

SB 352

# HOUSE COMMITTEE REPORT

(11)

Date Referred: May 8, 1992

FURTHER REFERRALS:

Date of Committee Action: 5/10/92

The FINANCE Committee considered:

CSSB 352(FIN)

CS FOR SENATE BILL NO. 352 (FINANCE)

AUTHORIZE PORT AUTHORITIES

"An Act relating to the establishment of port authorities by municipalities; relating to public corporations of a municipality; and providing for an effective date."

**RECOMMENDATIONS:**

be replaced with HCS CSSB 352 (FIN)  the same title  
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

fiscal impact \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note \_\_\_\_\_

zero fiscal note(s) DOTPF 3/18/92  
DCED 5/6/92

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<u>Kay Brown</u> Brown	<input checked="" type="checkbox"/>	<u>Mark Boyer</u> Boyer		<input checked="" type="checkbox"/>	
<u>Roll E. Bell</u> Phillips	<input checked="" type="checkbox"/>	<del><u>Robert Kuomen</u></del> Kuomen		<input checked="" type="checkbox"/>	
<u>Ronald J. Larson</u> Larson	<input checked="" type="checkbox"/>	<u>Ben Sharp</u> Sharp		<input checked="" type="checkbox"/>	

Mark Boyer V-chair  
 CHAIRMAN'S SIGNATURE  
 Boyer

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

Bill Version: SB 352

(S) Publish Date: 3-18-92

FISCAL NOTE

Revision Date: 01/30/92  
Title: Authorize Port Authorities

Department Affected: DOT&PF  
BRU: Headquarters

Sponsor: Senator Pearce  
Requestor:

Component: Plans, Programs and Budget  
Component Serial Number: 0542

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY93	FY94	FY95	FY96	FY97	FY98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING:	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUNDS	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE	0	0	0	0	0	0
TOTAL FUNDING:	0	0	0	0	0	0

POSITIONS

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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary)

Changes in CS SB 352 (CRA) reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.

4/23/92 [Signature]  
date Comte Aide (initial)

Changes in CS SB 352 (TRANS) have no fiscal impact. This fiscal note is appropriate.

3/17/92 [Signature]  
date Comte Aide (initial)

Prepared by: Ron B. Lind, Director

Phone: 465-2171

Division: Plans, Programs and Budget

Date: January 30, 1992

Approved by Commissioner: [Signature]  
Frank G. Durpin

Phone: 465-3900

Agency: Department of Transportation and Public Facilities

Date: January 30, 1992

Distribution By Preparer: Leg. F

Changes in CS SB 352 (FID) have no fiscal impact. This fiscal note is appropriate.

g. Office, Impacted Agency(ies).

5-1-92 [Signature]  
date Comte Aide (initial)

FISCAL NOTE

No. 2

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

Bill Version: CSSB 352 (FIN)

(S) Publish Date: 5-6-92

Revision Date: \_\_\_\_\_

Department Affected: Commerce & Econ. Dev.

Title: Establishing port authorities by  
municipalities

BRU: Economic Development

Sponsor: Senator Pearce

Component: \_\_\_\_\_

Requestor: Senator Pearce

COMPONENT SERIAL NO. 

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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND RESOURCE:	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS (Attach a separate page if necessary.)

This bill enables a municipality or group of municipalities to establish port authorities as separate enterprises. It does not require their establishment.

Prepared By: Albert H. Clough, Development Specialist Phone: 465-2017

Division: Economic Development Date: 2/3/92

Approved by Commissioner: Glenn A. Olds for [Signature] Asst Comm.

Agency: Department of Commerce & Economic Development Date: 2-4-92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., and Impacted Agency(ies).

## HOUSE CS FOR CS FOR SENATE BILL NO. 352 (FINANCE)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:  
Referred:

Sponsor(s): SENATORS PEARCE, Collins

## A BILL

## FOR AN ACT ENTITLED

1 "An Act relating to the establishment of port authorities by municipalities; relating to  
2 public corporations of a municipality; and providing for an effective date."

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

4 \* Section 1. LEGISLATIVE FINDINGS AND POLICY. (a) The legislature finds that

5 (1) the development of ports for transportation related commerce is vital to attainment  
6 of an efficient and effective transportation network in the state;

7 (2) the development of ports is vital to the economic well-being of the state and of the  
8 future development of industry in the state;

9 (3) article X, sec. 13, Constitution of the State of Alaska, authorizes municipalities to  
10 make agreements for cooperative or joint administration of functions or powers and, under that authority,  
11 two or more municipalities may by agreement establish an authority;

12 (4) bond holders are not familiar with the state constitution and the authority granted to  
13 municipalities under the state constitution;

14 (5) it is in the interest of the state to provide port authorities with the power to issue

1 revenue bonds when permitted by a municipality in a port authority enabling ordinance.

2 (b) It is the policy of the state and, in the interest of promoting the health, security, and general  
3 welfare of all of the people of the state, a public purpose to provide a means for establishing a more  
4 efficient transportation system and to encourage economic growth in the state, including the development  
5 of its natural resources, by making it clear that municipalities are authorized to create municipal port  
6 authorities with the power to acquire, construct, and operate ports for transportation related commerce  
7 and to borrow money for the same.

8 \* Sec. 2. AS 29.35 is amended by adding new sections to read:

9 ARTICLE 9. PORT AUTHORITIES.

10 Sec. 29.35.600. PURPOSE OF AUTHORITIES. The purpose of a port authority is to  
11 provide for the development of a port or ports for transportation related commerce within the  
12 territory of the authority.

13 Sec. 29.35.605. ESTABLISHMENT OF PORT AUTHORITIES. (a) A port authority  
14 may be created by one of the following means:

15 (1) the governing body of a municipality may create by ordinance a port authority  
16 as a public corporation of the municipality;

17 (2) the governing bodies of two or more municipalities may create by parallel  
18 ordinances adopted by each of the governing bodies a port authority as a public corporation of  
19 the municipalities.

20 (b) One or more municipalities may join an authority established under (a)(1) or (2) of  
21 this section upon the adoption of parallel ordinances by the governing bodies of each affected  
22 municipality.

23 (c) A port authority created under this section is a body corporate and politic and an  
24 instrumentality of the municipality or municipalities creating it but having a separate and  
25 independent legal existence.

26 (d) Creation of a port authority under AS 29.35.600 - 29.35.730 is an exercise of a  
27 municipality's transportation system powers.

28 (e) The enabling ordinance by which a port authority is established must specify the  
29 powers, boundaries, and limitations of the port authority.

30 (f) An ordinance creating a port authority shall require approval by the voters of the  
31 municipality or municipalities participating in the authority in order for the authority to be

1 established.

2 (g) Nothing in AS 29.35.600 - 29.35.725 prevents a municipality or municipalities from  
3 creating or participating in a public corporation, including a port authority, in any form or manner  
4 not prohibited by law. However, the provisions of AS 29.35.600 - 29.35.725 only apply to and  
5 may only be utilized by a port authority created under this section.

6 Sec. 29.35.610. DISSOLUTION OF A PORT AUTHORITY. (a) The enabling  
7 ordinance by which a port authority is created must provide for the manner by which a port  
8 authority may be dissolved.

9 (b) If an authority ceases to exist, its assets shall be distributed to the municipalities that  
10 participated in the authority in proportion to the difference between their contributions to the  
11 authority and any outstanding debt or obligation of that municipality to the authority, provided  
12 that any obligation to bondholders then outstanding shall first be satisfied in full.

13 Sec. 29.35.615. MUNICIPAL PROPERTY. (a) A municipality may transfer and  
14 otherwise convey or lease real property, and any improvements to it, to an authority for use by  
15 the authority for the purposes set out in the ordinance adopted under AS 29.35.605.

16 (b) A municipality may transfer and otherwise assign or lease personal property to an  
17 authority for use by the authority for the purposes set out in the ordinance adopted under  
18 AS 29.35.605.

19 Sec. 29.35.620. POWERS. If provided in the enabling ordinance, an authority may

20 (1) sue and be sued;

21 (2) have a seal and alter it at pleasure;

22 (3) acquire an interest in a project as necessary or appropriate to provide financing  
23 for the project, whether by purchase, gift, or lease;

24 (4) lease to others a project acquired by it and upon the terms and conditions the  
25 authority may consider advisable, including, without limitation, provisions for purchase or  
26 renewal;

27 (5) sell, by installment sale or otherwise, exchange, donate, convey, or encumber  
28 in any manner by mortgage or by creation of another security interest, real or personal property  
29 owned by it, or in which it has an interest, including a project, when, in the judgment of the  
30 authority, the action is in furtherance of the authority's purposes;

31 (6) accept gifts, grants, or loans, under the terms and conditions imposed under

1 the gift, grant, or loan, and enter into contracts, conveyances or other transactions with a federal  
2 agency or an agency or instrumentality of the state, a municipality, private organization, or other  
3 person;

4 (7) deposit or invest its funds, subject to agreements with bondholders;

5 (8) purchase or insure loans to finance the costs of projects;

6 (9) provide for security within the boundaries of the authority;

7 (10) enter into loan agreements with respect to one or more projects upon the  
8 terms and conditions the authority considers advisable;

9 (11) acquire, manage, and operate projects as the authority considers necessary  
10 or appropriate to serve the authority's purposes;

11 (12) assist private lenders to make loans to finance the costs of projects through  
12 loan commitments, short-term financing, or otherwise;

13 (13) charge fees or other forms of remuneration for the use or possession of  
14 projects in accordance with the agreements described in this section, other agreements relating  
15 to the projects, covenants, or representations made in bond documents relating to the projects,  
16 or regulations of the authority relating to the projects;

17 (14) exercise the powers of eminent domain and declaration of taking within its  
18 physical boundaries under AS 29.35.030 to acquire land or materials for authority purposes;

19 (15) regulate land use within the boundaries of the authority;

20 (16) defend and indemnify a current or former member of the board, employee,  
21 or agent of the authority against all costs, expenses, judgments, and liabilities, including attorney  
22 fees, incurred by or imposed upon that person in connection with civil or criminal action in  
23 which the person is involved as a result of the person's affiliation with the authority if the person  
24 acted in good faith on behalf of the authority and within the scope of the person's official duties  
25 and powers;

26 (17) purchase insurance to protect and hold harmless its employees, agents, and  
27 board members from an action, claim, or proceeding arising out of the performance, purported  
28 performance, or failure to perform in good faith, of duties for, or employment with the authority  
29 and to hold them harmless from expenses connected with the defense, settlement, or monetary  
30 judgments from that action, claim, or proceeding; the purchase of insurance is subject to the  
31 discretion of the board; insurance purchased under this paragraph may not be considered

1 compensation to the insured person; and

2 (18) protect its assets, services, and employees by purchasing insurance or  
3 providing for certain self-insurance retentions; an authority may also maintain casualty, property,  
4 business interruption, marine, boiler and machinery, pollution liability, and other insurance in  
5 amounts reasonably calculated to cover potential claims against the authority or a municipality  
6 for bodily injury, death or disability, and property damage that may arise from or be related to  
7 authority operations and activities.

