

HB

399

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 15, 1992

FURTHER REFERRALS: Community & Regional Affairs  
Finance

Date of Committee Action: 2/6/92

The TRANSPORTATION Committee considered:

HB 399

HOUSE BILL NO. 399

AUTHORIZE PORT AUTHORITIES

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

RECOMMENDATIONS:

be replaced with CS HB 399 (Trans)  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 Dept of Transportation

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

SIGNING <u>DO PASS</u>	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Eugene J. Kuhner</i>	X				
<i>Neil Hudson</i>	X				
<i>(Drew) D. Leman</i>	✓				
<i>Gail Phillips</i>	✓				
<i>Angie Mah...</i>	✓				
<i>Richard Joseph</i>	*				

*Richard Joseph*  
CHAIRMAN'S SIGNATURE

FISCAL NOTE

Revision Date:

Department Affected: DOT&PF

Title: An Act relating to the establishment  
of a port authority by municipalities

ERU: Headquarters

Component: Plans, Programs & Budget

Sponsor: Representative Baker

Requestor: Representative Baker

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
---------	---	---	---	---	---	---

REVENUE						
FUND SOURCE:	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

ANALYSIS: (Attach a separate page if necessary)

No direct impact on this agency.

Prepared by: Rich Poor

Phone: 465-2171

Division: DOT&PF, Plans Programs and Budget

Date: 1/27/92

Approved by the Commissioner:

Phone: 465-3900

Frank G. Turpin

Agency: Department of Transportation and Public Facilities

Date:

Distribution by Preparer: Legislative Finance, Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies)

# Alaska State Legislature

## SESSION

P.O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-4931




## INTERIM

3111 C STREET, SUITE 420  
ANCHORAGE, ALASKA 99503  
(907) 561-7612

### **Representative Larry Baker** **MEMORANDUM**

DATE: December 16, 1991  
TO: Members of the House  
RE: Sponsor Statement for Port Authority Legislation



Public transportation facilities are critical to the economic future of Alaska. Our resource exports pass through ports as well as all of our goods and supplies in order to provide services to our state residents. Tourists, intrastate business and numerous other activities move through Alaska's ports and harbors. The economic importance of ports justifies a focused, separate economic entity for the future of the State of Alaska.

The State of Alaska is slowly making the transition from totally paying for, owning and operating public transportation facilities in Alaska. In some cases facilities have already transitioned to local governments. In recent years, facilities have been built by revenue bonds rather than solely with state grants.

Port authorities have been an important economic development tool by other states and nations. Authorities often bridge municipal, state and international boundaries to achieve economies of scale in order to be self-sufficient.

Regional port authorities will be vital to the State of Alaska as we progress toward a more diverse economic base.

If you have any questions, please give my office a call.

LB:elm



*Department of Transportation  
and Public Facilities*

# POSITION PAPER

BILL NO: HB 399

APPROVED: *J. J. [Signature]*

TITLE: Authorizes Port Authorities

DATE: February 4, 1992

The intent of this bill is to allow municipal governments the authority to establish a port authority within certain jurisdictions and to spell out the power of that authority. This bill will allow municipalities to establish port authorities. Once established, the authority will have separate and independent legal authority. The bill does not determine how a board member is selected or the length of term in office. This is established by the municipality. The port authority will have all normal powers to allow for efficient operations, but will also have Power of Eminent Domain, leasing and bonding authority, be exempt from taxation, but would not have taxation authority. The Department of Transportation proposes an amendment to allow powers of Eminent Domain only if approved by the municipality.

**THE ANCHORAGE CHAMBER OF COMMERCE**  
Legislative Priority

**Title Port Authority Legislation**

**THE ISSUE**

Municipalities are restricted in their abilities to provide revenue bond authority and independent political identity for its port. Municipalities rely on state funding to develop ports. As state revenues decline over the next decade, the amount of funding provided for port development will diminish.

**THE IMPORTANCE**

Empower Anchorage port development by:

1. Allow establishment of an independent port authority.
2. The port authority would have the power to raise bonds, collect fees, own or lease land and develop port projects.
3. Development plans by the authority would be subject to review by the municipality. The authority would not have the power to raise taxes.

The above powers would allow increasing the scope of business activity at the Port of Anchorage without state assistance. Economic development in the port will help diversify the economy and capture a larger share of maritime business.

**CHAMBER POSITION**

The Chamber supports Port Authority legislation that will benefit the Anchorage economy by allowing the Municipality to independently develop its port and increase port related business.

Approved January 17, 1992

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;

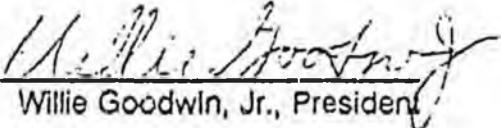
WHEREAS, it is confidently believe that a better coordination of ports, harbors, transportation, and other facilities of commerce in, about and through ports in Alaska, will result in greater economies, benefiting the people of Alaska;

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;

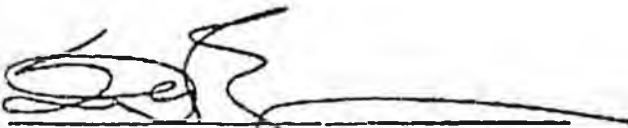
WHEREAS, the foregoing can best be accomplished through the cooperation of one or more of the regions and communities in Alaska by and through one or more joint and common port authorities;

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

President R. B. Stiles  
122 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

Representative Larry Baker

Subject: Port Authority Legislation

Dear Representative Baker,

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 HB 399 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. Sules  
122<sup>nd</sup> West 9th Ave, Suite 201  
Anchorage, Alaska 99501  
Tel (907) 276-6868  
Fax (907) 276-2395



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

## Alaska Coal Association

### 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  
HOUSE TRANSPORTATION COMMITTEE  
ON  
HOUSE BILL 399

Anchorage, Alaska  
January 30, 1992

Good morning. 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 House Bill 399.

