONG-RANGE PLAN. The authority, with the
22 cooperation of the Department of Transportation and Public Facilities, shall prepare a
23 comprehensive long-range plan for the development and improvement of the marine highway
24 system and shall revise and update the plan at least every five years. The comprehensive long-
25 range plan and revisions and updates of the plan are subject to legislative approval by law.

26 ARTICLE 3. ACQUISITION OF PROPERTY.

27 Sec. 19.55.080. ACQUISITION OF LAND AND EASEMENTS. The authority, as part
28 of the cost of constructing, maintaining, or improving the marine highway system, may acquire
29 by purchase, gift, or exchange land in fee simple or easements that it considers necessary and
30 reasonable for either temporary or permanent public use. By the same means, the authority may
31 obtain material, including clay, gravel, sand, or rock, or the land necessary to obtain the material,

1 including access to it. The authority may acquire the land or materials notwithstanding the fact
2 that title to it is vested in the state or a department, agency, commission, or institution of the
3 state.

4 Sec. 19.55.090. AUTHORITY TO PURCHASE PROPERTY FOR THE PURPOSE OF
5 EXCHANGE. When a majority of the directors of the authority declares that it is in the best
6 public interest of the state, the authority may acquire by purchase, gift, or exchange privately or
7 publicly owned land or an interest in land for the purpose of exchanging the land for privately
8 or publicly owned land that the authority is authorized by law to acquire.

9 Sec. 19.55.100. DISPOSAL OF LAND OR RIGHTS IN LAND. (a) The authority may
10 vacate land or rights in land acquired for use in the marine highway system by executing and
11 filing a deed in the appropriate recording district. Upon vacating, title reverts to the persons,
12 heirs, successors, or assigns in whom it was vested at the time of the taking.

13 (b) The authority may transfer land not considered necessary for use in the marine
14 highway system to the Department of Natural Resources for disposal. The proceeds of disposal
15 by the Department of Natural Resources shall be credited to the funds from which the purchase
16 was originally made.

17 ARTICLE 4. FERRY TERMINAL FACILITIES.

18 Sec. 19.55.110. ACQUISITION AND MAINTENANCE OF FERRY TERMINAL
19 FACILITIES. The authority may construct, purchase, or lease ferry terminal facilities at locations
20 it selects for the loading and unloading of passengers and vehicles under their own power, on and
21 off ferries. The authority shall repair and maintain these facilities. Construction and purchasing
22 under this section are governed by AS 36.30 (State Procurement Code).

23 Sec. 19.55.120. CONNECTION OF FACILITIES TO HIGHWAYS. The authority may
24 connect ferry terminal facilities with local highway systems.

25 Sec. 19.55.130. USE OF FERRY TERMINAL FACILITIES. The department may adopt
26 regulations governing the use of ferry terminal facilities by the public that it considers necessary
27 and proper in the public interest. The department may charge a fee for the use of ferry terminal
28 facilities, whether the use is under a permit or otherwise, and whether it is by one or more
29 individuals.

30 Sec. 19.55.140. EXISTING FACILITIES NOT AFFECTED. A ferry terminal facility
31 in existence and serving the public on January 1, 1959, is not affected by AS 19.55.110 -

1 19.55.130.

2 ARTICLE 5. GENERAL PROVISIONS.

3 Sec. 19.55.210. BUDGET AND APPROPRIATIONS. The authority shall submit its
4 annual budget to the legislature through the governor as provided for state agencies by the
5 Executive Budget Act (AS 37.07). The authority shall expend money appropriated by the
6 legislature as authorized by the legislature.

7 Sec. 19.55.220. ANNUAL REPORT. By January 15 of each year, the board of directors
8 of the authority shall submit to the governor and the legislature a comprehensive report
9 describing the operations, income, and expenditures for the preceding fiscal year.

10 Sec. 19.55.230. ANNUAL AUDIT. The authority shall have its financial records audited
11 annually by a certified public accountant. The legislative auditor may prescribe the form and
12 content of the financial records of the authority and shall have access to those records at any
13 time.