8 Sec. 29.35.625. BONDS OF A PORT AUTHORITY; SUPERIOR COURT  
9 JURISDICTION. (a) If authorized by the enabling ordinance, an authority may borrow money  
10 and may issue bonds on which the principal and interest are payable

11 (1) exclusively from the income and receipts of, or other money derived from,  
12 the project financed with the proceeds of the bonds;

13 (2) exclusively from the income and receipts of, or other money derived from,  
14 designated projects or other sources whether or not they are financed, insured, or guaranteed in  
15 whole or in part with the proceeds of the bonds; or

16 (3) from its income and receipts generally or a designated part or parts of them.

17 (b) All bonds may be sold at public or private sale in the manner, for the price or prices,  
18 and at the time or times that the authority may determine.

19 (c) Before issuing bonds, an authority shall provide for consideration at least sufficient,  
20 in the judgment of the authority, to pay the principal and interest on the bonds as they become  
21 due and to create and maintain the reserves for the payment that the authority considers necessary  
22 or desirable and meet all obligations in connection with the lease or agreement and all costs  
23 necessary to service the bonds, unless the lease or agreement provides that the obligations are  
24 to be met or costs are to be paid by a party other than the authority.

25 (d) Bonds shall be authorized by resolution of the authority, be dated, and shall mature  
26 as the resolution may provide, except that a bond may not mature more than 40 years from the  
27 date of its issue. Bonds shall bear interest at the rate or rates, be in the denominations, be in the  
28 form, either coupon or registered, carry the registration privileges, be executed in the manner, be  
29 payable in the medium of payment, at the place or places, and be subject to the terms of  
30 redemption that the resolution or a subsequent resolution may provide.

31 (e) All bonds issued under this section, regardless of form or character, are negotiable

1 instruments for all of the purposes of AS 45.01 - AS 45.09 (Uniform Commercial Code).

2 (f) The superior court has jurisdiction to hear and determine suits, actions, or proceedings  
3 relating to an authority, including suits, actions, or proceedings brought to foreclose or otherwise  
4 enforce a mortgage, pledge, assignment, or security interest brought by or for the benefit or  
5 security of a holder of the authority's bonds or by a trustee for or other representative of the  
6 holders.

7 Sec. 29.35.630. BONDS ELIGIBLE FOR INVESTMENT. Bonds issued under  
8 AS 29.35.625 are securities in which all public officers and public bodies of the state and its  
9 political subdivisions, all insurance companies, trust companies, banks, investment companies,  
10 executors, administrators, trustees, and other fiduciaries may properly and legally invest funds,  
11 including capital in their control or belonging to them. The bonds may be deposited with a state  
12 or municipal officer of an agency or political subdivision of the state for any purpose that the  
13 deposit of bonds of the state is authorized by law.

14 Sec. 29.35.635. VALIDITY OF PLEDGE. The pledge of revenue of an authority to the  
15 payment of the principal or interest on bonds or notes of the authority is valid and binding from  
16 the time the pledge is made, and the revenue is immediately subject to the lien of the pledge  
17 without physical delivery or further act. The lien of a pledge is valid and binding against all  
18 parties having claims of any kind against the authority irrespective of whether those parties have  
19 notice of the lien of the pledge.

20 Sec. 29.35.640. CREDIT OF STATE OR A MUNICIPALITY NOT PLEDGED. (a) The  
21 state and municipalities participating in an authority are not liable for the debts of that authority.  
22 Bonds issued under AS 29.35.625 are payable solely from the revenue of the authority and do  
23 not constitute a

24 (1) debt, liability, or obligation of the state or a municipality; or

25 (2) pledge of the faith and credit of the state or a municipality.

26 (b) An authority may not pledge the credit or the taxing power of the state or its  
27 municipalities. A bond issued under AS 29.35.625 must contain on its face a statement that

28 (1) the authority is not obligated to pay it or the interest on it except from the  
29 revenue pledged for it; and

30 (2) the faith and credit of the taxing power of the state or of a political  
31 subdivision of the state is not pledged to the payment of it.

1           Sec. 29.35.645. PLEDGES OF THE STATE AND MUNICIPALITIES. The state and  
2 municipalities participating in the authority pledge to and agree with the holders of bonds issued  
3 under AS 29.35.625 and with the federal agency, if any, that loans or contributes funds in respect  
4 to a project of the authority, that the state and the municipalities participating in the authority will  
5 not limit or alter the rights and powers vested in the authority by its enabling ordinance or other  
6 law so that it is unable to fulfill the terms of a contract made by the authority with those holders  
7 or that federal agency, or in any way impair the rights and remedies of those holders or that  
8 federal agency until the bonds, together with the interest on them and interest on unpaid  
9 installments of interest, and all costs and expenses in connection with an action or proceeding  
10 by or on behalf of those holders or that federal agency, are fully met and discharged. An  
11 authority is authorized to include this pledge and agreement of the state and the municipalities  
12 participating in the authority, insofar as it refers to holders of bonds of the authority, in a contract  
13 with those holders, and insofar as it relates to a federal agency, in a contract with that federal  
14 agency.

15           Sec. 29.35.650. LIMITATION OF LIABILITY. A liability incurred by an authority shall  
16 be satisfied exclusively from the assets or revenue of the authority. A creditor or other person  
17 does not have a right of action against the state or a municipality participating in an authority  
18 because of a debt, obligation, or liability of an authority.

19           Sec. 29.35.655. LIMITATION ON PERSONAL LIABILITY. A board member or  
20 employee of an authority is not subject to personal liability or accountability because of the  
21 execution or issuance of bonds.

22           Sec. 29.35.660. FIDELITY BOND. An authority shall obtain a fidelity bond in an  
23 amount determined by the board for board members and each executive officer responsible for  
24 accounts and finances of that authority. A fidelity bond must be in effect during the entire tenure  
25 in office of the bonded person.

26           Sec. 29.35.665. NO TAXING AUTHORITY. An authority may not levy an income or  
27 other tax.

28           Sec. 29.35.670. EXEMPTION FROM TAXATION. (a) An authority exercising the  
29 powers granted by the enabling ordinance under AS 29.35.600 - 29.35.730 is in all respects for  
30 the benefit of the people of the municipalities participating in the authority and the people of the  
31 state in general, for their well-being and prosperity, and for the improvement of their social and

1 economic condition. The real and personal property of an authority and its assets, income, and  
2 receipts are exempt from all taxes and special assessments of the state or a political subdivision  
3 of the state.

4 (b) Bonds issued by the authority under AS 29.35.625 are issued for an essential public  
5 and governmental purpose; therefore, the bonds, interest and income from them, and all fees,  
6 charges, funds, revenue, income, and other money pledged or available to pay or secure the  
7 payment of the bonds or interest on them are exempt from taxation except for inheritance,  
8 transfer, and estate taxes.

9 (c) Notwithstanding the provisions of (a) of this section, an authority and the  
10 municipalities participating in the authority may enter into agreements under which the authority  
11 agrees to pay the participating municipalities payments in lieu of taxes and special assessments  
12 on real and personal property of the authority that is within the taxing jurisdiction of the  
13 municipality.

14 (d) Nothing in this section creates a tax exemption with respect to the interests of a  
15 business enterprise or other person, other than the authority, in property, assets, income, or  
16 receipts, whether or not financed under AS 29.35.600 - 29.35.730

17 Sec. 29.35.675. DEVELOPMENT PLAN. In the enabling ordinance establishing the  
18 authority under AS 29.35.605 the authority shall be

19 (1) required to submit a development plan to the governing body of the  
20 municipality or municipalities participating in the authority; and

21 (2) prohibited from undertaking the construction or acquisition of a project unless  
22 the project appears in a development plan submitted to and approved by the governing body of  
23 the municipality or municipalities participating in the authority.

24 Sec. 29.35.680. ADMINISTRATION OF PORT AUTHORITIES; BOARD. (a) An  
25 authority shall be governed by a board of directors, which shall exercise the powers of the  
26 authority. The enabling ordinance establishing the authority under AS 29.35.605 must specify  
27 the number, qualifications, manner of appointment or election, and terms of members of the  
28 board.

29 (b) The board shall appoint a chief executive officer of the authority who serves at the  
30 pleasure of the board. The board shall fix the compensation of the chief executive officer.

