

HB

209

STATE OF ALASKA
THE LEGISLATURE

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May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

House Community & Reg. Affs:

4-24-87

5-04-87

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Official Business

Alaska State Legislature

Senate

P.O. BOX V
State Capitol
Juneau, Alaska 9981

BILL ANALYSIS OF HOUSE BILL NO. 209

"An Act relating to establishment of a port authority by a municipality."

The legislation would be added to Title 29, Chapter 35 of the Alaska Statutes.

Under Section 29.35.600, the Port Authority Commission may be established with the adoption of an ordinance by the governing body. Also include in this section are the procedures for the nomination and ensuing election of commissioners.

Under Section 29.35.610, the Port Authority is supervised and controlled by the Port Commission. This section explains the term of a Port Commissioner and allows for the adoption of meeting rules.

Under Section 29.35.620, the Port Commission may employ a director, retain legal counsel, and employ other personnel deemed necessary.

Under Section 29.35.630, the powers of the Port Commission are described including economic analysis, acquisition of property, development of plans; entering into contracts, raise revenues, lease property, and accept grants and donations.

Under Section 29.35.650, the financing of the Port Authority is explained. Finances may be obtained through donations, borrowed money, revenues from any property, building, or facility under its control, and the issuance of revenue bonds (these revenue bonds are not a debt of the municipality or state).

Under Section 29.35.660, when the Port Commission proposes a project using revenue bonds, a Development Plan is to be prepared and submitted to the governing body. This section explains what a Development Plan must contain.

Under Section 29.35.670, the procedure for the approval of a Development Plan from the Port Commission is covered.

Page two

Under Section 29.35.680, the budget shall be prepared by the Director of the Port Authority with approval by the governing body. The budget may not include money of the municipality except if authoized by the governing body.

Alaska State Legislature

ARLISS STURGULEWSKI, Chairman
TIM KELLY, Vice Chairman
RICK HALFORD
KE SZYMANSKI
ED ZHAROFF



P. O. BOX V
JUNEAU, ALASKA 99811
(907) 465-4989

Senate Community and Regional Affairs Committee

TO: Senate C&RA Members

March 24, 1987

FROM: Senate C&RA Staff

MCE

RE: SB 168 - "An Act relating to establishment of a port authority by a municipality."

SB 168 is designed to enable municipalities to establish their own port authority commissions. The bill's goal is to create a mechanism that municipalities can use to focus on water related economic development.

Alaska currently has a port facilities and development act, however, it stipulates that funding must be appropriated by the state. SB 168 would allow funds to be raised by any legal means approved by the appropriate city council or borough assembly.

The bill provides that a municipality's port authority commission would be established by ordinance and three commissioner's elected. The commission would do its own budget and long range planning. The bill is based on legislation from the State of Washington.

This packet contains a memo from the sponsor and his sectional analysis, a memo from the Senate Advisory Council, and the existing state law on ports.

March 24, 1986

Senate Committee on
Community and Regional Affairs

Senator Arliss Sturgulewski, Chairman

Presentation by
Senator Jim Duncan
Sponsor of SB 168

MADAME CHAIRMAN, ALASKA IS NOT UTILIZING, ONE OF IT GREATEST ECONOMICAL POTENTIALS, WATERFRONT DEVELOPMENT. THE PURPOSE FOR CREATING THIS LEGISLATION IS TO PROVIDE AN IMPETUS TO THOSE COMMUNITIES THAT STAND TO GAIN, ECONOMICALLY, THROUGH THE USE OF THEIR WATERFRONTS. THIS BILL IS THE FRAMEWORK TO ESTABLISH PORT AUTHORITIES THAT ARE, IN A SENSE, SEMI-INDEPENDENT.

CURRENTLY, THERE IS A STATUTE WHICH ALLOWS THE STATE OF ALASKA TO FUNNEL MONEY THROUGH TO COMMUNITIES FOR PORT FACILITIES AND DEVELOPMENT (AS 30.15). HOWEVER, IT IS THE INTENTION OF THIS BILL NOT TO HAVE THE STATE INVOLVED, FISCALLY. RATHER, IT IS THE INTENTION OF THIS BILL TO SET UP THESE PORT AUTHORITIES WITHIN THE LOCAL GOVERNING BODY BUT THAT THEY OPERATE IN A SEMI-INDEPENDENT NATURE.

UNDER THIS LEGISLATION, THE PORT AUTHORITY IS SUPERVISED AND CONTROLLED BY THE PORT COMMISSION. THE PORT COMMISSION MAY HAVE A DIRECTOR, RETAIN LEGAL COUNSEL, AND EMPLOY OTHER PERSONNEL AS IT SEES FIT TO DO SO. THE PORT COMMISSION CREATES ITS OWN BUDGET AND OBTAINS FUNDS FOR THE BUDGET THROUGH VARIOUS METHODS INCLUDING, BUT NOT LIMITED TO, RECURRING REVENUES, ISSUANCE OF REVENUE BONDS, DONATIIONS, AND BORROWED MONEY.

ALASKA FACES TREMENDOUS ECONOMIC POTENTIAL THROUGH ITS PORT DEVELOPMENT. WITH THIS LEGISLATION, THE GROUNDWORK CAN BE LAID IN THE EFFORT TO GREATLY ENHANCE PORT DEVELOPMENT AROUND THE STATE. THE GOVERNOR HAS ALREADY STATED THAT INTERNATIONAL TRADE IS A HIGH PRIORITY IN HIS ECONOMICAL DEVELOPMENT PLAN. WITH AN AGGRESSIVE PORT DEVELOPMENT PLAN, BY THE VARIOUS PORT AUTHORITIES, THROUGH THE BACKING OF THIS LEGISLATION, ALASKA CAN BEGIN TO REALIZE THE ECONOMIC POTENTIAL OF ITS WATERFRONTS.

WE HAVE RECEIVED FAVORABLE COMMENTS FROM SEVERAL COMMUNITIES ALREADY. THE COMMENTS HAVE BEEN PRIMARILY SEEKING ASSURANCE THAT THOSE COMMUNITIES ARE INCLUDED IN THE BILL BECAUSE THEY SEE POSITIVE THINGS WITH IT.

MANY CITIES CAN NOW ESTABLISH SOME FORM OF PORT SYSTEM BUT THEY ARE ONLY IN AN ADVISORY CAPACITY AND ITS MEMBERS ARE APPOINTED BY THE LOCAL GOVERNING BODY. SB 168 DIFFERS IN THAT THE COMMISSIONERS ARE ELECTED DURING MUNICIPAL ELECTIONS. THIS ALLOWS THE COMMISSION TO BE SET UP AS A SUBDIVISION OF THE MUNICIPALITY, SIMILAR TO A SCHOOL DISTRICT. THE COMMISSION WILL BE ESTABLISHED BY ORDINANCE AND THREE COMMISSIONERS WILL BE ELECTED BY THE PEOPLE THEREBY GIVING THE PEOPLE THE STRONGEST VOICE IN A PORT'S DEVELOPMENT.

THIS LEGISLATION HAS BEEN MODELLED AFTER THE STATE OF WASHINGTON. THE BILL IS IN ITS SIMPLEST FORM AT THIS TIME, HOWEVER WE MUST WORK TO STRENGTHEN OUR WATERFRONT DEVELOPMENT AND CREATE A BILL THAT'S IN THE BEST INTEREST OF ALASKA. THIS BILL IS MERELY A STARTING POINT WITH THE INTENTION THAT A STRONG PIECE OF LEGISLATION WILL BE DEVELOPED THROUGH OUR LEGISLATIVE PROCESS. THANK YOU.

Alaska State Legislature

Senate Advisory Council



P.O. Box V
State Capitol
Juneau, Alaska 99811
Phone: (907) 465-3114

MEMORANDUM

TO: Senator Duncan
Alaska State Senate

ATTN: Ron Whitcraft

FROM: Lee Ann Lucas *ml*
Senate Advisory Council

DATE: February 18, 1987

RE: Port Authorities

Referencing your request for information on the organization, administration and authorities of various port authorities, I offer the following.

Today, there are 105 state, local, county or independent public seaports in the United States and its territories, 76 of them Corporate members of the American Association of Port Authorities (AAPA). Historically, port development and operation in the United States has been a local or state function. There is considerable variety in the structure, powers and the purpose of port authorities in the United States.