14 Sec. 19.55.240. NAMING OF VESSEL OR FACILITY. A vessel or facility of the
15 marine highway system constructed or acquired by the authority must be named by law. A
16 maritime vessel must bear the name of an Alaska glacier. A vessel used principally on the inland
17 waterways of the state must bear the name of an historical vessel that used the rivers of the state.

18 Sec. 19.55.299. DEFINITIONS. In this chapter, unless the context requires otherwise,

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

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

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

27 Sec. 19.55.300. SHORT TITLE. This chapter may be cited as the Alaska Marine
28 Highway Authority Act.

29 * Sec. 3. AS 19.65.050 is amended to read:

30 Sec. 19.65.050. LEGISLATIVE FINDINGS, PURPOSE, AND INTENT. (a) The
31 legislature finds that

1 (1) the Alaska Marine Highway Authority [MARINE HIGHWAY SYSTEM] is
2 an essential part of the state transportation system, and that it warrants continued and predictable
3 state support;

4 (2) many communities' economies are dependent on a steady and stable marine
5 highway system service level;

6 (3) the state's tourism industry is greatly enhanced by a dependable marine
7 highway transportation network; and

8 (4) efficient and prudent management of the system will benefit the state's
9 economy and foster economic development.

10 (b) It is the purpose of AS 19.65.050 - 19.65.100 to

11 (1) enable the authority [ALASKA MARINE HIGHWAY SYSTEM] to manage
12 and operate in a manner that will enhance performance and accountability by allowing the
13 authority [SYSTEM] to account for and spend its generated revenue;

14 (2) provide the management tools necessary to efficiently operate the authority
15 [ALASKA MARINE HIGHWAY SYSTEM];

16 (3) within constitutional constraints, provide for a predictable funding base for
17 authority [SYSTEM] operations; and

18 (4) provide for predictability and stability in the service level furnished to
19 communities served by the authority [SYSTEM].

20 (c) It is the intent of AS 19.65.050 - 19.65.100 to

21 (1) encourage prudent administration through cost management and accurate
22 budgeting by the board of directors [MANAGERS] of the authority [ALASKA MARINE
23 HIGHWAY SYSTEM];

24 (2) increase revenue from the operation of the authority [SYSTEM] consistent
25 with the public interest, increase service consistent with sound fiscal policy, and assist the
26 prudent management and operation of the authority [SYSTEM]; and

27 (3) achieve stability in the level of service communities can anticipate through
28 accurate planning and scheduling.

29 * Sec. 4. AS 19.65.060 is amended to read:

30 Sec. 19.65.060. ALASKA MARINE HIGHWAY SYSTEM FUND. (a) There is created,
31 as a special account in the general fund, the Alaska Marine Highway Authority [MARINE

1 HIGHWAY SYSTEM] fund, into which shall be deposited

2 (1) the gross revenue of the authority [ALASKA MARINE HIGHWAY
3 SYSTEM];

4 (2) money that is appropriated to the [ALASKA MARINE HIGHWAY SYSTEM]
5 fund by the legislature in an amount that is consistent from year to year and is the amount
6 necessary, after consideration of gross revenue, to provide stable services to the public consistent
7 with the provisions of AS 19.65.050(b)(4); unless otherwise provided by the legislature,
8 appropriations to the fund under this paragraph [, WHICH APPROPRIATIONS] are not
9 one-year appropriations and [THE BALANCES OF WHICH] do not lapse under AS 37.25.010;
10 and

11 (3) any other money that is appropriated to the [ALASKA MARINE HIGHWAY
12 SYSTEM] fund by the legislature; unless otherwise provided by the legislature,
13 appropriations to the fund under this paragraph [, WHICH APPROPRIATIONS] are not
14 one-year appropriations and [THE BALANCES OF WHICH] do not lapse under AS 37.25.010.

15 (b) Nothing in AS 19.65.050 - 19.65.100 [THIS CHAPTER] exempts money deposited
16 into the [ALASKA MARINE HIGHWAY SYSTEM] fund from the requirements of AS 37.07
17 (Executive Budget Act) or dedicates that money for a specific purpose.