31 Sec. 29.35.685. CONTINUATION OF COLLECTIVE BARGAINING AGREEMENTS;

1 APPLICATION OF AS 23.40.070 - 23.40.260. (a) A collective bargaining agreement for  
2 employees of the state or its political subdivisions who are transferred to an authority under  
3 AS 29.35.600 - 29.35.730 shall remain in effect for the term of the agreement or for a period of  
4 one year, whichever is longer, and shall be binding on the authority unless the parties agree to  
5 the contrary before the expiration of the agreement. A labor-management negotiation impasse  
6 declared after a transfer of employees under this subsection but before the negotiation of a new  
7 collective bargaining agreement shall be resolved as provided in the collective bargaining  
8 agreement, except that if the collective bargaining agreement does not provide for a resolution,  
9 then as provided in AS 23.40.070 - 23.40.260.

10 (b) Employees of the state or a political subdivision of the state transferred to an  
11 authority shall retain, for a period of one year following the date of transfer or for the duration  
12 of a collective bargaining agreement transferred under (a) of this section, whichever is greater,  
13 all rights of participation in fringe benefit programs available to the employees on the day before  
14 the transfer, or in programs substantially equivalent.

15 (c) AS 23.40.070 - 23.40.260 apply to employees of an authority established under  
16 AS 29.35.600 - 29.35.730 unless all municipalities participating in the authority are exempt under  
17 sec. 4, ch. 113, SLA 1972.

18 Sec. 29.35.690. BYLAWS AND REGULATIONS. (a) A board shall adopt bylaws and  
19 appropriate regulations consistent with the enabling ordinance to carry out its functions and  
20 purposes.

21 (b) A board shall adopt bylaws as soon after the establishment of the authority as  
22 possible and may from time to time, amend those bylaws. The bylaws may contain any  
23 provision not in conflict with law for the management of the business of the authority and for  
24 the conduct of the affairs of the authority, including

25 (1) the time, place, and manner of calling, conducting, and giving notice of  
26 meetings of the board and committees of the board, if any;

27 (2) the compensation of directors, if any;

28 (3) the appointment and authority of committees of the board, if any;

29 (4) the appointment, duties, compensation, and tenure of officers, directors, chief  
30 executive officer, and other employees, if any;

31 (5) procedures for adopting regulations;

- 1 (6) procedures for adopting bylaws;  
2 (7) procedures for making annual reports and financial statements; and  
3 (8) other matters for the conduct of business by the board.

4 Sec. 29.35.695. AUTHORITY SUBJECT TO PUBLIC RECORDS AND OPEN  
5 MEETINGS LAWS. An authority established under AS 29.35.605 is subject to AS 09.25.110 -  
6 09.25.220 and to AS 44.62.310 - 44.62.312.

7 Sec. 29.35.700. ANNUAL REPORT. Within 90 days following the end of the fiscal year  
8 of an authority, the board shall distribute to the mayor and governing body of each municipality  
9 participating in the authority a report describing the operations and financial condition of the  
10 authority during the preceding fiscal year. The report may include suggestions for legislation  
11 relating to the structure, powers, or duties of the authority or operation of facilities of the  
12 authority. The report must itemize the cost of providing each category of service offered by the  
13 authority and the income generated by each category.

14 Sec. 29.35.705. AUDITS. (a) The board shall have the financial records of an authority  
15 audited annually by an independent certified public accountant.

16 (b) An authority shall make all of its financial records available to an auditor appointed  
17 by a municipality participating in the authority for examination.

18 Sec. 29.35.710. REMEDIES. A holder of bonds or notes or coupons attached to the  
19 bonds issued by an authority under AS 29.35.625, and a trustee under a trust agreement or  
20 resolution authorizing the issuance of the bonds, except as restricted by a trust agreement or  
21 resolution, either at law or in equity, may

22 (1) enforce all rights granted under AS 29.35.600 - 29.35.730, the trust agreement  
23 or resolution, or another contract executed by the authority; and

24 (2) compel the performance of all duties of the authority required by  
25 AS 29.35.600 - 29.35.730 or the trust agreement or resolution.

26 Sec. 29.35.715. CLAIMS. For the purpose of judicial and regulatory proceedings by and  
27 against an authority, an authority and its board members and employees enjoy the same rights,  
28 privileges, and immunities as a municipality and municipal officers.

29 Sec. 29.35.720. CONFLICTING LAWS INAPPLICABLE. If provisions of  
30 AS 29.35.600 - 29.35.730 conflict with other provisions of this title, the provisions of  
31 AS 29.35.600 - 29.35.730 prevail.

1           Sec. 29.35.722. OWNERSHIP OR OPERATION OF CERTAIN STATE FACILITIES  
2 PROHIBITED. The state may not, without the approval of the legislature,

3           (1) convey or transfer the Alaska marine highway system, the Anchorage or  
4 Fairbanks international airports, or any other state asset, except state land as provided in  
5 AS 38.05.810 or surplused property, to an authority; or

6           (2) enter into an agreement with an authority under which the authority would  
7 operate the Alaska marine highway system, the Anchorage or Fairbanks international airports,  
8 or any other state facility, system, or function that employs one or more employees.

9           Sec. 29.35.725. DEFINITIONS. In AS 29.35.600 - 29.35.730, unless the context  
10 otherwise requires,

11           (1) "authority" means a port authority established under AS 29.35.605;

12           (2) "board" means the board of directors of an authority;

13           (3) "bonds" include bonds, bond anticipation notes, notes, refunding bonds, or  
14 other forms of indebtedness of the authority;

15           (4) "bylaws" or "bylaws of the authority" means the guidelines adopted by and  
16 amended by the board from time to time in accordance with AS 29.35.600 - 29.35.730;

17           (5) "port" means a facility of transportation related commerce located within the  
18 state;

19           (6) "project" means a port, dock, and administrative facilities, including property  
20 necessary in connection with the operation of a port;

21           (7) "project cost" or "cost of a project" means all or any part of the aggregate  
22 costs determined by an authority to be necessary to finance the construction or acquisition of a  
23 project, including without limitation to the cost of acquiring real property, the cost of constructing  
24 buildings and improvements, the cost of financing the project, including, without limitation,  
25 interest charges before, during, or after construction or acquisition of the project, costs related  
26 to the determination of the feasibility, planning, design, or engineering of the project and, to the  
27 extent determined necessary by the authority, administrative expenses, the cost of machinery or  
28 equipment to be used in the operation or rehabilitation of a port, and all other costs, charges,  
29 fees, and expenses that may be determined by the authority to be necessary to finance the  
30 construction or acquisition;

31           (8) "real property" or "land" means any interest in real property, including tidal

1 and submerged land, and any right appurtenant to the interest, and without limitation, interests  
2 less than full title such as easements, uses, leases, and licenses;

3 (9) "regulation" means a standard of general application or the amendment,  
4 supplement, revision, or repeal of a standard adopted by an authority to implement, interpret, or  
5 make specific the law enforced or administered by it or to govern its procedure.

6 Sec. 29.35.730. SHORT TITLE. AS 29.35.600 - 29.35.730 may be referred to as the  
7 Municipal Port Authority Act.

8 \* Sec. 3. AS 21.76.010(a) is amended to read:

9 (a) Municipalities and their public corporations, city and borough school districts, and  
10 regional educational attendance areas may enter into cooperative agreements with each other for  
11 the purpose of establishing, operating, or participating in joint insurance arrangements through  
12 which the participating members agree to pool contributions in order to either assume risks from  
13 losses to the participants on a group basis or purchase coverage for the participants on a group  
14 basis.

15 \* Sec. 4. AS 29.45.030(a) is amended to read:

16 (a) The following property is exempt from general taxation:

17 (1) municipal property, including property held by a public corporation of a  
18 municipality, or state property, except that

19 (A) a private leasehold, contract, or other interest in the property is taxable  
20 to the extent of the interest;

21 (B) notwithstanding any other provision of law, property acquired by an  
22 agency, corporation, or other entity of the state through foreclosure or deed in lieu of  
23 foreclosure and retained as an investment of a state entity is taxable; this subparagraph  
24 does not apply to federal land granted to the University of Alaska under AS 14.40.380  
25 or 14.40.390, or to other land granted to the university by the state to replace land that  
26 had been granted under AS 14.40.380 or 14.40.390;

27 (C) an ownership interest of a municipality in real property located outside  
28 the municipality acquired after December 31, 1990, is taxable by another municipality;  
29 however, a borough may not tax an interest in real property located in the borough and  
30 owned by a city in that borough;

31 (2) household furniture and personal effects of members of a household;

1 (3) property used exclusively for nonprofit religious, charitable, cemetery,  
2 hospital, or educational purposes;

3 (4) property of a nonbusiness organization composed entirely of persons with 90  
4 days or more of active service in the armed forces of the United States whose conditions of  
5 service and separation were other than dishonorable, or the property of an auxiliary of that  
6 organization;

7 (5) money on deposit;

8 (6) the real property of certain residents of the state to the extent and subject to  
9 the conditions provided in (e) of this section;

10 (7) real property or an interest in real property that is exempt from taxation under  
11 43 U.S.C. 1620(d), as amended;

12 (8) property of a political subdivision, agency, corporation, or other entity of the  
13 United States to the extent required by federal law; except that a private leasehold, contract, or  
14 other interest in the property is taxable to the extent of that interest.

15 \* Sec. 5. AS 38.05.810 is amended by adding a new subsection to read:

16 (i) Subject to AS 38.05.820, the commissioner may lease state land, including tideland,  
17 to a port authority established under AS 29.35.600 - 29.35.730, if the state land is within the  
18 physical boundaries of the authority and is needed by the authority for purposes provided in  
19 AS 29.35.600 - 29.35.730. A lease of state land under this section may be for less than the  
20 appraised market value.