I contacted Mr. Rexford Sherman, Director for Research and Information Services with the AAPA. Mr. Sherman provided a copy of a report entitled "Public Port Agencies In The United States and Canada" (copy attached) which gives an overview of port authorities.

Also attached is a listing of the AAPA Corporate Member Ports. As you can see, the complexity becomes evident in looking at just the port authorities that comprise the U.S. corporate membership of the APPA. Some are administrative divisions of state government. Others are in effect public corporations set up under state law and directed to develop specific port areas in the public interest. Some are state port authorities with responsibility for the several ports that may lie in a given state. In other instances, states have created port administrations that are basically political subdivisions of the state, frequently called navigation districts, which like other such subdivisions (e.g., school districts or

Senator Duncan
2/18/87
Page 2

townships) have the power to tax and float bonds. In addition there are county and municipal port departments and, to further complicate the picture, bi-state port authorities with jurisdictions covering two states.

In the North Atlantic, the preference appears to have been for public corporations, state port administrations and bi-state ports. State port authorities are most common in the South Atlantic. Independent navigation districts are particularly popular in the Gulf and Pacific Northwest, while municipal port departments are favored in California.

The variety of port structure types and their distribution among the various U.S. port ranges is indicated in the attached chart. For example, the Massachusetts Port Authority is a autonomous public corporation set up through an act of the legislature which has a seven-member Board of Directors appointed by the Governor. The Port of Bellingham is defined as an independent navigation district which has three elected Commissioners. Attached are the enabling acts for the State of Washington and the State of Massachusetts.

Most U.S. port authorities (though there are exceptions) are governed by a board of commissioners (or directors) which oversee port policy and operations as custodians of the public interest. But among the 80 U.S. member port authorities, most boards (48) are appointed, usually by a governor (sometimes with the advice and consent of the state legislature), mayor, city council or county commissioners. Twenty-two boards, however, are elected by local voters. Nine have no board whatsoever. Elected boards are most common among independent navigation districts. On the other hand, state port authorities and other state-chartered port corporations are generally appointive. Typically, state port departments do not have a board of any sort.

After you have had a chance to review the attached materials, please call me and I will collect the enabling acts, charters and information you feel may be useful in formulating similar legislation.

LAL:lal
Attachments

Attached materials available from
Senator Duncan's office.



Official Business

Alaska State Legislature

Senate

3/6/87
PRINT/TV

P.O. BOX V
State Capitol
Juneau, Alaska 99811

NEWS RELEASE

CONTACT:
Ron Whitcraft
465-4766

JUNEAU --- LEGISLATION WAS INTRODUCED TODAY (FRIDAY), IN THE ALASKA SENATE, THAT WOULD GIVE AN ECONOMIC BOOST TO MANY COMMUNITIES IN THE STATE. THE MEASURE WOULD ENABLE LOCAL GOVERNING BODIES TO ESTABLISH THEIR OWN PORT AUTHORITY COMMISSIONS AND THEREBY GIVE THEM THE ABILITY TO FOCUS SOME ATTENTION ON WATERFRONT DEVELOPMENT.

THE BILL'S AUTHOR, SENATOR JIM DUNCAN OF JUNEAU, STATED THAT ALASKA HAS A GREAT POTENTIAL FOR WATERFRONT DEVELOPMENT. ALTHOUGH ALASKA HAS A PORT FACILITIES AND DEVELOPMENT ACT IN PLACE NOW, IT STIPULATES THAT FUNDS ARE APPROPRIATED BY THE STATE. SENATE BILL ONE SIXTY-EIGHT ALLOWS PORT DEVELOPMENT DOLLARS TO BE RAISED HOWEVER THE COMMISSION SEES FIT WHETHER BY REVENUE BONDS, WORKING WITH THE PRIVATE SECTOR, OR WHATEVER MECHANISM IS SUITABLE FOR A COMMUNITY.

SENATOR DUNCAN SAID, "THE BILL IS AN ATTEMPT TO STRENGTHEN OUR ABILITY IN THIS STATE TO DEVELOP OUR WATERFRONT AREAS AND TO BRING MORE ECONOMIC ACTIVITY INTO THE COMMUNITIES OF ALASKA."

S-B ONE SIXTY-EIGHT PROVIDES THAT A COMMUNITY'S PORT AUTHORITY COMMISSION WOULD BE ESTABLISHED BY ORDINANCE AND THAT THREE COMMISSIONERS ARE ELECTED TO SERVE THE BODY. THE COMMISSION

PAGE TWO

WOULD ALSO CREATE ITS BUDGET AND DO ITS OWN LONG RANGE PLANNING,
ALL DESIGNED TO PROMOTE THE ECONOMIC GROWTH OF A COMMUNITY.

"IT IS NOT AN ATTEMPT TO BUILD ANOTHER BUREAUCRACY AND WE'RE NOT
ASKING FOR ANY STATE MONEY," DUNCAN ADDED. "IT'S PURELY UP TO
LOCAL COMMUNITIES TO MAKE THE DECISION AS TO WHETHER THEY WANT TO
FOCUS IN ON THAT TYPE OF DEVELOPMENT."

3/6/87
Radio



Alaska State Legislature

Senate

P.O. BOX V
State Capitol
Juneau, Alaska 99811

Official Business

NEWS RELEASE

March 6, 1987

CONTACT:
Ron Whitcraft
465-4766

JUNEAU --- LEGISLATION WAS INTRODUCED TODAY (FRIDAY), IN THE ALASKA SENATE, THAT WOULD GIVE AN ECONOMIC BOOST TO MANY COMMUNITIES IN THE STATE. THE MEASURE WOULD ENABLE LOCAL GOVERNING BODIES TO ESTABLISH THEIR OWN PORT AUTHORITY COMMISSIONS AND THEREBY GIVE THEM THE ABILITY TO FOCUS SOME ATTENTION ON WATERFRONT DEVELOPMENT.

THE BILL'S AUTHOR, SENATOR JIM DUNCAN OF JUNEAU, STATED THAT ALASKA HAS A GREAT POTENTIAL FOR WATERFRONT DEVELOPMENT. ALTHOUGH ALASKA HAS A PORT FACILITIES AND DEVELOPMENT ACT IN PLACE NOW, IT STIPULATES THAT FUNDS ARE APPROPRIATED BY THE STATE. SENATE BILL ONE SIXTY-EIGHT ALLOWS PORT DEVELOPMENT DOLLARS TO BE RAISED HOWEVER THE COMMISSION SEES FIT WHETHER BY REVENUE BONDS, WORKING WITH THE PRIVATE SECTOR, OR WHATEVER MECHANISM IS SUITABLE FOR A COMMUNITY.

[Insert: @ :30

In: "It's an attempt to strengthen..."

Out: "...as outlined in this legislation."

PAGE TWO

S-B ONE SIXTY-EIGHT PROVIDES THAT A COMMUNITY'S PORT AUTHORITY COMMISSION WOULD BE ESTABLISHED BY ORDINANCE AND THAT THREE COMMISSIONERS ARE ELECTED TO SERVE ON THE BODY. THE COMMISSION WOULD ALSO CREATE ITS BUDGET AND DO ITS OWN LONG RANGE PLANNING, ALL DESIGNED TO PROMOTE THE ECONOMIC GROWTH OF A COMMUNITY.

A M E N D M E N T

Offered in the HOUSE

TO: CSHB 209(C&RA)

By the Community and
Regional Affairs Committee

Page 1, line 11:

Delete "A"

Insert "Notwithstanding other provisions of law, a"

Page 1, line 13, after "port authority":

Insert "in accordance with AS 29.35.600 - 29.35.690. An authority established by a borough under AS 29.35.600 - 29.35.690 may exercise its power in a second class city located within the borough but may not exercise its power in a home rule or first class city unless the exercise of the power is approved by the assembly of the home rule or first class city by resolution"



Official Business

COMMITTEE: *HB 209*

HOUSE COMMUNITY & REGIONAL AFFAIRS

DATE: May 4, 1987

SIGN-IN

Subject of meeting:

HB 176 - Land from federal townsite trustee

HB 209 - Establish port authority

NAME (PLS PRINT)	YOUR TITLE & ADDRESS	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
<i>Rep Menard</i>				
<i>Larry Bussone for Rep Larson</i>				
<i>Doug Griffin</i>	<i>DCRA</i>			

Alaska State Legislature

⑧ HB 209

Rep. Larson
prepared stmt.