18 * Sec. 5. AS 19.65.070 is amended to read:

19 Sec. 19.65.070. REVENUE ACCOUNTING. (a) The authority [ALASKA MARINE
20 HIGHWAY SYSTEM] shall account for and remit to the Department of Revenue in accordance
21 with AS 37.10.050 all gross revenue generated from the operation of the authority [ALASKA
22 MARINE HIGHWAY SYSTEM] during each fiscal year [ANNUAL OPERATING CYCLE].
23 The money shall then be deposited in the Alaska Marine Highway Authority [MARINE
24 HIGHWAY SYSTEM] fund.

25 (b) The authority [ALASKA MARINE HIGHWAY SYSTEM] shall submit a written
26 report to the legislature, not [NO] later than the 10th day of each regular legislative session,
27 regarding the previous fiscal year [ANNUAL OPERATING CYCLE]. The report must identify

28 (1) gross revenue generated during the previous fiscal year [ANNUAL
29 OPERATING CYCLE];

30 (2) gross revenue generated during the current fiscal year [ANNUAL
31 OPERATING CYCLE] and an estimate of gross revenue for the remainder of the current fiscal

1 year [ANNUAL OPERATING CYCLE];

2 (3) projections of the gross revenue to be generated during the next fiscal year
3 [ANNUAL OPERATING CYCLE]; and

4 (4) the difference between previous gross revenue estimates prepared under this
5 section and the revenues actually generated.

6 * Sec. 6. AS 19.65.080 is amended to read:

7 Sec. 19.65.080. ANNUAL APPROPRIATION. (a) Commencing with appropriations
8 for the fiscal year that begins July 1, 1991, on an annual basis and under AS 37.07 (Executive
9 Budget Act), the legislature may appropriate amounts from the [ALASKA MARINE HIGHWAY
10 SYSTEM] fund for operation of [TO] the authority [ALASKA MARINE HIGHWAY
11 SYSTEM].

12 (b) The authority [DEPARTMENT OF TRANSPORTATION AND PUBLIC
13 FACILITIES] may request the legislature to appropriate money from the [ALASKA MARINE
14 HIGHWAY SYSTEM] fund to the authority [MARINE HIGHWAY SYSTEM] for capital
15 improvements, if

16 (1) the appropriation under (a) of this section has been made;

17 (2) the amount in the fund, without regard to the appropriation under (a) of this
18 section, exceeds the total of gross revenue deposited in the fund and the general fund
19 appropriations under AS 19.65.060(a)(2) by 10 percent; and

20 (3) the amount requested for appropriation under this subsection does not exceed
21 50 percent of the balance remaining after the appropriation for annual management and
22 operations is made under (a) of this section.

23 (c) The unexpended and unobligated balance of money appropriated from the [ALASKA
24 MARINE HIGHWAY SYSTEM] fund lapses into the [ALASKA MARINE HIGHWAY
25 SYSTEM] fund at the end of the fiscal year for which it was appropriated.

26 * Sec. 7. AS 19.65.100 is amended to read:

27 Sec. 19.65.100. DEFINITIONS. In AS 19.65.050 - 19.65.100,

28 (1) "authority" means the Alaska Marine Highway Authority ["ANNUAL
29 OPERATING CYCLE" MEANS THE ANNUAL STATE FISCAL YEAR BEGINNING ON
30 JULY 1 AND ENDING AT MIDNIGHT ON THE FOLLOWING JUNE 30];

31 (2) "fiscal year" has the meaning given in AS 37.07.120;

1 **(3) "fund" means the Alaska Marine Highway Authority fund:**

2 **(4) "gross revenue" means all money, except money refunded to ticket holders**
3 **and others for unused services, that is generated from the operation of the Alaska Marine**
4 **Highway Authority [MARINE HIGHWAY SYSTEM], including that derived from vessel**
5 **operations and uses of authority [ALASKA MARINE HIGHWAY SYSTEM] facilities.**

6 * **Sec. 8.** AS 23.40.040 is amended to read:

7 **Sec. 23.40.040. COLLECTIVE BARGAINING AGREEMENT. The Alaska Marine**
8 **Highway Authority [COMMISSIONER OF TRANSPORTATION AND PUBLIC FACILITIES]**
9 **or an authorized representative, in accordance with AS 23.40.020 - 23.40.030, may negotiate and**
10 **enter into collective bargaining agreements concerning wages, hours, working conditions, and**
11 **other employment benefits with the employees of the authority [DIVISION OF MARINE**
12 **TRANSPORTATION] engaged in operating the state ferry system as masters or members of the**
13 **crews of vessels or their bargaining agent. A collective bargaining agreement entered into by**
14 **the authority is not final without the concurrence of the commissioner of transportation and**
15 **public facilities. The authority [COMMISSIONER OF TRANSPORTATION AND PUBLIC**
16 **FACILITIES] may make provision in the collective bargaining agreement for the settlement of**
17 **labor disputes by arbitration.**

18 * **Sec. 9.** AS 35.27 is amended by adding a new section to read:

19 **Sec. 35.27.025. APPLICATION TO ALASKA MARINE HIGHWAY AUTHORITY.**
20 **This chapter applies to the Alaska Marine Highway Authority. Compliance with this chapter is**
21 **the sole responsibility of the board of directors of the authority with respect to the public build-**
22 **ings and facilities of the authority.**

23 * **Sec. 10.** AS 35.27.030(1) is amended to read:

24 **(1) "building" or "facility" means a permanent improvement constructed by the**
25 **department or authority; the term**

26 **(A) includes, but is not limited to,**

27 **(i) schools, office buildings, and court buildings;**

28 **(ii) other buildings which the commissioner determines are**
29 **designed for substantial public use;**

30 **(iii) boats and vessels of the marine highway system;**

31 **(iv) transportation facilities which accommodate traveling**

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passengers;

(B) excludes other transportation facilities;

* Sec. 11. AS 35.27.030 is amended by adding a new paragraph to read:

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

* Sec. 12. AS 37.05.550 is amended to read:

Sec. 37.05.550. ALASKA MARINE HIGHWAY AUTHORITY [SYSTEM] VESSEL REPLACEMENT FUND. (a) There is in the general fund the Alaska Marine Highway Authority [MARINE HIGHWAY SYSTEM] vessel replacement fund. The fund consists of money appropriated to it by the legislature. Money appropriated to the fund does not lapse. The Department of Revenue shall manage the fund. Interest received on money in the fund shall be accounted for separately and may be appropriated into the fund annually. The legislature may appropriate money from the fund for refurbishment of existing state ferry vessels, acquisition of additional state ferry vessels, or replacement of retired or outmoded state ferry vessels.

(b) The legislature may appropriate to the fund money received by the state as Alaska Marine Highway Authority [MARINE HIGHWAY SYSTEM] program receipts or from a settlement or final judicial determination of the Dinkum Sands case (United States v. Alaska) and the North Slope royalty case (State v. Amerada Hess, et al.) and not deposited into the Alaska permanent fund under AS 37.13.010(a)(1) or (2) or into the public school trust fund under AS 37.14.150.

* Sec. 13. AS 39.25.110(11) is amended to read:

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

(A) Alaska Gas Pipeline Financing Authority;

(B) Alaska Permanent Fund Corporation;

(C) [REPEALED

(D)] Alaska Industrial Development and Export Authority;

(D) [(E)] Alaska Commercial Fisheries Entry Commission;

(E) [(F)] Alaska Commission on Postsecondary Education;

(F) Alaska Marine Highway Authority;

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

(52) Alaska Marine Highway Authority (AS 19.55.010).

1 * Sec. 15. AS 44.42.020(a)(1) is amended to read:

2 (1) plan, design, construct, and maintain all state modes of transportation and
3 transportation facilities and all docks, floats, breakwaters, buildings, and similar facilities, except
4 that the department is not responsible for planning, design, construction, or maintenance
5 of transportation modes or facilities under the jurisdiction of the Alaska Marine Highway
6 Authority;

7 * Sec. 16. AS 44.42.020(a)(7) is amended to read:

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

13 * Sec. 17. INITIAL APPOINTMENT OF DIRECTORS OF THE ALASKA MARINE HIGHWAY
14 AUTHORITY. Notwithstanding AS 19.55.020(b), enacted by sec. 2 of this Act, the terms of the initially
15 appointed directors of the Alaska Marine Highway Authority shall be staggered as set out in
16 AS 39.05.055(2).

17 * Sec. 18. AS 19.60, AS 19.65.020; and AS 39.25.110(16) are repealed.