

SENATE BILL NO. 118

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY SENATORS JONES, Zharoff, Halford, Pearce

Introduced: 2/13/91

Referred: Transportation and 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. 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 Sec. 19.55.020. DIRECTORS. (a) The board of directors of the authority consists of
4 seven directors. One director is the commissioner of transportation and public facilities and six
5 directors are appointed by the governor. The six appointed members must be state residents
6 except as provided in (1) of this subsection. One appointed member must be a representative of
7 the tourist industry who meets one of the requirements under (1) - (4) of this subsection, and one
8 must be a representative of the commercial carriers who meets one of the requirements under
9 (1) - (4) of this subsection. Appointed members must include

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

12 (2) a member of a maritime union;

13 (3) two residents of Southeast Alaska;

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

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

16 (b) The appointed directors serve four-year terms and may be removed by the governor
17 only for cause. Each director shall hold office for the term of the director's appointment and
18 until a successor is appointed and qualified. A director is qualified for reappointment. A
19 vacancy in a directorship occurring other than by expiration of term shall be filled in the same
20 manner as the original appointment but only for the unexpired term.

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

25 (d) An appointed director is entitled to compensation at a rate of \$300 for each day the
26 director is engaged in actual performance of duties under this chapter. The board of directors
27 of the authority may provide by regulation for compensation for partial days for an appointed
28 director. In addition, an appointed director is entitled to travel and per diem expenses authorized
29 for state boards and commissions under AS 39.20.180.

30 Sec. 19.55.030. OFFICERS AND QUORUM. The directors shall elect one of their
31 number as chair of the board of directors. The directors shall elect a secretary and a treasurer

1 who need not be directors, and the same person may be elected to serve both as secretary and
2 treasurer. The powers of the authority are vested in the directors, and four directors of the
3 authority constitute a quorum. Except as provided in AS 19.55.050(7), action may be taken and
4 motions and resolutions adopted by the board of directors at a meeting by the affirmative vote
5 of at least four directors. A vacancy in the board of directors of the authority does not impair
6 the right of a quorum to exercise all the powers and perform all the duties of the board.

7 Sec. 19.55.040. STAFF. The board of directors shall employ a chief executive officer
8 who serves at the pleasure of the board. The chief executive officer may, with the approval of
9 the board, select and employ additional staff as necessary, including additional administrative
10 officers. All officers and employees of the authority are in the exempt service under
11 AS 39.25.110. In addition to its staff of employees, the board of directors may contract for and
12 engage the services of consultants and professional, technical, and financial advisors the authority
13 considers necessary for the purpose of developing information, conducting hearings, studies,
14 investigations, or other proceedings, or otherwise exercising its powers.

15 ARTICLE 2. POWERS AND DUTIES.

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

- 18 (1) sue and be sued;
- 19 (2) adopt and alter an official seal;
- 20 (3) adopt and enforce bylaws and regulations for the conduct of its business and
21 for the use of its services and facilities;
- 22 (4) maintain offices at a place in the state and at places out of the state that are
23 served by the marine highway system;
- 24 (5) establish terms and conditions of employment by the authority and conduct
25 or designate a representative to conduct labor negotiations with employees;
- 26 (6) subject to appropriation by the legislature, acquire, hold, use, and dispose of
27 its income, revenues, funds, and money;
- 28 (7) acquire, hold, use, lease, rent, construct, and dispose of personal property for
29 its purposes, except that the authority may dispose of a ferry only on approval of at least five of
30 its directors;
- 31 (8) acquire, hold, use, lease, or rent real property and dispose of real property

1 under AS 19.55.100;

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

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

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

9 (12) modify scheduled routes, after public hearings.

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

11 (1) assist the residents, businesses, and communities of the state in obtaining
12 optimal marine passenger and freight service;

13 (2) schedule vessel sailings to optimize the frequency of service to all ports;

14 (3) encourage and integrate with other public and private carriers to the greatest
15 extent possible to provide ferry service within the state and between Alaskan ports and ports
16 outside the state in order to provide optimum service within the state;

17 (4) provide reservation access and marketing information throughout the state;

18 (5) encourage vessel construction, maintenance, and service in the state to the
19 greatest extent possible;

20 (6) employ residents of the state to the greatest extent legally possible;

21 (7) recognize Alaska-based unions and employee associations to the greatest
22 extent legally possible.

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

25 Sec. 19.55.070. COMPREHENSIVE LONG-RANGE PLAN. The authority, with the
26 cooperation of the Department of Transportation and Public Facilities, shall prepare a
27 comprehensive long-range plan for the development and improvement of the marine highway
28 system and shall revise and update the plan at least every five years.

29 ARTICLE 3. ACQUISITION OF PROPERTY.

30 Sec. 19.55.080. ACQUISITION OF LAND AND EASEMENTS. The authority, as part
31 of the cost of constructing, maintaining, or improving the marine highway system, may acquire

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

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

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

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

20 ARTICLE 4. FERRY TERMINAL FACILITIES.

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

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

28 Sec. 19.55.130. REGULATIONS. The authority may adopt regulations governing the
29 use of ferry terminal facilities by the public.

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. 19.55.150. ANNUAL REPORT. By January 15 of each year, the board of directors
4 of the authority shall submit to the governor and the legislature a comprehensive report
5 describing the operations, income, and expenditures for the preceding fiscal year.

6 Sec. 19.55.160. ANNUAL AUDIT. The authority shall have its financial records audited
7 annually by a certified public accountant. The legislative auditor may prescribe the form and
8 content of the financial records of the authority and shall have access to those records at any
9 time.

