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Alaska State Legislature

Chair, Resources Committee
Vice-chair, Transportation Committee
Member, Rules Committee
Member, Committee on Committees



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District A
Ketchikan, Wrangell, Petersburg,
Hyder, Myers Chuck, Kupreanof

Senator Lloyd Jones

352 Front Street
Ketchikan, AK 99901
907 225-9082
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MEMORANDUM

To: Senator Curt Menard, Chairman
Senate Transportation Committee

From: Senator Lloyd Jones 

Date: March 6, 1991

Subject: SB 118, AMHS Authority

The concept of an Alaska Marine Highway Authority is not new. This idea found its way into legislation sponsored by former Representative Betty Cato for a number of years, and I introduced legislation in the sixteenth legislature seeking the same type of semi-independent operating authority for our marine highway.

It is significant that we operate a \$70 million floating highway system with people who often have no marine management experience. I do not make this comment to disparage the current management team at the AMHS. To the contrary, Jim Ayres and the managers he has chosen are doing a refreshingly good and straightforward job of running this expensive and essential fleet. The problem we face is that under the current system there is no guarantee that good management will stay in place once we find it, or that bad management will be removed once it is in place. Over the years our marine highway system has suffered from weak management from time to time, and this always has direct and immediate effects on the travelling public. (A tremendous percentage of which are Alaskans).

This Marine Highway Authority legislation will create an independent management structure for the marine highway. The authority will be a public corporation of the state of Alaska. To do this the legislation mandates the appointment of a board of directors which is charged with the responsibility of hiring a CEO who will oversee the operation of the system and who will serve at the pleasure of the board. This legislation also allows the authority to create its own procurement practices within guidelines set out in statute. The existing assets of the AMHS will be transferred to the authority and they are charged with the ongoing maintenance of these facilities. The operation of the system will continue to be funded through appropriation by the legislature and the management will be responsible to account for their operations and to report annually to the legislature.

The Administration is supportive of the authority concept and I believe we can move a piece of legislation that will help us create a marine highway system that will more consistently serve us well.

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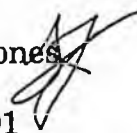
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MEMORANDUM

To: Senator Curt Menard, Chairman
Senate Transportation Committee

From: Senator Lloyd Jones 

Date: February 13, 1991

Subject: SB 118, Creating An Alaska Marine Highway Authority

I recently introduced this legislation which would create an independent operating authority for the Alaska Marine Highway System. This bill is a duplicate of legislation I introduced in the Sixteenth Legislature.

At this time I am requesting that this bill be scheduled for a hearing before the Senate Transportation Committee at your earliest possible convenience. The fiscal note and departmental position paper are being prepared now and will be ready for a hearing at any time.

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Senator Lloyd Jones

Changes from original SB 118 to CSSB 118

- Allows Department of Administration to provide support services for the authority.
- Exempts authority from the procurement code and allows them to set up their own procurement procedures based on "competitive principals".
- Gives the authority eminent domain.
- Authorizes the transfer of assets from DOT to the authority.
- Recognizes vessel employees as exempt while shoreside employees remain classified. Recognizes upper management positions as exempt positions. The bill also recognized the coverage of all employees under PERS and SBS, and recognizes existing collective bargaining agreements.

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CSSB 118

- Creates the Alaska Marine Highway Authority
- Sets up a seven member board of directors who are responsible for hiring the chief executive officer and upper managers of the authority. Board members serve staggered four year terms.
- Recognizes that employees of the authority are state employees
- Sets out the powers and duties of the authority
- Requires the ongoing preparation and maintenance of a comprehensive, long-range plan for the authority
- Empowers the authority to purchase and dispose of property
- Transfers existing assets of DOT related to marine transportation to the authority
- Requires an annual report to the Governor and Legislature regarding the operations and revenue of the authority. Also requires an annual audit of the financial records of the authority
- Makes the many technical name changes throughout state law to integrate the authority into statutes pertaining to the marine highway



Department of Transportation & Public Facilities

POSITION PAPER

BILL NO: House Bill No. 10

APPROVED:

TITLE: An Act ... establishing the
Alaska Marine Highway System

DATE: February 7, 1991

We have reviewed HB 10 "An Act relating to ferries and ferry terminals and establishing the Alaska Marine Highway Authority". Generally, we are supportive of the bill and its intent. However, we offer the following specific comments which we believe will enhance the authority's ability to meet the intent of the legislation:

Section 2

Article 1. Creation and Organization

Sec. 19.55.010(a)

This section establishes the authority's board of directors. As proposed, the board would have 5 members, four of whom are appointed and one being the Commissioner of Transportation and Public Facilities. The qualifications of the appointed members are confined to having "knowledge of the marine highway system". At least two members must be residents of Southeast Alaska and at least one member must be a resident of the gulf of Alaska area west of Icy Cape. It is recommended that any reference to geographic representation be eliminated and candidates for the board should be required to have significant financial, business, transportation or engineering backgrounds.

Sec. 19.55.010(b)'

This section establishes four year terms for the board members and allows their removal at the pleasure of the governor. In order to allow for continuity and to insulate the board from partisan politics it would be preferable to allow for the removal of board members for cause.