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 HB 399 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 HB 399 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.

# 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 1

To	RICH WILSON	From	DOUG ENSLEY
Co.	Lik. H&L CREW	Co.	CITY OF KTN
Dept.	2171	Phone #	2.28-5632
Fax #	561-4674	Fax #	2.25-5075

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

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE,

I APPRECIATE THE OPPORTUNITY TO PRESENT TO YOU HOUSE BILL (HB) 399, MY PORT AUTHORITY LEGISLATION.

THIS LEGISLATION WILL PROVIDE NECESSARY FLEXABILITY TO ALLOW ONE OR MORE MUNICIPALITIES TO BAND TOGETHER AND ESTABLISH A SINGLE OR REGIONAL PORT AUTHORITY WITH AUTONOMOUS AUTHORITY FROM THE MUNICIPALITY FROM WHICH IT IS ESTABLISHED.

WHEN I BEGAN LOOKING AT THE NEED FOR CHANGES IN THE WAY ALASKA'S PORT SYSTEM WAS STRUCTURED, I STARTED WITH REVIEWING THE WAY OTHER PORTS ARE ESTABLISHED THROUGHOUT AMERICA. I FOUND THAT MANY OF THE EARLY PORT AUTHORITIES WERE ESTABLISHED AS A PUBLIC RESPONSE TO PROBLEMS ARISING OUT OF RAILROAD CONTROL OF COMMERCIAL PORT AREAS. WHILE THIS IS NOT THE CASE HERE IN ALASKA, SOME CONCERN HAS BEEN EXPRESSED OVER ELEMENTS OF THIS LEGISLATION WHICH MAY BE SIMILAR TO THE STRUCTURE OF THE ALASKA RAILROAD.

THE TERM PORT AUTHORITY CAN BE MISLEADING AND EVEN INACCURATE IN IMPLYING AUTONOMOUS OR SEMI-AUTONOMOUS, SELF-SUSTAINING PUBLIC BODY. SOME DO IN FACT MEET THAT CRITERIA. HOWEVER, IN HB 399, PARTICIPATING MUNICIPALITIES WILL DETERMINE THE PORTS' STRUCTURE AND THE MEMBERS OF THE BOARD OF DIRECTORS.

WITH RESPECT TO LAND USE DECISIONS AND PORT BOUNDARIES, THE PARTICIPATING MUNICIPALITIES WILL MAKE THIS DETERMINATION WHEN LOCAL ENABLING LEGISLATION IS ADOPTED.

SINCE DEVELOPING THE PIECE OF LEGISLATION YOU HAVE BEFORE YOU TODAY, I HAVE MET WITH EACH OF THE AFFECTED DEPARTMENTS, THE GOVERNOR'S OFFICE, AND SEVERAL OF MY COLLEAGUES. THIS HAS RESULTED IN MINOR, TECHNICAL CHANGES WHICH I AM OFFERING TO YOU TODAY AS A CS.

YOU WILL SEE THAT THE ONLY CHANGES ARE AS FOLLOWS:

1. Page 2, Line 9, "WITH ANY OR ALL OF THE POWERS PROVIDED" HAS BEEN INSERTED.
2. Page 3, Line 28, A "COMMA" HAS BEEN INSERTED AFTER "RESPECT TO".

3. Page 6, Line 16, "WITHIN ITS PHYSICAL BOUNDARY" HAS BEEN INSERTED AFTER EMINENT DOMAIN.
4. Page 11, Line 24, "EXCEPT FOR AS 19.25.080 - 19.25.180 AND AS 19.27" HAS BEEN INSERTED.

MEMBERS OF THE COMMITTEE, WHILE PORT AUTHORITY POWERS VARY WIDELY, ALL SHARE THE COMMON PURPOSE OF SERVING THE PUBLIC INTEREST OF A STATE, REGION, OR LOCALITY. HOUSE BILL 399 WILL SERVE EACH AREA OF THE STATE OF ALASKA IN A SOUND, RESPONSIBLE, AND MUCH NEEDED WAY. THIS LEGISLATION WOULD BE A STEP IN THE RIGHT DIRECTION WHEN IT COMES TO HELPING OUR LOCAL AREAS DIVERSIFY, ESTABLISH A MODE OF ECONOMICALLY VIABLE MOVEMENT OF GOODS, AND MOST IMPORTANTLY, WEAN SOME AREAS FROM CONTINUED DEMAND FOR STATE DOLLARS.

I WOULD BE HAPPY TO ANSWER ANY QUESTIONS FROM MEMBERS OF THE COMMITTEE.

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY  
LEGISLATIVE REFERENCE LIBRARY

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

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

Mary Van Nimwegen

*House Transportation*

*1 - 30 - 92*