Session Address:
STATE CAPITOL BUILDING
BOX V
JUNEAU, ALASKA 99811
(907) 465-3727



Interim Address:
BOX 53
PALMER, ALASKA 99645
(907) 745-3828 - Palmer
(907) 378-8828 - Wasilla

Representative Ronald L. Larson
District 16B

April 23, 1987

House Committee on
Community and Regional Affairs

Representative Henry Springer, Chairman

Testimony on House Bill No. 209

Mr. Chairman, Alaska is not developing one of its greatest resources to near the level it might. I am speaking of Alaska's waterfront. In this time of economic crisis, in this time when economic development is being encouraged, we must find ways to develop that great potential. I believe HB 209 will do that very thing. The legislation would allow local governing bodies to establish, by ordinance, their own port authority.

Currently, there is a Port Facilities and Development Act in statute (at AS 30.15); however, that Act calls for development through state appropriated funds. HB 209 would take the state out of waterfront development and would provide an impetus to communities to develop their waterfronts independent of state monies.

Each port authority would be set up as a subdivision of the local governing body, similar to a school district. An authority would be allowed to employ an executive director and staff and to retain legal counsel. It could sue or be sued in state court, and it would be empowered to complete economic analysis, acquire and develop land and facilities, develop and implement long range plans, enter into contracts, raise revenues, and accept grants and donations. A port authority would also have the power of eminent domain. Finally, an authority could enter into agreements with other port authorities for sharing development or management of land and facilities within the jurisdiction of the commissions.

Let me clarify the relationship between a port authority and the local governing body. First of all, for an authority to be formed, the governing body would hold public hearing on a proposed ordinance establishing the authority and its powers. After public hearing, if the governing body intended to proceed with the establishment of the authority, it would hold a vote on the proposed ordinance and at the same time the election of port commissioners. After an authority was established, and after it decided to finance a project in whole or in part with revenue bonds, it would submit a development plan to the governing body. Upon receipt of the development plan, the governing body would hold public hearing on the plan and subsequently by ordinance approve or reject the plan. In short, the port authority would be a semi-independent entity of the local governing body.

It is my belief that HB 209 will lay the groundwork for a greatly enhanced effort to develop waterfronts around the state and to bring more economic activity into several communities of the state.

Let me conclude by encouraging the committee to adopt the amendments proposed by Representative Hudson. His proposed amendments do three primary things: First, they clean up some drafting errors. Secondly, and more importantly, they would allow city and towns such as Homer, Seward, and Kodiak to develop port authorities independent of the borough or municipality to which they belong. Third, they would amend Sec. 29.35.660 to require an economic analysis and justification for the project as well as a description of the expected benefits and other effects of the project to be included in the development plan.

For the sake of economic development in the state, I urge this committee to examine this legislation closely, make the changes it deems necessary, and pass it on to the House Committee on Transportation. I would add that the bill is supported by several communities around the state, and, as you will notice in your packet, by the Department of Community and Regional Affairs and Department of Commerce and Economic Development.

Thank you, and I will answer whatever questions you may have.



Official Business

COMMITTEE:

HOUSE COMMUNITY & REGIONAL AFFAIRS

DATE: April 24, 1987

SIGN-IN

Subject of meeting: (B) HB 209

*HB 209 Establish port authority

1 of 2

NAME (PLS PRINT)

YOUR TITLE & ADDRESS

PHONE

REPRESENTING

DO YOU WANT TO TESTIFY?

HARRY BUSSONE	SO2 CAPITAL Planner Box BH	3727	REP. RON LARSON	Yes
Clovis Bowles	Legislative Liaison DCED Box D	4750	DC&RA	NO
Becky Bear		2504	DCED	Yes
Rep. Tom Menard			Co-Sponsor	✓



Official Business

COMMITTEE:

HOUSE COMMUNITY & REGIONAL AFFAIRS

DATE: April 24, 1987

SIGN-IN

Subject of meeting: (B) HB 209

*HB 209 Establish port authority

2 of 2

NAME (PLS PRINT)

YOUR TITLE & ADDRESS

PHONE

REPRESENTING

DO YOU WANT TO TESTIFY?

Lee Sharp	P.O. 2977	745 9678	Mat-su Borough	Yes
Doug Griffin		4750	C&RA	Yes



Dept. of Transportation & Public Facilities

⑦ HB 209

Position Paper

BILL NO: HB 209

APPROVED:

LSA
MARK S. HICKEY
COMMISSIONER

TITLE:

An Act Relating to Establishment of a
Port Authority by a Municipality.

DATE:

April 22, 1987

The Department of Transportation and Public Facilities feels that authorization of port authorities under HB 209 is mainly a local government issue. It basically allows a local government to operate its port through an authority instead of directly by the municipal government. Therefore, we do not have a position on this bill.

There are cases of cities within boroughs which presently operate ports. As written the bill would preclude allowing them to create port authorities. This discrimination among municipalities appears to be unjustified.

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

April 22, 1987

(5) HB 209
STEVE COWPER, GOVERNOR

- P.O. BOX B
JUNEAU, ALASKA 99811-2100
PHONE: (907) 465-4700
- 949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508-4302
PHONE: (907) 563-1073

POSITION PAPER

RE: House Bill 209 - "An Act relating to establishment of a port authority by a municipality."

SPONSOR: Representative Larson

Program Effects of Bill

House Bill 209 proposes to amend AS 29.35 as follows:

Section 29.35.600 would allow the governing body of a borough, unified municipality or city in the unorganized borough to establish a port authority by ordinance, upon approval of the voters of the municipality.

Section 29.35.610 would establish an elected three member port commission and Section 29.35.620 would allow for staffing of the commission.

Section 29.35.630 would establish the powers of the port commission. These powers would include planning and implementation of plans for development in waterways or in waterfront areas, appropriate contracting, property management, and the acceptance of grants.

Section 29.35.640 would allow the municipality to exercise the powers of eminent domain for the purpose of transferring property to the port authority.

Section 29.35.650 sets out how the port authority would be financed.

Section 29.35.660 would require the port commission to prepare a development plan, to be submitted to the governing body, when a project is to be financed by revenue bonds. The plan must be approved or rejected by ordinance.

Section 29.35.670 would instruct the governing body to hold a public hearing on the proposed development plan and adopt, modify, or reject the plan by ordinance.

Section 29.35.680 would require the port authority director to prepare and submit the budget to the governing body for approval before it is adopted by the port commission.

Section 29.35.690 would allow the port authority to be dissolved by an ordinance approved by the voters. Remaining property and assets after obligations have been fulfilled would belong to the municipality.


Comments

The Department supports this bill in concept because it provides additional flexibility to municipalities for port operations without limiting the ultimate control of those municipalities. The bill would allow a municipality to establish a local port authority following approval by voters within the municipality. The port authority could have a greater degree of management autonomy than currently allowed. The authority would have the ability to plan for and manage its own operations and to finance these operations through user fees and revenue funds. However, unlike the case in other states such as Washington, the municipality would continue to have ultimate control over any port authority established.

The Department suggests several minor modifications to the bill as follows: Section 29.35.600(a), page 1, lines 15 and 16 should be amended to read: "The authority possesses all powers specified in AS 29.35.600-29.35.690 unless these powers are restricted in the ordinance under which it is formed. The authority may be granted additional powers in the enabling ordinance." This revision will provide a greater amount of flexibility to municipalities.

In Section 29.35.600(b), page 1, line 22, the Department suggests inserting: "Amendments to the ordinance are also subject to voter approval." as the last sentence of that paragraph.

In Section 29.35.630, page 3, lines 17 through 20, the authority to acquire and convey, or otherwise dispose of land and other property should be subject to approval by the local governing body either through approval of the port plan or by specific action.