21 \* Sec. 6. AS 44.85.410(3) is amended to read:

22 (3) "municipal bond" means a bond or note or evidence of debt that constitutes

23 (A) a general obligation bond that is a direct and general obligation of a  
24 political subdivision of the state, all the taxable property within which is subject to  
25 taxation to pay the bond, note or evidence of debt, and the interest without limitation, as  
26 to rate or amount generally to the extent permitted by law or to avoid a default as  
27 provided for second class cities under AS 29.45.590;

28 (B) a revenue bond, except a revenue bond for electrical generation  
29 purposes other than diesel-powered generation, issued by a municipality or a port  
30 authority that [WHICH] pledges the revenue of a revenue-producing capital  
31 improvement and that [WHICH] is payable solely from the revenue of the

1 revenue-producing capital improvement;

2 (C) a general obligation bond or revenue bond combined or additionally  
3 secured;

4 (D) a bond of a borough issued as a general obligation of a service area  
5 under AS 29.47.440 or former AS 29.58.340; or

6 (E) an obligation of a municipality secured only by

7 (i) special assessments on benefited property;

8 (ii) tax increments and a letter of credit or equal security; or

9 (iii) a lease for equipment or building improvements if the state is

10 not a lessee;

11 \* Sec. 7. This act takes effect immediately under AS 01.10.070(c).

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

240 Main Street, Suite 500  
Juneau, Alaska 99801-2101

### MEMORANDUM

May 10, 1992

**SUBJECT:** Port Authorities - HCS CSSB 352(FINANCE) (Work Order No. 17-LS1768\Y))

**TO:** Representative Mike Navarre

**FROM:** Jerry Luckhaupt *JEL*  
Legislative Counsel

Attached is the final HCS you requested for the above-referenced bill. I have included the conceptual amendment adopted by the committee. I question the need for the amendment. AS 44.62.310 expressly provides that it applies to:

[a]ll meetings of a legislative body, of a board of regents, or of an administrative body, board, commission, committee, subcommittee, **authority**, council, agency, or other organization, including subordinate units of the above groups, **of the state or any of its political subdivisions, including but not limited to municipalities**, boroughs, school boards, and all other boards, agencies, assemblies, councils, departments, divisions, bureaus, commissions or organizations, advisory or otherwise, of the state or local government supported in whole or in part by public money or authorized to spend public money, are open to the public except as otherwise provided by this section.

A port authority created by a municipality under HCS CSSB 352(FINANCE) would be covered by and would have to comply with the open meetings act (AS 44.62.310) by the plain language of the open meetings act itself.

GPL:mi  
92-068.mai

Attachment

346-35-

Amendment 7-LS1768V.1 ✓  
Attachment # 4 Luckhaupt  
05/09/92

AMENDMENT I

OFFERED IN THE HOUSE

TO: CSHB 352(FINANCE)

Page 11, line 1, following "PROHIBITED.", through line 6:

Delete all material.

Insert "The state may not, without the approval of the legislature,

(1) convey or transfer the Alaska marine highway system, the Anchorage or Fairbanks international airports, or any other state asset, except state land as provided in AS 38.05.810 or surplused property, to an authority; or

(2) enter into an agreement with an authority under which the authority would operate the Alaska marine highway system, the Anchorage or Fairbanks international airports, or any other state facility, system, or function that employs one or more employees."

*file*



*Department of Transportation  
and Public Facilities*

# POSITION PAPER

BILL NO: CSSB 352 (FIN)

APPROVED:

*Frank G. Turpin*  
Frank G. Turpin, Commissioner

TITLE: Authorize Port Authorities

DATE: May 8, 1992

The Department of Transportation and Public Facilities is in support of CSSB 352 (FIN), which provides for the creation of port authorities by municipalities.

*For Further Information contact Katy McHugh at 465-3900.*

SB 352: "An Act relating to the establishment of port authorities by municipalities."

The concept of a port authority is similar to an enterprise fund. Specifically, all the proceeds of user fees go into the port authority fund to pay for operations, maintenance, and to repay debts incurred in port development.

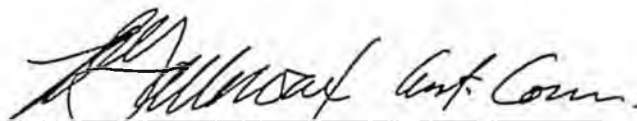
This legislation is enabling legislation. A municipality or several municipalities could join together to form a port authority. No municipality would be required to establish one; it is just an additional economic development tool. In some cases, several communities joining together in a port authority could provide the economics necessary to operate self-sufficiently.

The legislation allows municipalities to create the structure which makes the most sense for them. The port commission could be directly elected or could be appointed by the mayor and confirmed by the council or assembly. Port authority facilities could be exempt from taxes or could pay "in lieu of taxes."

Any debt incurred by the port authority will be its own debt and not the debt of the local government or the State of Alaska. Port authorities would not have the power to levy taxes but could receive taxes dedicated to it by a local government. A system such as this currently operates in Kodiak where 1% of their 5% sales tax is dedicated to the port fund.

Port authorities would be able to own and operate any kind of transportation facility such as a toll road, toll bridge, airport, etc. This will become more important as state oil revenues decline and less money is available for capital projects. Port authorities, in conjunction with lending institutions such as AIDEA, will provide a method to finance and maintain public transportation facilities which cannot be achieved any other way.

This type of legislation is recommended by the Alaska Municipal League. Furthermore, it is supported by this department.



Glenn A. Olds, Commissioner *GA*

Date: 2-4-92

Sponsor's Sectional Analysis of CS for SB-352 (Fin)

Section 1: Findings and Policy.

- a) Clarifies that the Constitution of Alaska (article X, sec. 13) authorizes municipalities to make agreements for cooperative or joint administration of functions or powers.
- b) Purpose is to clarify that municipalities are authorized to create port authorities.

ie powers come from the constitution and flow through the munis to the Port Authorities.

Section 2: Port Authorities.

29.35.600 Purpose.

self explanatory

29.35.605 Creation.

- a)
  - 1) The governing body of a municipality may create by ordinance a port authority as a public corporation of the municipality.
  - 2) The governing bodies of two or more municipalities may create by parallel ordinances adopted by each of the governing bodies a port authority as a public corporation of the municipalities.
- b) A municipality (borough) may join an existing port authority by adopting a parallel ordinance.
- c) Port authorities are instrumentalities of the muni, but they have separate and independent legal existence.
- d) Creation of a port authority is an exercise of a muni's transportation system powers.
- e) The enabling ordinance must specify the powers, boundaries, and limitations.
- f) The enabling ordinance shall require approval by the voters of the municipality.
- g) If a port authority is formed in a manner different than outlined in this bill, then provisions of this bill shall not be used unless they are all used. ie a port authority formed by cooperative agreement cannot use the revenue bonding provisions and then circumvent the public disclosure, public review, continuation of collective bargaining agreements, and other sections of this bill.

29.35.610 Dissolution.

- a) The enabling ordinance must provide for the manner in which the port authority is dissolved.
- b) Before a port authority can be dissolved it must first fully satisfy all bond holders. Assets are distributed to the forming munis in the proportion they were contributed.

29.35.615 Municipal Property.

- a) A muni may transfer, convey, or lease land.
- b) " may " " " " personal property.

29.35.620 Powers.

A pick list of powers that may be obtained by including them in the enabling ordinance follows. Page 3, line 20 through page 5, line 10.

sue or be sued.  
have a seal.  
acquire an interest in a project.  
lease a project.  
sell, etc. an interest.  
accept gifts, grants, loans, enter into contracts, conveyances, or other transactions.  
deposit and invest funds.  
purchase or insure loans.  
security within its boundaries.  
enter into loan agreements.  
acquire, manage, and operate projects.  
assist private lenders.  
charge fees or other forms of remuneration.  
exercise powers of eminent domain and declaration of taking within its boundaries.  
regulate zoning within its boundaries.  
defend and indemnify current or former board members, employees, and agents.  
purchase insurance for current or former board members, employees, and agents.  
insure assets, services, and employees

29.35.625 Bonds.

- a) A Port Authority may borrow on:
  - 1) the project being financed.
  - 2) other projects.
  - 3) other income.
- b) The Port Authority may sell bonds publicly or privately, for the price(s) and at the time(s) it determines.
- c) The project being financed by bonds must be able to pay back the bonds financing it.
- d) Bonds mature at 40 years or less.
- e) Bonds are negotiable instruments under AS 45.01 - AS 45.09 (Uniform Commercial Code).
- f) Superior Court has standing for disputes involving these bonds.

29.35.630 Bonds Eligible for Investment.

All public officers and public bodies of the state, insurance companies, trust companies, banks, investment companies, executors, administrators, trustees, and other fiduciaries may legally invest in these bonds.

ie anyone may buy these bonds.

29.35.635 Validity of Pledge.

The authority is bound to pay its bond debt.

29.35.640 Credit of State or a Municipality not pledged.

The state and municipalities participating in an authority are not liable for the debts of that authority. These bonds are payable solely from the revenue or assets of the authority.

29.35.645 Pledges of the State and Municipalities.

Pledges of the state or the municipalities participating in the Authority will not limit or alter the rights and powers of the Port Authority.

29.35.650 Limitation of Liability.

All liabilities incurred by the authority shall be satisfied exclusively from the assets or revenue of the authority.

29.35.655 Limitation of Personal Liability.

Board members and employees shall not be personally liable because of the execution of port authority bonds.

29.35.660 Fidelity Bond.

An Authority shall obtain a fidelity bond for board members and officers responsible for accounts and finances of the authority.

29.35.665 No Taxing Authority.

Self explanatory.