10 Sec. 19.55.170. BUDGET AND APPROPRIATIONS. The authority shall submit its
11 annual budget to the legislature through the governor as provided for state agencies by the
12 Executive Budget Act (AS 37.07). The authority shall expend money appropriated by the
13 legislature as authorized by the legislature.

14 Sec. 19.55.180. NAMING OF VESSEL OR FACILITY. (a) A vessel or facility of the
15 marine highway system constructed or acquired by the authority must be named by law.

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

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

19 Sec. 19.55.199. DEFINITIONS. In this chapter, unless the context requires otherwise,

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

21 (2) "ferry" means a vessel used in the common carriage of passengers and
22 vehicles in intrastate or interstate commerce.

23 Sec. 19.55.200. SHORT TITLE. This chapter may be cited as the Alaska Marine
24 Highway Authority Act.

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

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

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

31 (2) many communities' economies are dependent on a steady and stable marine

1 highway system service level;

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

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

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

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

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

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

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

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

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

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

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

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

26 Sec. 19.65.060. ALASKA MARINE HIGHWAY AUTHORITY [SYSTEM] FUND. (a)

27 There is created, as a special account in the general fund, the Alaska marine highway authority
28 [MARINE HIGHWAY SYSTEM] fund, into which shall be deposited

29 (1) the gross revenue of the authority [ALASKA MARINE HIGHWAY
30 SYSTEM];

31 (2) money that is appropriated to the [ALASKA MARINE HIGHWAY SYSTEM]

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

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

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

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

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

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

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

26 (2) gross revenue generated during the current fiscal year [ANNUAL
27 OPERATING CYCLE] and an estimate of gross revenue for the remainder of the current fiscal
28 year [ANNUAL OPERATING CYCLE];

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

31 (4) the difference between previous gross revenue estimates prepared under this

1 section and the revenues actually generated.

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

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

8 (b) The authority [DEPARTMENT OF TRANSPORTATION AND PUBLIC
9 FACILITIES] may request the legislature to appropriate money from the [ALASKA MARINE
10 HIGHWAY SYSTEM] fund to the authority [MARINE HIGHWAY SYSTEM] for capital
11 improvements, if

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

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

16 (3) the amount requested for appropriation under this subsection does not exceed
17 50 percent of the balance remaining after the appropriation for annual management and
18 operations is made under (a) of this section.

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

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

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

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

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

28 (3) "fund" means the Alaska marine highway authority fund;

29 (4) "gross revenue" means all money, except money refunded to ticket holders
30 and others for unused services, that is generated from the operation of the Alaska Marine
31 Highway Authority [MARINE HIGHWAY SYSTEM], including that derived from vessel

1 operations and uses of authority [ALASKA MARINE HIGHWAY SYSTEM] facilities.

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

3 Sec. 23.40.040. COLLECTIVE BARGAINING AGREEMENT. The Alaska Marine
4 Highway Authority [COMMISSIONER OF TRANSPORTATION AND PUBLIC FACILITIES]
5 or an authorized representative, in accordance with AS 23.40.020 - 23.40.030, may negotiate and
6 enter into collective bargaining agreements concerning wages, hours, working conditions, and
7 other employment benefits with the employees of the authority [DIVISION OF MARINE
8 TRANSPORTATION] engaged in operating the state ferry system as masters or members of the
9 crews of vessels or their bargaining agent. [A COLLECTIVE BARGAINING AGREEMENT
10 IS NOT FINAL WITHOUT THE CONCURRENCE OF THE COMMISSIONER OF
11 TRANSPORTATION AND PUBLIC FACILITIES.] The authority [COMMISSIONER OF
12 TRANSPORTATION AND PUBLIC FACILITIES] may make provision in the collective
13 bargaining agreement for the settlement of labor disputes by arbitration.

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

15 Sec. 35.27.025. APPLICATION TO ALASKA MARINE HIGHWAY AUTHORITY.
16 This chapter applies to the Alaska Marine Highway Authority. Compliance with this chapter is
17 the sole responsibility of the authority with respect to the public buildings and facilities of the
18 authority.

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

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

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

23 (i) schools, office buildings, and court buildings;

24 (ii) other buildings which the commissioner determines are
25 designed for substantial public use;

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

27 (iv) transportation facilities which accommodate traveling
28 passengers;

29 (B) excludes other transportation facilities;

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

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

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

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

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

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

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

- 19 (A) Alaska Gas Pipeline Financing Authority;
20 (B) Alaska Permanent Fund Corporation;
21 (C) [REPEALED
22 (D)] Alaska Industrial Development and Export Authority;
23 (D) [(E)] Alaska Commercial Fisheries Entry Commission;
24 (E) [(F)] Alaska Commission on Postsecondary Education;
25 (F) Alaska Marine Highway Authority;

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

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

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

29 (1) plan, design, construct, and maintain all state modes of transportation and
30 transportation facilities and all docks, floats, breakwaters, buildings, and similar facilities, except
31 that the department is not responsible for planning, design, construction, or maintenance

1 of transportation modes or facilities under the jurisdiction of the Alaska Marine Highway

2 Authority;

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

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

9 * Sec. 17. INITIAL APPOINTMENT OF MEMBERS OF THE ALASKA MARINE HIGHWAY
10 AUTHORITY. Notwithstanding AS 19.55.020(b), enacted by sec. 2 of this Act, the terms of the initially
11 appointed members of the Alaska Marine Highway Authority shall be staggered as set out in
12 AS 39.05.055(4).

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