David G. Hoffman, Commissioner

§ 30.13.900

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§ 30.15.010 NAVIGATION, HARBORS AND SHIPPING § 30.15.010

(3) "cost" includes the cost of acquisition or construction of all or any part of transportation facilities and of all or any property, rights, easements and franchises considered by an authority to be necessary, useful, or convenient, including without limitation reimbursements to the authority or any other person of money expended for the purposes of the authority and interest or discount on bonds to finance those expenses, engineering and inspection costs and legal expenses, the cost of financial, professional and other advice, and the cost of issuance of bonds;

(4) "district" means the area within the boundaries of an authority;

(5) "person" includes a corporation, company, partnership, firm, association, organization, business trust, society, state or agency or subdivision of the state, municipality of the state, or an authority, as well as a natural person;

(6) "transportation facilities", or "facilities", or "projects" means harbor, port, shipping and transportation facilities of all kinds, including harbors, channels, turning basins, anchorage areas, jetties, breakwaters, waterways, canals, locks, tidal basins, wharves, docks, piers, slips, bulkheads, public landings, warehouses, terminals, refrigerating and cold storage plants, rolling stock, car ferries, tugs, boats, conveyors, tunnels, bridges, highways, roads and railroads, and appliances of all kinds for the handling, storage, inspection and transportation of freight and natural resource products; it also includes all property, rights, easements and franchises relative to a facility and necessary or convenient for the acquisition, construction or operation of the facility, but does not include airport facilities. (§ 2 ch 98 SLA 1983)

Chapter 15. State Participation in Port Facilities and Development.

Section	Section
10. State grants for port facilities construction	50. Combined port and ferry terminal facilities
20. Criteria for establishing eligibility	60. Regulations
30. Limitation on grants	70. Definitions
40. Disposition of state land for port facilities development projects	80. Short title

Sec. 30.15.010. State grants for port facilities construction. To the extent funds are appropriated by the legislature, or from the proceeds from the sale of bonds, the state may make grants to municipalities to finance a portion of the cost of constructing local, regional or state port facilities. The state shall participate only in those projects approved by the governor on recommendation of the commissioner. (§ 1 ch 85 SLA 1974; am E.O. No. 39, § 11 (1977))

Sec. 30.15.020. Criteria for establishing eligibility. (a) Before a grant may be awarded under this chapter, the commissioner shall determine that

- (1) the grant is for a feasible project;
- (2) the project is endorsed by resolution of the governing body of the sponsoring municipality on its own behalf, or on behalf of a service area in an organized borough if a service area is established to finance and construct port facilities and operate and maintain them once constructed; and
- (3) the municipality can clearly demonstrate its ability to finance the local share of project costs.

(b) A grant may not be awarded under this chapter for a port facility development project until a study of its feasibility is conducted and submitted with the application for the grant. The project also must be justifiable on the basis of public convenience and necessity. The study shall be conducted by consultants, engineers or other technical experts, who may be officers or employees of the municipality in making application for a grant. (§ 1 ch 85 SLA 1974; am E.O. No. 39, § 11 (1977))

Sec. 30.15.030. Limitation on grants. Grants for the development of port facilities may not exceed

- (1) 90 per cent of project costs for municipalities under 5,000 population;
- (2) 80 per cent of project costs for municipalities 5,000 population and over. (§ 1 ch 85 SLA 1974)

Sec. 30.15.040. Disposition of state land for port facilities development projects. The division of lands in the Department of Natural Resources, subject to the applicable provisions of AS 38.05 and 38.10, may convey title or other interests in state land, provide for the exchange of state land, or make other arrangements with respect to state land that may be necessary to complete a project for which a state grant is approved under this chapter. (§ 1 ch 85 SLA 1974)

Sec. 30.15.050. Combined port and ferry terminal facilities. A grant may be awarded under this chapter for a port facilities development project that includes, or combines, state ferry terminal facilities as a part of the project. However, the state shall pay the proportionate project costs attributable to the ferry terminal including but not limited to vehicle staging areas, transfer spans and aprons, passenger terminal facilities and offices, docks and other docking facilities for ferry vessels. (§ 1 ch 85 SLA 1974)

Sec. 30.15.060. Regulations. The commissioner shall adopt regulations under the Administrative Procedure Act (AS 44.62) that the commissioner considers necessary to carry out the provisions of this chapter. (§ 1 ch 85 SLA 1974; am E.O. No. 39, § 11 (1977)).

Sec. 30.15.070. Definitions. In this chapter

- (1) "comissioner" means commissioner of transportation and public facilities;
- (2) "department" means Department of Transportation and Public Facilities;
- (3) "municipality" means a home rule or general law borough or city including but not limited to a unified municipality organized under AS 29.68;
- (4) "port facilities" means docks, wharves, bulkheads, seawalls, landfills, warehouses, staging areas, transfer spans and aprons, lifting equipment and similar structures together with the necessary equipment and facilities required to accommodate waterborne commerce and shipping, including but not limited to combined port and ferry terminal facilities;
- (5) "project costs" means the cost of financing or borrowing, site acquisition and rights-of-way, planning, engineering and designing, construction, equipment acquisition and installation, but does not include the cost of operation or maintenance of the port facilities once constructed or the cost of feasibility studies required in making application for a grant under this chapter. (§ 1 ch 85 SLA 1974; am E.O. No. 39, § 11 (1977))

Sec. 30.15.080. Short title. This chapter may be cited as the Port Facilities Development Act. (§ 1 ch 85 SLA 1974)

Chapter 20. Regulation of Tank Vessel Traffic.

[Repealed, § 11 ch 116 SLA 1980.]

Chapter 25. Oil Terminal Facilities: Transfer of Crude Oil, Refined Petroleum Products or Their By-Products.

[Repealed, § 11 ch 116 SLA 1980.]

Chapter 30. Abandoned and Derelict Vessels.

Article

- 1. Abandoned Vessels (§§ 30.30.010 — 30.30.080)
- 2. Derelict Vessels (§§ 30.30.090 — 30.30.100)
- 3. Vessels Abandoned on Business Premises of Persons Engaged in Repair Business (§§ 30.30.110 — 30.30.150)
- 4. Miscellaneous (§§ 30.30.160 — 30.30.180)

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: HB 209

Publish Date: _____

Revision Date: _____

Title: "An Act establish port authority
by a municipality"

Agency Affected: Community & Regional Affairs

BRU: Local Government Assistance

Sponsor: Larson, Menard, Hudson, Ulmer

Components: _____

Requestor: House C&RA

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Doug Griffin, Deputy Director
Division: Municipal & Regional Assistance

Phone: 465-4750

Date: 4/22/87

Approved by Commissioner: David G. Hoff
Agency: Community & Regional Affairs

Date: 4.22.87

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary



Official Business

COMMITTEE:

HOUSE COMMUNITY & REGIONAL AFFAIRS

DATE: May 8, 1987

SIGN-IN

Subject of meeting: (F) HB 209

HB 209 Establish Port Authority

NAME (PLS PRINT)	YOUR TITLE & ADDRESS	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
Tom Cook			Legal Serv.	
Rep. Carl Mearns			Sponsor	

(12) HB 209



Matanuska-Susitna Borough

BOX B, PALMER, ALASKA 99645 • PHONE 745-9687⁷⁸

BOROUGH ATTORNEY'S OFFICE

April 30, 1987

Representative Heinrich Springer
Chairman, House Community and Regional
Affairs Committee
P. O. Box V
Juneau, AK 99811

Attention: Terry

Subject: House Bill 209 (port authorities)

Dear Chairman Springer:

Enclosed is language which could be added to the statute in lieu of what is proposed in House Bill 209. This is the "two liner" bill I suggested during your hearing on House Bill 209 would be more appropriate. I would have gotten this to you sooner but felt it was essential to have the comments of our bond attorney before submitting it to you. Unfortunately, he was out of town until this morning.

You will note that the first section sets out the purpose as being to confirm the authority of municipalities to do what I believe they already have the power to do; that is, to form commissions, boards, authorities and public corporations to carry out any of the functions or duties they may have under a power the municipalities have assumed. I believe this section is necessary so that doubt is not cast on the validity of any port authority, hospital board or other entity that has already been created by a municipality. That doubt arises when the legislature adopts a bill which purports to give municipalities authority to do something. Courts can, and sometimes do, interpret such legislative action as an indication by the legislature that the legislature did not believe that the municipalities had such a power and that it was necessary to grant that power to them by statute. Such an interpretation can cast doubts on the validity of actions taken by municipalities prior to the grant. The first section of the bill would eliminate the basis for that doubt.