29.35.670 Exemption from Taxation.

- a) The land and personal property of an authority and its assets, income, and receipts shall be exempt from all taxes of the state.
- b) The bonds shall be tax free with the exception of inheritance, transfer, and estate taxes.

- c) The Authority may make payments to municipalities participating in the authority in lieu of paying taxes.
- d) Property, assets, income, and receipts of a business or person shall be taxable.

29.35.675 Development Plan

- 1) The enabling ordinance shall require the submission of a development plan to the governing body of the participating municipalities.
- 2) The enabling ordinance shall prohibit the construction or acquisition of a "project" unless the submitted development plan has been approved by the governing body of the participation municipalities.

29.35.680 Administration of Port Authorities; Board.

- a) The enabling ordinance shall specify the number, qualifications, manner of appointment or election, and the terms of members of the board.
- b) A CEO's service and compensation shall be at the discretion of the board.

29.35.685 Continuation of Collective Bargaining Agreements.

All collective bargaining agreements shall remain in effect for the term of the agreement or for one year, whichever is longer, and be binding on the Authority. Please see section 29.35.722 also.

29.35.690 Bylaws and Regulations.

- a) A board shall adopt bylaws and regulations.
- b) A board shall adopt bylaws as soon as possible and may amend those bylaws. Items on the following pick list may be included:

The time, place, calling, conducting, and giving notice of meetings of the board.

The compensation (if any) of directors (board members).

The appointment of board committees.

The appointment of duties, compensation, and tenure of officers, directors, chief executive officer, and other employees.

Procedures for adopting regulations.

Procedures for adopting bylaws.

Procedures for making annual reports and financial statements.

Other matters for the conduct of business by the board.

29.35.695 Authority Subject to Public Records Law.

The Port Authority is subject to Alaska's public records statute.

29.35.700 Annual Report

An Annual report is required 90 days after the end of the fiscal year.

29.35.705 Audits

Annual audits are required by an independent CPA and the books are required to be open to representative from the participating municipalities.

29.35.710 Remedies.

In the event of a lawsuit brought by a bond holder, this law applies to the bond holder.

29.35.715 Claims.

In the event of a lawsuit, an Authority and its board members and employees have the same legal rights as a municipality and its municipal officers.

29.35.720 Conflicting Laws Inapplicable.

In the event of a lawsuit, this law prevails over other state law.

29.35.722 Ownership or Operation of Certain State Facilities Prohibited.

The Department of Transportation may not convey, transfer, or enter into an operating agreement with the Alaska Marine Highway System, the Anchorage International Airport, or the Fairbanks International Airport, without the approval of the legislature.

29.35.725 Definitions

self explanatory

29.35.730 Short Title

May be called the Municipal Port Authority Act.

Section 3: Amends Title 21, Insurance.

This allows Port Authorities to participate in insurance pools.

Section 4: Amends Title 29, Municipal Government.

Adds public corporations (Port Authorities) to the tax exempt property list.

Section 5: Amends Title 38, Public Lands.

Permits the commissioner of DNR to lease land (tidelands) within the physical boundaries of the Port Authority where water access is necessary for the port to operate. The commissioner may lease this land at below market rates.

Section 6: Amends Title 44, State Government.

Adds Port Authorities to the organizations that can issue revenue bonds.

Section 7: Immediate Effective Date.

Policy Call Differences:

- 1) The Senate version mandates a vote of the people when a port authority is formed, the house version is permissive on this point. [Sec. 29.35.605(f) of both bills]
- 2) The Senate version mandates that a port authority formed in any manner different than outlined by this bill, prevents the use of the revenue bonding (as well as other) provisions of this bill. [Sec. 29.35.605(g) of Senate version] ie. This bill provides public disclosure and access provisions that could be circumvented if a port authority is formed in other ways.
- 3) The Senate version mandates the submittal of a development plan to the governing body and prohibits the construction or acquisition of a project unless approved by the governing body. [Sec. 29.35.675 of Senate version] This is a policy call made in (S)C&RA.
- 4) The Senate version protects, to a greater extent than the House version, the collective bargaining agreements of employees who are absorbed by a newly formed authority. [Sec. 29.35.685 of SB-352] The administration, AML, labor, and the sponsor negotiated the provisions of this section. Without trying to put words into labor's mouth: they are seeking mandatory legislative approval of any asset (with accompanying state employees) before transfer to a port authority. DOT can transfer assets to municipalities now without extending contracts, etc. The collective bargaining provisions currently in CSSB-352 (Fin) protect the status quo, extending legislative approval to transferring any asset gives labor protections beyond the status quo. The Senate version specifically prohibits the transfer of the Alaska Marine Highway system, Anchorage International Airport, or the Fairbanks International Airport unless approved by the Legislature.
- 5) The House version mandates that the Commissioner of DNR lease tidelands surrounding the port to the port authority. The Senate version makes this provision permissive. I would suggest that this provision needs to be mandatory. Please envision the problems of a Port Authority, that must make revenue bond payments, being denied the ability to cross the tidelands surrounding its port.

Technical Differences:

- 1) "Commerce" is defined differently in both versions. [page 1, line 5 of both bills], [Sec. 29.35.600 of each bill], [Sec. 29.35.725(5) of each bill]
- 2) Section 29.35.620 of the House version, **Conveyance of Other Land to Port Authority**, was removed from the Senate version. The functions of this section were included in number 6, Sec. 29.35.620 Powers of the Senate version.
- 3) The Senate version mandates the formation of bylaws and regulations.
- 4) The Senate version includes the power "declaration of taking" as well as eminent domain.
- 5) The House version expands upon the regulation of land use. [Senate version is in Sec. 29.35.620(15) and the House version is in Sec. 29.35.625(17)]
- 6) The Bonds of a Port Authority; Superior Court Jurisdiction section c of both bills is phrased slightly different. Intent is the same. [House version Sec. 29.35.630(c) vs. Senate version Sec. 29.35.625(c)]
- 7) The Senate version includes a section that limits personal liability of board members or employees of the authority. [Sec. 29.35.655 of the Senate version]
- 8) The Senate version includes the phrase "special assessments" in its **Exemption From Taxation** section. [Sec. 29.35.670(a) and (c) of the Senate version]
- 9) Public disclosure is handled somewhat differently in each bill. The intent is the same. [Sec. 29.35.695 of each bill]
- 10) The **Annual Report** sections of each bill are phrased slightly differently, because of the differences in public disclosure. [Sec. 29.35.700 of each bill]
- 11) The **Claims** sections of each bill is phrased differently. The intent is the same. [Sec. 29.35.715 of each bill]
- 12) "Port" is defined differently in each version. [Sec. 29.35.725(5) of each bill]

# STATE OF ALASKA

## DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

OFFICE OF THE COMMISSIONER

APR 24 1992  
WALTER J. HICKEL, GOVERNOR

3132 CHANNEL DRIVE  
JUNEAU, ALASKA 99601-7898  
PHONE: (907) 465-3900

April 23, 1992

The Honorable Drue Pearce  
Alaska State Senator  
State Capitol  
Juneau, Alaska 99801-1182

Dear Senator Pearce:

Your staff requested that we provide our comments on a proposal to require legislative approval before any state asset could be transferred to a port authority.

We are opposed to an amendment to Senate Bill 352 to require specific legislative review and approval prior to the transfer to or operations of any State asset by a port authority. This requirement would cause additional complications and delays for port authorities. It would also reduce the ability of the State to act in an expeditious manner to assist local government. Carried to the extreme, it appears that even the transfer of a piece of State surplus equipment would require legislative approval.

If there are some selected facilities that are so critical to the overall economy of the state, such as the Anchorage and Fairbanks International Airports, that they deserve policy consideration by the entire legislature those facilities should be identified. We don't believe that each and every asset reaches this policy level. If there are concerns with the process for transfer of an assets from the State to a political subdivision the legislature could consider changing the current statutes to identify a new process.

If you should require any additional information concerning this subject please feel free to contact my staff or myself.

Sincerely,

  
Frank G. Turpin  
Commissioner

cc: Ron Lind, Director, Plans, Programs and Budget  
Katy McHugh, Legislative Liaison, Office of the Commissioner  
D. Randy Simmons, Deputy Commissioner

# ALASKA STATE AFL-CIO

2501 Commercial Dr.  
Anchorage, Alaska 99501  
(907) 258-6281



819 1st Ave.  
Fairbanks, Alaska 99701  
(907) 456-2030

MANO FREY  
Executive President

GARY BROOKS  
Secretary / Treasurer

March 9, 1992

TO: Senate Transportation Committee:

RE: Senate Bills 341 and 352

We are writing this letter in response to your question on whether organized labor has any problems with Senate Bills 341 and 352. Besides the exemption from the Public Employees Relations Act (PERA) and the Public Employees Retirement System (PERS) Section in SB 352 which we would like removed (page 11 delete lines 20 through 27), we also would like to delineate further concerns which are listed below.

1) The question of whether or not Port Authorities (P.A.'s) created under the act will have an opportunity to opt out of PERA coverage under Chapter 113 SLA 1972 (the so-called Koslosky Amendment) must be dealt with in order to assure that collective bargaining rights are never infringed upon.

It is our concern that newly created P.A.'s (in essence public employers) would be able to opt out of PERA even though the original public employer was covered under the act. This is totally unacceptable. In response we have proposed language that would recognize the status quo with regard to local governments which are under PERA and thus protecting the rights of their employees and prospective employees.

Conversely, if a local government has already opted out under the Koslosky amendment in PERA we propose that the new P.A. would also reflect that status. Moreover, if more than one local government combine to form a P.A. and either one is covered under PERA then the P.A. would be covered under PERA. Below is our suggested language.

**AS 23.40.070 et.seq. Shall apply to the employees of an authority established pursuant to AS 29.35.600 - 29.35.795 unless the local government or all local governments participating in the Port Authority have been lawfully exempted from its provisions, in which case the requisite local bargaining ordinance shall apply.**

2) The question of the transference of state property and assets such as the International Airports or the Marine Highway to a P.A. must be addressed. Past legislation has been opposed by labor in regard to the above mentioned entities due to concerns regarding our current membership's future. In response, we propose two amendments that will insure the bargaining units status, working conditions, and benefits of existing employees subject to transfer.

a) The C&RA substitute incorporated some of the language we proposed from the Alaska Railroad Transfer Act which extended collective bargaining agreements in effect on the date of transfer to the state operated railroad. The committee substitute fell short of our goal of extending existing contracts for two years leaving the possibility of an agreement expiring one or two months after the date of transfer. This would create an environment that is insufficient for a bargaining unit to adapt to changed circumstances thus putting them in a very vulnerable position. Below is proposed language that we feel would be adequate enough by transferring the existing collective bargaining agreements to the P.A. for the duration of their term or one year (whichever is greater).

**Sec. 39.35.685 CONTINUATION OF COLLECTIVE BARGAINING AGREEMENTS.** (a) A collective bargaining agreement for employees of the state or its political subdivisions who are transferred to an authority under AS 29.35.600 - 29.35.725 shall remain in effect for the term of the agreement or for a period of one year, whichever is longer, and shall be binding upon the authority unless the parties agree to the contrary before the expiration of the agreement. Any labor-management negotiation impasse declared shall be resolved in accordance with AS 23.40.070 ET SEQ

(b) No employee of the authority shall suffer a loss in benefits due to the transfer from the state or its political subdivisions.

\*\*\*\*\*

b) It is our conviction that the interests of the state, its people, and its employees are best served if any transfer of state land or assets to a P.A. created under the Act must first be approved by an act of the legislature.

Reassurance by legislative counsel that such a transfer would probably be required is not sufficient to assuage our concern. In fact, legislative counsel raised a point that is of additional concern to us in regards to transferring the operation of, or contracting for the operation of state assets or enterprises with a P.A. Such entities, including the International Airports and the Marine Highway, could be subjected to such transference without legislative approval. In response we are proposing the following language.

**Sec. 29.35.\_\_\_\_\_ CONVEYANCE OF LAND, ASSETS, OR AUTHORITY TO OPERATE STATE ASSETS OR FACILITIES.** (a) Any transfer of state land or assets, or the delegation of authority to operate a state transportation facility or asset to a Port Authority shall be subject to approval by an Act of the Legislature.

(b) Conveyance of state assets, other than raw land as defined by AS\_\_\_\_\_, shall not become final until a P.A. has been in existence for at least one year.

\*\*\*\*\*

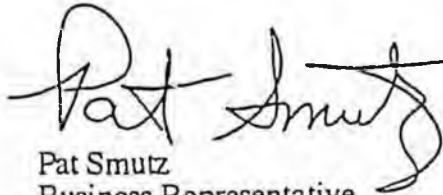
Though we do not consider ourselves legislative draftsmen, we do know what we want to accomplish. The above amendments we want you to incorporated will provide us

with the security that we need to insure our members needs are addressed. Our suggested changes should not hurt your legislation.

As you know our members interests come first. We are willing to work with you on this bill which we believe will eventually provide additional jobs along with the economic development the bill is purported to foster.

Thank you for your consideration.

Sincerely,



Pat Smutz  
Business Representative  
Alaska AFL-CIO



Bruce Ludwig  
Business Manager, APEA/AFT



Ed Flanagan  
Business Agent, Local 71



Jon Stables  
Assistant Business Manager, ASEA

cc: Senator Drue Pearce  
Senator Jim Duncan



ANCHORAGE  
ECONOMIC  
DEVELOPMENT  
CORPORATION

### Board Resolution

Whereas, the planning, construction and operation of ports is integral to the economic development of an area; and,

Whereas, port issues are often regional in nature; and,

Whereas, current Alaska state law requires that ports and port authorities be limited in jurisdiction to local government boundaries; and,

Whereas, this local limitation can prevent the regional cooperation that is often necessary for the most effective development and operation of regional port facilities;

Then Be It Therefore Resolved that the Board of Directors hereby endorses legislation that would allow for the formation of regional port authorities.

Passed and approved this 25th day of March, 1992.

Ronald A. Duncan, Chairman

Concur:



CITY OF WASILLA

290 E. HERNING AVE.  
WASILLA, ALASKA 99654-7091  
PHONE: (907) 373-9050  
FAX: (907) 373-0788

10 1992

March 10, 1992

The Honorable Drue Pearce, Chairman  
Senate Labor and Commerce Committee  
P. O. Box V  
Juneau, Alaska 99811

Dear Senator Pearce:

The City of Wasilla supports legislation providing for the formation of local and regional port authorities. Enclosed Resolution 92-10 was passed unanimously by the City Council on March 9.

Please support appropriate legislation.

Sincerely,

John C. Stein  
Mayor, City of Wasilla

JCS/sbh

cc: Mayor Ernie Brannon, Mat-Su Borough  
Mat-Su Borough Port Commission Chairman



Requested by: Administration  
Prepared by: Administration

## CITY OF WASILLA

290 E. HERNING AVE.  
WASILLA, ALASKA 99654-7091  
PHONE: (907) 373-9050  
FAX: (907) 373-0788

### RESOLUTION NO. WR92-10

A RESOLUTION OF THE CITY COUNCIL OF WASILLA, ALASKA URGING THE ALASKA STATE LEGISLATURE TO PASS LEGISLATION PROVIDING FOR THE FORMATION OF LOCAL AND REGIONAL PORT AUTHORITIES.

WHEREAS, the people of Alaska find themselves with many opportunities in maritime and aviation commerce, international trade, tourism, fisheries, oil and mineral development, transportation and other industries in Alaska; and

WHEREAS, ports are vital to Alaska's economic well-being and future economic development of these industries and new industries in Alaska; and

WHEREAS, the future development of ports in Alaska will require the expenditure of large sums of money and the close cooperation of the State of Alaska, its regions, and political subdivisions in the encouragement of the investment of capital and the formulation and execution of the necessary physical plans; and

WHEREAS, it is confidently believed that a better coordination of ports, harbors, transportation and other facilities of commerce in, about and through ports in Alaska, will result in greater economies, benefitting the people of Alaska; and


WHEREAS, the foregoing are best accomplished through the enactment of legislation expressly authorizing the formation of local or regional port authorities, defining the purposes, jurisdictions, powers and duties for such authorities, and authorizing the issuance of self-liquidating revenue bonds by them to finance acquiring, constructing, equipping, maintaining and operating of their ports; and

WHEREAS, the foregoing can best be accomplished through the cooperation of one or more of the regions and communities in Alaska by and through one or more joint and common port authorities.

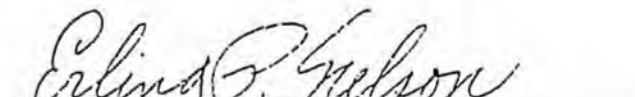
NOW, THEREFORE BE IT RESOLVED that the Wasilla City Council urges the Alaska legislature to proceed with all due speed to enact legislation expressly to allow and to provide for the structure for the formation of local and regional port authorities within Alaska and that once enacted, the legislation be signed into law by the Governor of the State of Alaska.

I certify that a resolution in substantially the above form was passed by a majority of those voting at a duly called and conducted meeting of the governing body of the City of Wasilla this 9th day of March, 1992.

APPROVED:

  
John C. Stein, Mayor

ATTEST:

  
Erling P. Nelson, CMC  
City Clerk

(Seal)

(Back up for this Resolution was provided in your boxes)

# ALASKA RAILROAD CORPORATION



P.O. Box 107500 • Anchorage, Alaska 99510-7500

February 5, 1992

The Honorable Drue Pearce  
Senator  
Alaska State Senate  
Room 101 Capitol  
P.O. Box V  
Juneau, Alaska 99801

Dear Senator Pearce:

Thank you for the opportunity to respond to the proposed legislation (SB 352) pertaining to the creation of port authorities within the state. I want you to know that the Alaska Railroad Corporation fully supports the basic concepts outlined in the bill and certainly applaud your efforts to make it become a reality.

We view this as an opportunity by the State of Alaska and its communities to participate in the world market place by opening our horizons in developing the state's natural resources as well as an opportunity to build upon the state's internal infrastructure.

As I review this legislation, I would like to propose that you consider the possibility of including the Alaska Railroad as a participant with a regional port authority since it is a major land owner in several port communities. As the legislation is presently crafted, only municipalities can establish an authority. Whenever this Corporation can play a role in participating with surrounding communities to form such an authority, we want to assist. With our input, this can help diversify Alaska's transportation needs whether it be rail, highway, air or water transportation.

Please let me know what assistance I can provide to make this a reality. Thank you again for your efforts, and also for the opportunity to respond to this proposed legislation.

Yours very truly,

A handwritten signature in dark ink, appearing to read 'Robert S. Hatfield, Jr.', written in a cursive style.