You will note in section 2 that the language is no longer restricted to port authorities. This broadening also arises out of concern for another rule of statutory interpretation used by the courts. There is a lovely latin litany that lawyers use to state this rule but freely translated it means that where the

legislature has addressed one subject, it is presumed that the legislature has excluded all other subjects that might logically have been addressed at the same time. The problem this rule creates for House Bill 209 is that if the legislature authorizes municipalities to create port authorities for the specific purpose of owning and operating facilities related to waterborne commerce, the legislature would be deemed to have denied the power of municipalities to operate airports or other transportation facilities through the mechanism of an authority. Further, a court could also interpret such legislative action as denying to municipalities the ability to create authorities for other reasons; for example, a hospital authority (or anything that looks like a hospital authority), a housing authority, a sanitation authority for the purpose of providing sewage collection and treatment, etc. Because municipalities already have the power to create such entities, it would be a most unfortunate situation if, in an effort to assist those who wanted clarification of their ability to establish a port authority the legislature inadvertently created grave doubts about the authority of municipalities to create authorities or similar entities for the operation of other municipal enterprises. It is for this reason that the language has been broadened to make it clear that municipalities can use any of a variety of public entities to exercise any of its powers. As noted above, the language I am proposing has been reviewed by our bond attorney and I have incorporated in it the suggestions he gave me. He agrees that this approach is the best approach to clarifying the ability of municipalities to establish port authorities without at the same time creating other legal problems or questions.

May I reemphasize that the municipal attorneys with whom I have discussed the question agree that Alaskan municipalities clearly (or at least probably) currently have the power to use any one of the entities or mechanisms set out in the substitute language to perform municipal functions. I think a quick inquiry of your Legislative Affairs Legal Services office would confirm this interpretation. Even so, I would have to agree that there could be a question in the minds of some persons over whether Alaskan municipalities have this authority. Because authorities and similar entities are often formed for the purpose of financing municipal ventures, we should remove any question as to the authority of municipalities to form such entities. The adoption of the substitute language should remove all questions about this authority and should facilitate the ability of such entities to obtain needed financing. For that reason I would urge the committee to adopt and pass out with a "do pass" recommendation the substitute language enclosed.

If the committee does not adopt the substitute language, there are areas of House Bill 209 that should receive very careful consideration. The major area is the areawide/nonareawide/assumption of powers question to which I alluded in my testimony before the committee. Under Title 29, first and second class boroughs must adopt an ordinance to assume

a power. In addition, a second class borough (with some exceptions) may not exercise a new power until it has been approved by the voters. If the power is to be exercised in a second class borough in the area outside cities, the voters in that area must vote on the power assumption question. If the power is to be exercised in a service area in a second class borough, the persons within the proposed service area vote on the question. A simple majority vote in these two cases is all that is required. On the other hand, if a new power is to be exercised on an areawide basis in either a first or second class borough, the power assumption question must be voted on by everyone within the borough. However, under A.S. 29.35.330(c) the votes must be tabulated in two separate classifications. One is all the votes cast in all cities within the borough and the other consists of all votes cast in the borough area outside the cities. There must be a majority favoring the areawide assumption of the power in both classifications. Once a borough has assumed an areawide power, that power may not be exercised by a city and all assets of the city that may previously have been devoted to the areawide function are transferred to the borough.

With this procedure for assuming areawide and nonareawide powers in mind, please examine the voting procedure proposed in House Bill 209. Note that while a city within a borough may not form a port authority, there is nothing that clearly states that a favorable vote creates an areawide power in the borough. Also, if it was intended to create an areawide power, note that there is no requirement for a dual majority. There is nothing illegal about not requiring a dual majority in this particular case, but it is a policy question to which the legislature should give some conscious consideration. If the legislature intends that the borough assume the port authority power on an areawide basis, what happens to the port-type property of a city that was exercising port-type powers prior to the power becoming areawide? Does this mean that the cities of Kenai and Homer must turn over to the borough all or a portion of their small boat harbors? Another matter that could be clarified is whether a borough may even form an authority under HB 209 if it has not already assumed the necessary port powers; that is, does this bill merely authorize a municipality to use the port authority mechanism to exercise powers it already has, or does the voter approval not only authorize the creation of a port authority but also convey to the municipality the new port powers? These are all questions that need not be answered if the substitute language is used. Under the substitute language, a city or borough could assume port powers in the same manner as is already provided under Title 29 and could exercise those powers in the way the council or assembly determines is most appropriate for their own particular municipality. Why, for instance, must the authority have a commission rather than a board of directors? Why must the commissioners be elected as opposed to appointed? In fact, it may be far more appropriate to have an appointed commission if the legislative body wants to have a little more control over those who are supposed to be implementing the policies of the

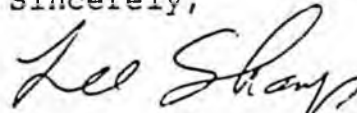
council or assembly. Whether the commission is elected or appointed should be left to the municipality. Also, why should the director of the authority be hired only by the commission. The authority may be much more responsive to municipal policies if the governing body has a hand in selecting the director. Again, these sort of things ought to be left to each municipality to work out what best suits its situation.

I can certainly understand the policy behind requiring a well thought out development plan before a municipality attempts to obtain project financing. However, as a practical matter, this financing will probably most often be revenue financing which means that those who market the bonds are going to have to be convinced that the project will produce sufficient revenues to operate the facility and pay the debt service. It seems highly unlikely that a port authority or municipality seeking to issue revenue bonds is going to find any interested buyers unless it does have a well thought out plan for the facility. Therefore, the statutory requirement is probably superfluous.

Again, I believe that the proposed substitute language not only clarifies the authority question that House Bill 209 would resolve, it also avoids several unfortunate legal consequences that would occur if House Bill 209 is adopted. In addition, the substitute language would leave municipalities with the greater flexibility they now have in shaping solutions at the local level to respond to local concerns.

If you, your committee or staff members have any questions, please do not hesitate to call me at 745-9678.

Sincerely,



Gerald L. Sharp
Borough Attorney

GLS:jr

Enclosure

cc: Representative Ron Larson
Representative Curt Menard
Representative Bill Hudson
Representative Fran Ulmer
Senator Jim Duncan (Attention Ken Spray)
Borough Ports Committee

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For an Act entitled: "An Act relating to the exercise of
municipal powers and functions through
authorities and other entities."

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

* Section 1. PURPOSE. It is the purpose of this Act to
confirm the authority of municipalities to exercise functions
and powers through authorities and other entities.

* Sec. 2. AS 29.35 is amended by adding a new section
reading:

Sec. 29.35.150. EXERCISE OF POWERS THROUGH MUNICIPAL
ENTITIES. (a) Except as may be otherwise required by law,
a municipality may exercise its powers and functions
through any entity authorized by the legislative body; such
entities include, but are not limited to, commissions,
boards of directors, agencies, and independent public
corporations, enterprises and authorities that are estab-
lished by the governing body, and other municipalities.

(b) The governing body may grant to an entity such
powers as may be necessary or reasonable in the discharge
of the duties of the entity, including the power to issue
the bonds and other indebtedness of the entity; except, the
power to acquire property through eminent domain and to

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levy taxes and special assessments may not be granted.

11 HB 209



Alaska State Legislature

House of Representatives

Committee on Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4833

To: House Community and Regional Affairs Committee members
From: Committee Staff
Date: May 1, 1987
Subject: Issues raised regarding HB 209

Whether such legislation is necessary or whether municipalities already possess the statutory authority to create port authorities:

Current statutes do permit municipalities to create port authorities. This legislation will (a) inform communities of such authority, (b) mollify bonding agents, (c) enable more creative financing, (c) provide for more singular and directed management of port authorities, and (d) offer a model to municipalities.

Simplification of the bill by (a) eliminating boilerplate language, or (b) drafting a "2 line enabling statute:

See above. Discussion with the bill drafter indicates that the bill sponsor intended language to accomplish those purposes.

Whether the language of the bill is restrictive or permissive in nature.

Page 1, lines 14, 15, and 16 insert permissive language into what ordinarily would be a specific language (and restrictively interpreted) bill.

Whether municipalities with existing agreements with the State for port facilities would be constrained in some way from forming a port authority.

Current capital investments and facilities are the subject of contractual arrangements between municipalities and the State. These contractual agreements can be renegotiated or title can be ceded by the State to the port authority.

Whether the power authorized in this bill would be an areawide or non-areawide power in a borough.

Areawide.

(15) CS HB 209
(C&RA)

5-0895B

Original sponsors: Larson, Menard,
Hudson and Ulmer

1 IN THE HOUSE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 209 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to establishment of a port authority
7 by a municipality."