Robert S. Hatfield, Jr.  
President & Chief Executive Officer

A Resolution of the Alaska Municipal League Board of Directors

Board Resolution No. 92-1

A RESOLUTION URGING THE PASSAGE OF LEGISLATION  
TO ALLOW FOR LOCAL AND REGIONAL PORT AUTHORITY

WHEREAS, the people of Alaska find themselves with many opportunities in maritime and aviation commerce, international trade, tourism, fisheries, oil and mineral development, timber development, transportation, and other industries in Alaska;

WHEREAS, ports are vital to Alaska's economic well-being and future economic development of these industries and new industries in Alaska;

WHEREAS, the future development of ports in Alaska will require the expenditure of large sums of money and the close cooperation of the State of Alaska, its regions, and political subdivisions in the encouragement of the investment of capital and the formulation and execution of the necessary physical plans;

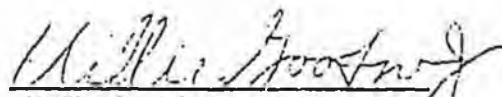
WHEREAS, it is confidently believe that a better coordination of ports, harbors, transportation, and other facilities of commerce in, about and through ports in Alaska, will result in greater economies, benefiting the people of Alaska;

WHEREAS, the foregoing are best accomplished through the enactment of legislation expressly authorizing the formation of local or regional port authorities, defining the purposes, jurisdictions, powers, and duties for such authorities, and authorizing the issuance of self-liquidating revenue bonds by them to finance acquiring, constructing, equipping, maintaining and operating of their ports;

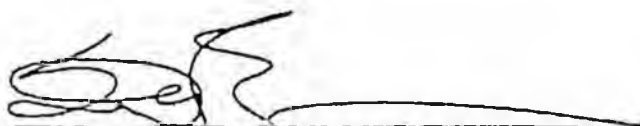
WHEREAS, the foregoing can best be accomplished through the cooperation of one or more of the regions and communities in Alaska by and through one or more joint and common port authorities;

NOW, THEREFORE, BE IT RESOLVED that the Alaska Municipal League urges the Alaska legislature to proceed with all due speed to enact legislation expressly to allow and to provide for the structure for the formation of local and regional port authorities within Alaska and that once enacted, the legislation be signed into law by the Governor of the State of Alaska.

Adopted this 16th day of November 1991.

  
Willie Goodwin, Jr., President

Attest:

  
Scott A. Burgess, Executive Director



# Alaska Association of Harbormasters & Port Administrators, Inc.

334 Front Street  
Ketchikan, Alaska 99901

November 12, 1991

Jerome Selby, President  
Alaska Municipal League

Post-It™ brand fax transmittal memo 7671		# of pages >
To	RICH WILSON	From
Co.	City of Ketchikan	City of Ketchikan
Dept.	2171	Phone #
Fax #	561-4674	Fax #
		228-5632
		225-5075

Dear Mr. Selby:

The Alaska Association of Harbormasters and Port Administrators recently held its annual conference in Kenai, Alaska. One of the presentations and items of discussion was the Department of Transportation and Public Facilities Ports and Harbors Task Force proposal: Sustaining and Developing Alaska's Ports and Harbors.

Our Association supports the proposal and the essential program elements outlined in the report. The three components: Development Plan, Financial Foundation, and Cooperation must be supported to enhance our facilities and local economies.

The Alaska Association of Harbormasters and Port Administrators feels very strongly that a Financial Foundation must be established as the first step in implementing the proposal. Our Association also feels that harbor maintenance which the State has deferred can be deferred no longer. To that end we request the State appropriate sixty million dollars to perform deferred maintenance of existing facilities, provide matching funds for U. S. Army Corps of Engineers projects, and fund new harbor development.

Please convey our position to your members as you discuss the State-wide Proposal. We are aware that funds are limited and other programs may have a higher priority. We are the operators of facilities that are twenty to forty years old; facilities that are the property of the citizens of our State; facilities that are of great importance to our/your local economy.

Please support us in our efforts.

Sincerely,



A. D. Ensley II, President  
Alaska Association of Harbormasters  
and Port Administrators

President: R. B. Stiles  
1227 West 9th Ave, Suite 201  
Anchorage, Alaska 99501  
Tel. (907) 276-6868  
Fax. (907) 276-2395



## Alaska Coal Association

Secretary: Charles P. Boddy  
122 First Avenue, Suite 302  
Fairbanks, Alaska 99701  
Tel. (907) 452-2625  
Fax. (907) 451-6543

Senator Drue Pearce

Subject: Port Authority Legislation

Dear Senator Pearce,

Attached please find a resolution in support of the enactment of legislation enabling the establishment of local and regional Port Authorities. This resolution was passed by the Alaska Coal Association at our annual meeting in November of 1991.

We believe that the establishment of local and, more importantly, regional Port Authorities is essential to the health and growth of the coal industry in the State of Alaska.

While Alaska is rich in natural resources, in state markets for coal, timber and minerals are small to non-existent. In state sources of capital needed to develop these resources are equally small. Thus, developers and producers of Alaska's natural resources must pursue external markets and sources of capital. A critical concern of both customer and capital markets is the inadequate transportation and port infrastructure of Alaska.

Development of transportation systems and port facilities is, for the most part, a function and responsibility of the public sector. While transportation systems are developed largely in response to a general public need, ports are developed in response to more specific needs. Development of ports in Alaska is, at best, a uncoordinated and marginally effective effort of various public and private sector entities. We believe that legislation enabling the establishment of Port Authorities has the potential for significantly increasing the effectiveness of port development.

Given that, in many circumstances, an area served by a port would encompass multiple local political subdivisions it is essential that legislation enabling the establishment of Port Authorities allow for both local and regional authorities.

Development of adequate transportation and port infrastructure is a long term and evolving process. We believe that legislation such as SB 352 is essential to this long term process. Such legislation sends a clear message to both customer and capital markets that Alaska is not only committed to fostering the development of its natural resources; but is equally committed to the development of the transportation and port infrastructure systems needed to get these resources to market.

President: R. B. Stiles  
1227 West 9th Ave, Suite 201  
Anchorage, Alaska 99501  
Tel. (907) 276-6868  
Fax. (907) 276-2395



Alaska Coal Association

Secretary: Charles P. Boddy  
122 First Avenue, Suite 302  
Fairbanks, Alaska 99701  
Tel. (907) 452-2625  
Fax. (907) 451-6543

### RESOLUTION

WHEREAS, the people of Alaska find themselves with many opportunities in maritime and aviation commerce, international trade, tourism, fisheries, oil and mineral development, timber development, transportation, and other industries in Alaska;

WHEREAS, ports are vital to Alaska's economic well-being and future economic development of these industries and new industries in Alaska;

WHEREAS, the future development of ports in Alaska will require the expenditure of large sums of money and the close cooperation of the State of Alaska, its regions, and political subdivisions in the encouragement of the investment of capital and the formulation and execution of the necessary physical plans;

WHEREAS, it is confidently believed that a better coordination of ports, harbors, transportation and other facilities of commerce in, about and through ports in Alaska, will result in greater economies, benefiting the people of Alaska;

WHEREAS, the foregoing are best accomplished through the enactment of legislation expressly authorizing the formation of local or regional port authorities, defining the purposes, jurisdictions, powers, and duties of such authorities, and authorizing the issuance of self-liquidating revenue bonds by them to finance acquiring, constructing, equipping, maintaining and operating of their ports;

WHEREAS, The foregoing can best be accomplished through the cooperation of one or more regions and communities in Alaska by and through one or more joint and common port authorities;

NOW THEREFORE BE IT RESOLVED, that the undersigned urges the Alaska legislature to proceed with all due speed to enact legislation expressly to allow and to provide the structure for the formation of local and regional port authorities within Alaska and that once enacted, the legislation be signed into law by the governor of the State of Alaska.

Passed by the members of the Alaska Coal Association on November 6, 1991.

TESTIMONY OF J. J. BRECHT  
BEFORE THE  
SENATE TRANSPORTATION COMMITTEE  
ON  
SENATE BILL 352

Anchorage, Alaska  
February 6, 1992

Good afternoon. My name is Julius J. Brecht, and I am an attorney in private practice with the law firm of Wohlforth, Argetsinger, Johnson and Brecht, with offices in Anchorage, Alaska. I wish to thank the committee for the opportunity to offer this written testimony to the record on Senate Bill 352.

In the way of further introduction of myself and the bill before you, I am the former Director of the Alaska Division of Banking and Securities and practice law in the corporate, finance, and securities areas. I have resided in Anchorage since leaving the division in 1980. I have been involved with various civic and professional groups studying issues of importance to Alaska. Over the past year, I have chaired an ad hoc committee composed of representatives of the Matanuska-Susitna Borough, the Municipality of Anchorage, and several private individuals including myself. We call ourselves the Port Authority Committee.

The common interest of the committee members has been the consensus that port authorities offer an opportunity to support and encourage economic development in an area as yet essentially untapped in Alaska. It is true that Alaska has many harbors and ports. However, with limited exception, these present facilities are woefully under utilized and with limited exception are not in a position to compete in a world marketplace even though Alaska has many resources to offer in that marketplace.

The first charge of the committee was to prepare a resolution to encourage individuals and organizations in Alaska to support the introduction and

enactment of legislation providing for the establishment of port authorities in Alaska. It soon became apparent subsequent to the preparation of that resolution that precious time was being lost in waiting for a draft of such legislation to be produced. I personally volunteered to prepare a first draft of the legislation. That first draft has become SB 352 which is before you today.

The resolution prepared by the Port Authority Committee notes that the people of Alaska find themselves with many opportunities in waterborne and other commerce and other industries in Alaska. The resolution further states that ports are vital to Alaska's economic well-being and future economic development of these industries and new industries in Alaska. In some respects, Alaska can have the greatest natural resource wealth in a number of areas. However, without the infrastructure to get it to market, it is, in large respect, worthless and, in any case, it contributes very little to the economic base in this state. The net result is that we become even more dependent upon existing sources of economic activity, e.g., oil, and even more dependent upon government to "spend" its way out of problems.

An alternative means for economic development and a proven use in other states and countries is the establishment of port authorities and the development of ports in Alaska.

The SB 352 is an attempt to allow for the establishment of such port authorities. Please note that the legislation permits, but does not require, the formation of port authorities.