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

9 * Section 1. AS 29.35 is amended by adding new sections to read:

10 ARTICLE 9. PORT AUTHORITIES.

11 Sec. 29.35.600. ESTABLISHMENT OF AUTHORITY. (a) Notwithstand-
12 ing other provisions of law, a borough, unified municipality, home
13 rule city, or first class city may establish a port authority in
14 accordance with AS 29.35.600 - 29.35.690. An authority established by
15 a borough under AS 29.35.600 - 29.35.690 may exercise its power in a
16 second class city located within the borough but may not exercise its
17 power in a home rule or first class city unless the exercise of the
18 power is approved by resolution of the council. The authority shall
19 be a corporate public body that may sue and be sued in any court of
20 the state. The authority possesses all powers specified in the ordi-
21 nance under which it is formed in addition to those enumerated in
22 AS 29.35.600 - 29.35.690.

23 (b) In a resolution proposing formation of a port authority, the
24 governing body shall set a date for the holding of a public hearing on
25 the adoption of a proposed ordinance establishing the authority and
26 designating the powers of the authority. After the public hearing, if
27 the governing body intends to proceed with the establishment of the
28 authority, it must do so by ordinance subject to voter approval.

29 (c) At the time of adopting an ordinance proposing formation of

1 a port authority, the governing body shall issue a call for nomination
2 of port commissioners, specifying the filing deadline and procedure
3 for making nominations. The election of the initial members of the
4 port commission shall take place at the same time as the election on
5 the question of forming a port authority. If at least one candidate
6 for each of the three commission seats is not nominated, the proposal
7 to form a port authority is void and no election on the question shall
8 be held.

9 Sec. 29.35.610. PORT COMMISSION. (a) A port authority formed
10 under AS 29.35.600 - 29.35.690 shall be under the supervision and
11 control of a port commission consisting of three elected members. The
12 term of a member is six years, except that one initial member shall
13 serve a term of four years, and one initial member shall serve a term
14 of two years, to be determined by lot. Commission members may be
15 reelected.

16 (b) A vacancy on the commission shall be filled by appointment
17 by the mayor. An appointed member serves for the remainder of the
18 term to which appointed. On notice and an opportunity to be heard, a
19 member of the commission may be removed for cause by the governing
20 body. Removal of a member is subject to review by the superior court.

21 (c) The commission shall adopt rules governing its procedure and
22 the holding of regular meetings. Special meetings may be held when
23 called in the manner provided in the rules of the commission.

24 Sec. 29.35.620. EXECUTIVE DIRECTOR AND EMPLOYEES. (a) The port
25 commission may employ and fix the compensation of a director, subject
26 to the approval of the governing body of the municipality. The direc-
27 tor serves at the pleasure of the commission. A member of the commis-
28 sion is not eligible to hold the position of director.

29 (b) The commission may retain legal counsel to advise the

1 commission in the proper performance of its duties. The legal counsel
2 shall represent the commission in actions brought by or against the
3 commission.

4 (c) The commission may employ other personnel considered neces-
5 sary by the commission.

6 (d) The employees of the commission may participate in municipal
7 retirement and insurance programs of the municipality.

8 Sec. 29.35.630. POWERS. The port commission may

9 (1) study and analyze the effect of economic changes and
10 growth on the waterfront and waterways;

11 (2) acquire, construct, repair, renovate, and manage sea
12 walls, jetties, piers, wharves, docks, boat landings, and other harbor
13 improvements, warehouses, cold storage plants, grain bins, bunkers,
14 ferries, bridges, and other facilities for the handling, storing, and
15 transporting of freight and passengers, or the processing of seafood,
16 agricultural products, and other goods;

17 (3) develop and implement long-range plans, in cooperation
18 with the governing body, designed to promote the economic growth of
19 the municipality and the growth and efficiency of waterfront develop-
20 ment;

21 (4) implement any plan of development for waterways or
22 waterfront areas in accordance with the powers of the port authority
23 under AS 29.35.600 - 29.35.690 or the ordinance under which the au-
24 thority is established;

25 (5) make and enter into contracts necessary or incidental
to the exercise of its powers and the performance of its duties,
including agreements with other port commissions providing for shared
development or management of facilities located within the jurisdic-
tion of the commissions;

1 (6) acquire and convey, or otherwise dispose of, land and
2 other property;

3 (7) fix, charge, and collect fees, rents, and charges for
4 the use of a building or property under its control and pledge the
5 fees, rents, and charges for the payment of revenue bonds issued by
6 the authority;

7 (8) lease any buildings, facilities, or properties under
8 its control;

9 (9) accept grants and donations from any public or private
10 source.

11 Sec. 29.35.640. EMINENT DOMAIN. A municipality, other than a
12 second class city, may take private property under AS 09.55.240 -
13 09.55.460 for the purpose of transfer to a port authority formed under
14 AS 29.35.600 - 29.35.690, and may transfer the property to the author-
15 ity on terms and conditions it considers appropriate. The taking,
16 transfer, and use shall be considered necessary for public purposes
17 and for the benefit of the public.

18 Sec. 29.35.650. FINANCING. (a) The activities of a port au-
19 thority formed under AS 29.35.600 - 29.35.690 shall be financed from
20 one or more of the following sources:

21 (1) donations to the authority for the performance of its
22 functions;

23 (2) money borrowed and to be repaid;

24 (3) revenue from any property, building, or facility owned,
25 leased, licensed, or operated by the authority or under its control,
subject to the limitations imposed upon the authority by trusts or
other agreements or by the municipality;

(4) money obtained from other sources approved by the
governing body of the municipality.

1 (b) Upon approval of a development plan under AS 29.35.670, the
2 authority may borrow money and issue negotiable revenue bonds as
3 provided for a municipality under AS 29.47. Revenue bonds issued by
4 the authority are not a debt of the municipality or the state.

5 Sec. 29.35.660. DEVELOPMENT PLAN. When the port commission
6 decides to finance a project in whole or in part by the use of revenue
7 bonds, it shall prepare a development plan for submission to the
8 governing body. The development plan must contain

9 (1) the boundaries of the project area in relation to
10 highways, streets, streams, or otherwise and a legal description of
11 the area;

12 (2) the location and extent of existing streets and other
13 public and private structures within the project area and a desig-
14 nation of the location, character, and extent of the categories of
15 public and private land uses proposed for the project area;

16 (3) a description of existing improvements in the project
17 area to be demolished, repaired, or altered, a description of any
18 repairs and alterations, and an estimate of the time required for
19 completion;

20 (4) the location, extent, character, and estimated cost of
21 the improvements, including rehabilitation contemplated for the proj-
22 ect area, and an estimate of the time required for completion;

23 (5) a statement of the construction or stages of construc-
24 tion planned, and the estimated time of completion of each stage;

25 (6) a description of any parts of the project area to be
left as open space and the use contemplated for the space;

(7) a description of any portions of the project area that
the commission intends to sell, donate, exchange, or lease to or from
the municipality and the proposed terms;

1 (8) a description of desired zoning changes and changes in
2 streets, street levels, intersections, and utilities;

3 (9) an estimate of the cost of the project and a statement
4 of the proposed method of financing the project and the ability of the
5 authority to arrange the financing;

6 (10) designation of the person to whom all or a portion of
7 the project is to be leased, sold, or conveyed if that information is
8 available to the commission;

9 (11) an economic analysis and justification for the project
10 and a description of the expected benefits and other effects of the
11 project.

12 Sec. 29.35.670. APPROVAL OF DEVELOPMENT PLAN. (a) Upon receipt
13 of a development plan prepared under AS 29.35.660, the governing body
14 shall hold a public hearing on the plan. After the public hearing,
15 the governing body shall by ordinance approve or reject the plan, or
16 approve it with modification.

17 (b) Amendments to an approved development plan must be submitted
18 by the port authority to the governing body for approval or rejection.

19 Sec. 29.35.680. BUDGET. The director of a port authority formed
20 under AS 29.35.600 - 29.35.690 shall prepare and submit for the ap-
21 proval of the port commission a budget for the operation of the au-
22 thority for the ensuing fiscal year. The budget shall be prepared in
23 the manner and contain the information required of municipal depart-
24 ments. Before the budget may be adopted by the commission, it must be
25 approved by the governing body of the municipality. Money of the
26 municipality may not be included in the budget of the authority except
27 that money authorized by the governing body of the municipality.

28 Sec. 29.35.690. DISSOLUTION. A port authority formed under
29 AS 29.35.600 - 29.35.690 may be dissolved by ordinance approved by the

1 voters. The property and assets of the authority remaining after the
2 satisfaction of the obligations of the authority belong to the munic-
3 ipality.
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⑨ HB 209

5-0895B ✓
Cook
4/25/87

Original sponsors: Larson, Menard,
Hudson and Ulmer

1 IN THE HOUSE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 209 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

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5 A BILL

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12 unified municipality, home rule city, or first class city may estab-
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14 that may sue and be sued in any court of the state. The authority
15 possesses all powers specified in the ordinance under which it is
16 formed in addition to those enumerated in AS 29.35.600 - 29.35.690.

17 (b) In a resolution proposing formation of a port authority, the
18 governing body shall set a date for the holding of a public hearing on
19 the adoption of a proposed ordinance establishing the authority and
20 designating the powers of the authority. After the public hearing, if
21 the governing body intends to proceed with the establishment of the
22 authority, it must do so by ordinance subject to voter approval.

23 (c) At the time of adopting an ordinance proposing formation of
24 a port authority, the governing body shall issue a call for nomination
25 of port commissioners, specifying the filing deadline and procedure
26 for making nominations. The election of the initial members of the
27 port commission shall take place at the same time as the election on
28 the question of forming a port authority. If at least one candidate
29 for each of the three commission seats is not nominated, the proposal

1 to form a port authority is void and no election on the question shall
2 be held.

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5 three elected members. The term of a member is six years, except that
6 one initial member shall serve a term of four years, and one initial
7 member shall serve a term of two years, to be determined by lot.
8 Commission members may be reelected.

9 (b) A vacancy on the commission shall be filled by appointment
10 by the mayor. An appointed member serves for the remainder of the
11 term to which appointed. On notice and an opportunity to be heard, a
12 member of the commission may be removed for cause by the governing
13 body. Removal of a member is subject to review by the superior court.

14 (c) The commission shall adopt rules governing its procedure and
15 the holding of regular meetings. Special meetings may be held when
16 called in the manner provided in the rules of the commission.

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18 commission may employ and fix the compensation of a director, subject
19 to the approval of the governing body of the municipality. The direc-
20 tor serves at the pleasure of the commission. A member of the commis-
21 sion is not eligible to hold the position of director.

22 (b) The commission may retain legal counsel to advise the com-
23 mission in the proper performance of its duties. The legal counsel
24 shall represent the commission in actions brought by or against the
25 commission.

26 (c) The commission may employ other personnel considered neces-
27 sary by the commission.

28 (d) The employees of the commission may participate in municipal
29 retirement and insurance programs of the municipality.

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3 growth on the waterfront and waterways;

4 (2) acquire, construct, repair, renovate, and manage sea
5 walls, jetties, piers, wharves, docks, boat landings, and other harbor
6 improvements, warehouses, cold storage plants, grain bins, bunkers,
7 ferries, bridges, and other facilities for the handling, storing, and
8 transporting of freight and passengers, or the processing of seafood,
9 agricultural products, and other goods;

10 (3) develop and implement long-range plans, in cooperation
11 with the governing body, designed to promote the economic growth of
12 the municipality and the growth and efficiency of waterfront develop-
13 ment;

14 (4) implement any plan of development for waterways or
15 waterfront areas in accordance with the powers of the port authority
16 under AS 29.35.600 - 29.35.690 or the ordinance under which the au-
17 thority is established;

18 (5) make and enter into contracts necessary or incidental
19 to the exercise of its powers and the performance of its duties,
20 including agreements with other port commissions providing for shared
21 development or management of facilities located within the jurisdic-
22 tion of the commissions;

23 (6) acquire and convey, or otherwise dispose of, land and
24 other property;

25 (7) fix, charge, and collect fees, rents, and charges for
26 the use of a building or property under its control and pledge the
27 fees, rents, and charges for the payment of revenue bonds issued by
28 the authority;

29 (8) lease any buildings, facilities, or properties under

1 its control;

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3 source.

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6 09.55.460 for the purpose of transfer to the port authority, and may
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14 functions;

15 (2) money borrowed and to be repaid;

16 (3) revenue from any property, building, or facility owned,
17 leased, licensed, or operated by the authority or under its control,
18 subject to the limitations imposed upon the authority by trusts or
19 other agreements or by the municipality;

20 (4) money obtained from other sources approved by the
21 governing body of the municipality.

22 (b) Upon approval of a development plan under AS 29.35.670, the
23 authority may borrow money and issue negotiable revenue bonds as
24 provided for a municipality under AS 29.47. Revenue bonds issued by
25 the authority are not a debt of the municipality or the state.

26 Sec. 29.35.660. DEVELOPMENT PLAN. When the port commission
27 decides to finance a project in whole or in part by the use of revenue
28 bonds, it shall prepare a development plan for submission to the
29 governing body. The development plan must contain

1 (1) the boundaries of the project area in relation to
2 highways, streets, streams, or otherwise and a legal description of
3 the area;

4 (2) the location and extent of existing streets and other
5 public and private structures within the project area and a desig-
6 nation of the location, character, and extent of the categories of
7 public and private land uses proposed for the project area;

8 (3) a description of existing improvements in the project
9 area to be demolished, repaired, or altered, a description of any
10 repairs and alterations, and an estimate of the time required for
11 completion;

12 (4) the location, extent, character, and estimated cost of
13 the improvements, including rehabilitation contemplated for the proj-
14 ect area, and an estimate of the time required for completion;

15 (5) a statement of the construction or stages of construc-
16 tion planned, and the estimated time of completion of each stage;

17 (6) a description of any parts of the project area to be
18 left as open space and the use contemplated for the space;

19 (7) a description of any portions of the project area that
20 the commission intends to sell, donate, exchange, or lease to or from
21 the municipality and the proposed terms;

22 (8) a description of desired zoning changes and changes in
23 streets, street levels, intersections, and utilities;

24 (9) an estimate of the cost of the project and a statement
25 of the proposed method of financing the project and the ability of the
26 authority to arrange the financing;

27 (10) designation of the person to whom all or a portion of
28 the project is to be leased, sold, or conveyed if that information is
29 available to the commission;

1 (11) an economic analysis and justification for the project
2 and a description of the expected benefits and other effects of the
3 project.

4 Sec. 29.35.670. APPROVAL OF DEVELOPMENT PLAN. (a) Upon receipt
5 of a development plan from the port authority, the governing body
6 shall hold a public hearing on the plan. After the public hearing,
7 the governing body shall by ordinance approve or reject the plan, or
8 approve it with modification.

9 (b) Amendments to an approved development plan must be submitted
10 by the authority to the governing body for approval or rejection.

11 Sec. 29.35.680. BUDGET. The director of the port authority
12 shall prepare and submit for the approval of the port commission a
13 budget for the operation of the authority for the ensuing fiscal year.
14 The budget shall be prepared in the manner and contain the information
15 required of municipal departments. Before the budget may be adopted
16 by the commission, it must be approved by the governing body of the
17 municipality. Money of the municipality may not be included in the
18 budget of the authority except that money authorized by the governing
19 body of the municipality.

20 Sec. 29.35.690. DISSOLUTION. A port authority may be dissolved
21 by ordinance approved by the voters. The property and assets of the
22 authority remaining after the satisfaction of the obligations of the
23 authority belong to the municipality.
24
25
26
27
28
29

Alaska State Legislature

② HB 209

REPRESENTATIVE BILL HUDSON

P.O. BOX V
Juneau, Alaska
99811
(907)465-3744 or 4991

COMMITTEES
Transportation
HESS
Telecommunications
Fisheries
International Trade

April 1, 1987

Representative Ron Larson
Alaska State Legislature
Juneau, Alaska

Dear Representative Larson:

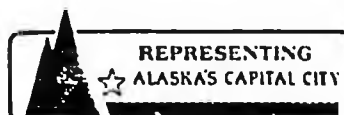
Attached you will find some proposed amendments to HB 209, relating to establishment of a port authority by a municipality. The major amendment would change the bill to allow cities and towns, such as Homer, Seward or Kodiak to develop a port authority independent of the borough or municipality to which it belongs. Second class cities would not have the authority.