Briefly, the mechanism set forth in the bill is to allow one or more municipalities to form a port authority by the adoption of parallel ordinances. The port authority would be formed as a public corporation and instrumentality of the municipality or municipalities creating it. It will have separate legal existence from those municipalities. The bill sets out various powers that a port authority may have. One very critical power will be the authority to issue revenue bonds. However, the bill expressly provides that neither the faith and credit of the state nor of the municipalities participating in a port authority will be involved in the issuance of such bonds or other obligations of the port authority.

The bill provides for the establishment of port authorities by local government and not by the state. The bill then does not provide for simply establishing another state program which would be in competition with other state programs for shrinking state revenues in the future. That is, the bill will allow access by a port authority to the revenue bond marketplace separate from that of the state revenues. Furthermore, the particular project which is the subject of the revenue bonds will have to be economically feasible in order to be sold in that marketplace.

The bill provides for a structure of a port authority including the appointment of a board of directors by the governing bodies of the municipalities participating in the port authority. That board of directors will, in turn, hire an executive director to carry out the directives and manage the day-to-day operations of the port authority.

The bill expressly provides that the port authority will have no taxing authority.

The bill, in essence, provides that one or more municipalities may contract with one another to establish a port authority and carry out economic development within that port authority.

I would be most pleased to respond to any questions which you may have regarding the bill, the resolution, or the concept of port authorities. Thank you again for the opportunity to submit testimony before this body.

*Port of Dutch Harbor*  
*P.O. Box 89*  
*Unalaska AK 99685*  
*Office: 581-1254 - Fax: 581-2519*

February 6, 1992

Senator Drue Pearce  
P.O. Box V  
Juneau AK 99811

SUBJECT: Senate Bill 352 - Establishing Port Authorities

Dear Senator Pearce:

The City of Unalaska has been asked to provide comments on SB 352 and its companion bill, HB 399. The City of Unalaska owns and operates the Port of Dutch Harbor. I am under contract to serve as a port consultant to the City of Unalaska.

There is an amusing coincidence in the port authority bills being heard this week, just six days after last weekend's dedication of the Unalaska Marine Center. Various legislators, officials of the Hickel administration and other participants in the new Dutch Harbor port project were in Unalaska/Dutch Harbor Jan. 31 and Feb. 1 for its dedication. Publicly and privately citizens and community leaders, shipping executives and fishing industry leaders spoke of the importance of the project and how it required innovative financing and cooperation from the funding agency and the users. The 731-foot dock with its petroleum handling system and container freight capacity mean more freight, jobs and general commerce in the Unalaska/Dutch Harbor community and throughout the region.

It is impossible to determine at this early point in the project's life what effect a port authority would have or could have had on the development of the Unalaska Marine Center. Therefore I will provide comments on behalf of the City of Unalaska prospectively, based on my experience in the public port industry. In a community as directly dependent on its port as Unalaska/Dutch Harbor, everyone is involved in port planning and operation. The Unalaska City Council last year created a Harbor Advisory Commission to oversee port and harbor activity throughout the community. As an advisory body this nine-member Commission will make recommendations to the City of Unalaska on issues and operations relating to marine commerce and the area's marine resources.

Having just constructed a new container and petroleum terminal and having recently established the Commission to expand the community's involvement in marine affairs, the City of Unalaska is not presently in need of a new instrument to satisfy the management of its marine affairs. It is entirely possible, however, that as the new facility gains an operating history and as new projects are considered, the prospect of establishing an authority may

Senator Drue Pearce - Page 2

appeal to the administration of the City of Unalaska and the City Council. In all likelihood it would be the community's Harbor Advisory Commission which would first perceive the need for utilizing port authority legislation as outlined in SB 352 and HB 399.

For Unalaska and other developing ports, the benefits of the proposed legislation are readily evident. Perhaps the most important attribute of the legislation is that it takes nothing away from present city-operated ports throughout coastal Alaska.

The legislation does contain three important features that stand out as substantial benefits for mature port organizations:

1. The bills allow establishment of local independent port authorities as political subdivisions of the State of Alaska. Therefore the port is neither an instrument of the local government nor of the State of Alaska and is subservient to neither.
2. Cooperative port authorities can be formed under the legislation by two or more local governments, promoting cooperation and coordination while reducing the prospect of redundancy and destructive competitiveness.
3. Port authorities are provided a project-specific financing method under these bills. The funding mechanism does two things: it protects the local government and the state in the event of default and it sends a clear message to the bond market that projects financed by Alaska port authorities must meet certain requirements and satisfy the lending market on their own, i.e., without being backed up by the full faith and credit of the city in question or the State of Alaska.

There are a variety of other aspects to the bills that are positive and noteworthy. The appointment instead of election of members to the board of directors is wholly appropriate. Over the past decade Alaskans have been contemplating port authority legislation amid a debate over whether board members/commissioners should be elected or appointed. The bills favor appointed members for two good reasons, I believe. Alaska does not need a new political regime with candidate advertising, fund raisers, APOC reports and the rest of the necessities and realities of political campaigning. Nearly as important is the recognition the bills' appointment language gives the established local political hierarchy: appointments will come in some manner from the local governing body and the local governmental administration as determined by those entities. In other words, the locals get to determine how to create the new board and manage future appointments to the board of directors for their port authority.

And although the legislation creates authorities which have "...a separate and independent legal existence," new projects require approval of the governing body that created the port authority. This section of the legislation insures that the authority initiates projects that are feasible both practically and politically.

The significant missing piece in the legislation is the ability to tax. Over the years that I have been following port authority legislation in Alaska the inability to create authorities with

Senator Drue Pearce - Page 3

taxing power has been seen as a fatal flaw. In the case of these bills, however, a compromise has been struck. The ability to sell bonds provides the port revenues to develop economically self-supporting projects. Absent sufficient revenues from port operations, however, an authority will need other funding support. The authority can gain that support by increasing revenues, by implementing efficiencies, or by soliciting funds for operations from the local government. In other words, to enjoy the power of taxation the authority need only go to its local government and be persuasive. The port has two options: be self-sustaining or seek support from local taxes. It doesn't require advanced degrees in rocket science to anticipate that only those localities which have strong evidence that their proposed port authorities are going to be self-supporting will create authorities under this legislation. The balance of the ports will retain control at the local government level.

In summary, the legislation has immediate value for mature port organizations seeking independence. It also offers a project-related funding mechanism and a vehicle for cooperation between two or more ports. While benefiting from these new powers, the ports formed under the proposed authority legislation will also be called on to exhibit considerable financial and political maturity. The legislation also serves as a model which some of the faster growing ports, like the Port of Dutch Harbor, can aspire to. The powers that the proposed legislation would extend to local authorities will inspire many port promoters in Alaska's coastal communities to sharpen their pencils and perhaps to dream a little. The responsibilities, however, are quite sobering and will likely derail more than a few ill-conceived schemes.

Thank you for the opportunity to provide comments on this well thought out bill. If it becomes law it will serve as an effective new instrument to aid in port development and management.

Please contact me if there are any questions concerning these comments. A similar letter is being transmitted to Rep. Larry Baker concerning HB 399.

Sincerely,



Tyler Jones

Post-It™ brand fax transmittal memo 7671		# of pages > 3
To KEN ERICKSON	From TYLER JONES	
Co. Sen. Pearce's Office	Co. Port of Dutch Harbor	
Depl.	Phone # 274-9559	
Fax # 463-5352	Fax # 276-8967	



# PORT OF BELLINGHAM

*Washington State*

DATE: February 25, 1992

TO: Representative William Hudson and  
Representative Jerry Mackie,  
Alaska State Legislature

VIA: Reed R. Stoops  
FAX NO. (907) 463-4841

## COMMENTS ON PROPOSED HOUSE BILL NO. 399

BY: THOMAS J. GLENN, FORMER OFFICER OF THE PORT OF BELLINGHAM  
- PORT ENGINEER, July, 1958 through December, 1962  
- GENERAL MANAGER, January, 1963 through January, 1983

This draft legislation would provide for the setting up of port authorities in the State of Alaska as marine and transportation facilities- and operations-focused departments of municipal entities - towns, cities, and boroughs.

The sole source of funds to pay costs of operating the authority is revenue from its operations. This provision assures that the port will never become a drain on the funds of its parent municipality. It also assures that the port will function as no more than a city's (or borough's, or both) waterfront department.

This scope of activity is different - notably less - than port district operations in, say, the State of Washington, where ports are politically autonomous and are granted certain taxing powers. The reason for this difference must be sound since it reflects a different assignment for port authorities by the State of Alaska.

With this difference in mind, I would suggest that a "start-up" fund may need to be provided to enable a port authority to open offices, hire its embryo staff, and start operations.

The revenue bond provisions are comprehensive and clear.

### QUESTIONS:

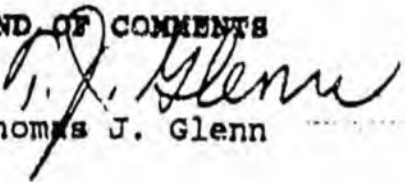
1. Should Section 29.35.635 be expanded to note that the port authority must abide by all the laws, rules, etc., of authorities above it. That is, is the authority given the position of licensee, not licensor, concerning building permits, etc.?

COMMENTS ON PROPOSED HOUSE BILL NO. 399  
BY: THOMAS J. GLENN  
PAGE 2

2. Under Section 29.35.605(3)(d), would the goals of each port authority be so different that the definition of powers could not be set forth once at the State level?

Section 29.35.705 provides commendable flexibility in light of the variation of size, resources, and type of Alaskan communities that may desire to implement port authority operations.

END OF COMMENTS

  
Thomas J. Glenn