The proposed amendment to page 5 adding a new subsection (11) would require an economic analysis and justification for the project as well as a description of the expected benefits and other effects of the project to be included in the development plan.

Unless you have objections, I'll forward the amendment request to the Community and Regional Affairs Committee.

Respectfully yours,

Bill
Bill Hudson



A M E N D M E N T

Offered in the HOUSE

By Hudson

TO: HB 209

Page 1, lines 11 - 12:

Delete "borough, unified"

Page 1, line 12:

Delete "or city in the unorganized borough"

Insert "other than a second class city,"

Page 2, line 7:

Delete "five"

Insert "two"

Page 3, line 10, after "develop":

Insert "and implement"

Page 3, lines 11 - 12, after "municipality":

Insert "and the growth and efficiency of waterfront development"

Page 3, line 13, following "development":

Delete "in"

Insert "for"

Page 3, lines 13 - 14:

Delete "in the"

Page 3, line 25:

Delete "a building or property"

Insert "any buildings, facilities, or properties"

Page 3, lines 25 - 26:

Delete "or any part of it, or facility in it,"

Page 3, line 28:

Delete "a building or property"

Insert "any buildings, facilities, or properties"

Page 3, line 29:

Delete "a"

Insert "any"

Page 4, line 2, after "municipality":

Insert ", other than a second class city,"

Page 4, line 16, after "agreements":

Insert "or by the municipality"

Page 5, line 10, after "improvements":

Insert ", "

Page 5, line 11, after "area":

Insert ","

Page 5, line 26:

Delete "."

Insert ";"

Page 5, after line 26:

Insert a new paragraph to read:

"(11) an economic analysis and justification for the project and a description of the expected benefits and other effects of the project."

Introduced: 3/25/87
Referred: Community & Regional
Affairs and Transportation

BY LARSON, MENARD, HUDSON
AND ULMER

1 IN THE HOUSE

2

HOUSE BILL NO. 209

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to establishment of a port authority

7

by a municipality."

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

9

* Section 1. AS 29.35 is amended by adding new sections to read:

10

ARTICLE 9. PORT AUTHORITIES.

11

Sec. 29.35.600. ESTABLISHMENT OF AUTHORITY. (a) A borough,
unified municipality, ^{home rule city or first class city} or ~~city-in-the~~ unorganized borough may establish
12 a port authority. The authority shall be a corporate public body that
13 may sue and be sued in any court of the state. The authority pos-
14 sesses all powers specified in the ordinance under which it is formed
15 in addition to those enumerated in AS 29.35.600 - 29.35.690.

17

(b) In a resolution proposing formation of a port authority, the
18 governing body shall set a date for the holding of a public hearing on
19 the adoption of a proposed ordinance establishing the authority and
20 designating the powers of the authority. After the public hearing, if
21 the governing body intends to proceed with the establishment of the
22 authority, it must do so by ordinance subject to voter approval.

23

(c) At the time of adopting an ordinance proposing formation of
24 a port authority, the governing body shall issue a call for nomination
25 of port commissioners, specifying the filing deadline and procedure
26 for making nominations. The election of the initial members of the
27 port commission shall take place at the same time as the election on
28 the question of forming a port authority. If at least one candidate
29 for each of the three commission seats is not nominated, the proposal

1 to form a port authority is void and no election on the question shall
2 be held.

3 Sec. 29.35.610. PORT COMMISSION. (a) A port authority shall be
4 under the supervision and control of a port commission consisting of
5 three elected members. The term of a member is six years, except that
6 one initial member shall serve a term of four years, and one initial
7 member shall serve a term of ^{two} five years, to be determined by lot.
8 Commission members may be reelected.

9 (b) A vacancy on the commission shall be filled by appointment
10 by the mayor. An appointed member serves for the remainder of the
11 term to which appointed. On notice and an opportunity to be heard, a
12 member of the commission may be removed for cause by the governing
13 body. Removal of a member is subject to review by the superior court.

14 (c) The commission shall adopt rules governing its procedure and
15 the holding of regular meetings. Special meetings may be held when
16 called in the manner provided in the rules of the commission.

17 Sec. 29.35.620. EXECUTIVE DIRECTOR AND EMPLOYEES. (a) The port
18 commission may employ and fix the compensation of a director, subject
19 to the approval of the governing body of the municipality. The direc-
20 tor serves at the pleasure of the commission. A member of the commis-
21 sion is not eligible to hold the position of director.

22 (b) The commission may retain legal counsel to advise the com-
23 mission in the proper performance of its duties. The legal counsel
24 shall represent the commission in actions brought by or against the
25 commission.

26 (c) The commission may employ other personnel considered neces-
27 sary by the commission.

28 (d) The employees of the commission may participate in municipal
29 retirement and insurance programs of the municipality.

- 1 Sec. 29.35.630. POWERS. The port commission may
- 2 (1) study and analyze the effect of economic changes and
- 3 growth of the waterfront and waterways;
- 4 (2) acquire, construct, repair, renovate, and manage sea
- 5 walls, jetties, piers, wharves, docks, boat landings, and other harbor
- 6 improvements, warehouses, cold storage plants, grain bins, bunkers,
- 7 ferries, bridges, and other facilities for the handling, storing, and
- 8 transporting of freight and passengers, or the processing of seafood,
- 9 agricultural products, and other goods;
- 10 (3) develop ^{and implement} long-range plans, in cooperation with the
- 11 governing body, designed to promote the economic growth of the munic-
- 12 ipality; ^{and the growth and efficiency of the port;}
- 13 (4) implement any plan of development ⁱⁿ waterways or in
- 14 the waterfront areas in accordance with the powers of the port au-
- 15 thority under AS 29.35.600 - 29.35.690 or the ordinance under which
- 16 the authority is established;
- 17 (5) make and enter into contracts necessary or incidental
- 18 to the exercise of its powers and the performance of its duties,
- 19 including agreements with other port commissions providing for shared
- 20 development or management of facilities located within the jurisdic-
- 21 tion of the commissions;
- 22 (6) acquire and convey, or otherwise dispose of, land and
- 23 other property;
- 24 (7) fix, charge, and collect fees, rents, and charges for
- 25 the use of ^{such} a building ^{facilities;} or property under its control or ~~any part of it;~~
- 26 or ~~facility in it,~~ and pledge the fees, rents, and charges for the
- 27 payment of revenue bonds issued by the authority;
- 28 (8) lease ^{such} a building ^{facilities;} or property ^{under} its control;
- 29 (9) accept grants and donations from ^{such} a public or private

1 source.

2 Sec. 29.35.640. EMINENT DOMAIN. A municipality may take private
3 property under AS 09.55.420 - 09.55.460 for the purpose of transfer to
4 the port authority, and may transfer the property to the authority on
5 terms and conditions it considers appropriate, and the taking, trans-
6 fer, and use shall be considered necessary for public purposes and for
7 the benefit of the public.

8 Sec. 29.35.650. FINANCING. (a) The activities of the port
9 authority shall be financed from one or more of the following sources:

10 (1) donations to the authority for the performance of its
11 functions;

12 (2) money borrowed and to be repaid;

13 (3) revenue from any property, building, or facility owned,
14 leased, licensed, or operated by the authority or under its control,
15 subject to the limitations imposed upon the authority by trusts or
16 other agreements; *or by the municipality;*

17 (4) money obtained from other sources approved by the
18 governing body of the municipality.

19 (b) Upon approval of a development plan under AS 29.35.670, the
20 authority may borrow money and issue negotiable revenue bonds as
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- 3 nation of the location, character, and extent of ~~the categories of~~
- 4 public and private land uses proposed for the project area;
- 5 (3) a description of existing improvements in the project
- 6 area to be demolished, repaired, or altered, a description of any
- 7 repairs and alterations, and an estimate of the time required for
- 8 completion;
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- 10 the improvements, including rehabilitation contemplated for the project
- 11 area and an estimate of the time required for completion;
- 12 (5) a statement of the construction or stages of construc-
- 13 tion planned, and the estimated time of completion of each stage;
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- 15 left as open space and the use contemplated for the space;
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- 17 the commission intends to sell, donate, exchange, or lease to or from
- 18 the municipality and the proposed terms;
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- 22 of the proposed method of financing the project and the ability of the
- 23 authority to arrange the financing;
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- 25 the project is to be leased, sold, or conveyed if that information is
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HBO209A HB 209

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