Sec. 19.55.040(b)

This provision places all employees of the Authority in the exempt service under AS 39.25.110. Shipboard employees are already in the exempt service. We recommend addition of the following language: "Employees of the AMHS are employees of the Authority and not of the State. Provisiors of AS 39 do not apply to employees of the Authority."

Article 2. Powers and Duties

Sec. 19.55.050

(c) This section allows the authority to "acquire, hold, use, lease, or rent real property and dispose of real property under AS 19.55.100.

There are concerns with that section which will be discussed below.

- (11) This section establishes the right to set rates and tariffs after public "hearings". The term "hearings" is ambiguous. At the most we should be required to hold one hearing on these issues.
- (12) This section allows the authority to modify routes after public hearings. One hearing should be adequate to meet the public's need to comment on these issues, although it is likely more hearings would be held depending upon the proposal.

A provision should be added to this section which requires the state to provide the authority with insurance coverage through the Division of Risk Management.

Sec. 19.55.055 Duties of the Authority

We recommend that this section be deleted and suggestions be included in a letter of intent.

- (1) By requiring the most frequent service possible without regard to cost, or other demands on the authority's fleet, the result could be inefficient scheduling and overly high operating expenses, which all users would pay through increased tariffs and a larger drain on the state's general fund.
- (2) Maximizing the frequency of service to all ports would have the same results as (1). A more appropriate term would be "optimizing", which is what we currently strive to achieve within our fleet and budgetary constraints.
- (3) No comment
- (4) This section requires nonrefundable deposits for reservations. While this may be a policy the authority would choose to impose, it would be done so only after careful consideration. The legislation generally should avoid interfering with management's latitude to establish operational policies designed to accomplish its basic mission. Current AMHS policy, implemented January 1, 1991, requires payment no later than 10 days prior to sailings, or immediately if a reservation is made for travel to occur within 10 days. A cancellation or a change within 14 days of a sailing which results in the reduction of the amount paid requires a penalty payment of 15% of the unused portion of the reservation, or \$15.00, whichever is greater.

- (5) This provision requires AMHS to provide reservation access and marketing information throughout the state. Once again, this is a policy currently in place. However, as noted above, the legislation should avoid interfering with management's latitude to establish operational policies designed to accomplish its basic mission.
- (6) If the AMHS is to provide the maximum amount of service for the least cost it is vital that the legislation not unduly restrict management's ability to do so. As a matter of policy it is the goal of AMHS to insure that necessary work on our ships or other facilities is done at the lowest cost and in the best manner possible. In most cases this is accomplished by Alaskan firms, however, these criteria cannot always be met locally. This section would be acceptable if the words "to the greatest extent possible" were deleted. Alternatively, language such as "to the greatest extent practicable" might be considered.

Sec. 19.55.070

This section requires that the "comprehensive long-range plan" of the authority be subject to legislative approval by law. Notwithstanding any legal defects in this language, this requirement could constrain the authority from acting quickly on projects or other opportunities which may arise between legislative sessions and until those have been fully considered by that body. Further, the intercession of partisan and regional politics could seriously impair the ability of the authority to accomplish its mission. It is recommended legislative approval be dropped.

Article 3. Acquisition of Property

Sec. 19.55.100 Disposal of Land or Rights in Land

The above provisions grant broad discretion to the authority to acquire and dispose of land as part of its operations. The language is constructed to contemplate an entity with the power of eminent domain. This power is not granted in the legislation, but should be. In addition a provision needs to be added to transfer all real property (as well as personal) assets to the authority upon its creation. Finally, section 19.55.100(b) needs to be amended to insure that the proceeds of land disposals, or the sale of any assets by the authority go to the AMHS Fund.

Article 4. Ferry Terminal FacilitiesSec 19.55.110 Acquisition and Maintenance of Ferry Terminal Facilities

This section, derived from current law, gives the authority the right to purchase, construct or lease ferry terminal facilities for the loading and unloading of passengers and vehicles under their own power. It further requires the authority to maintain these facilities. In many communities in Southwest Alaska AMHS has entered into lease agreements for dock use. This section should be amended to delete the requirement for the authority to maintain the facilities it leases. The last provision in this section requires that construction and purchasing be governed by the state procurement code (AS 36.30). As a general matter the legislation should exempt the authority from the requirements of AS 36.30.

Sec. 19.55.130 Use of Ferry terminal Facilities

This section authorizes the use of ferry terminal facilities by the public and allows a fee to be charged. The language needs to be changed from "department" to "authority".

Sec. 19.55.140 Existing Facilities not Affected

This section is carried over from existing language. It exempts ferry terminals in existence and serving the public on January 1, 1959, from the provisions of AS 19.55.110-130. It should be deleted, as it does not apply to any existing facilities.

Article 5. General ProvisionsSec. 19.55.299 Definitions

- (3) The definition of "ferry", while carried over from existing statute, poses a problem. A strict reading of the definition: "a vessel used in the common carriage of passengers and self-propelled vehicles...." could be construed to preclude the transporting of vans and other trailerable vehicles, which are currently a major revenue source and an essential part of local community commerce.

Sec. 6Sec. 19.65.080 Annual Appropriation

This section is a restatement of current statutory language which authorizes the legislature to make annual appropriations from the Alaska Marine Highway System Fund for the operations of the ferry system. Technical changes have been made to reflect currently accepted statutory language.

Sec. 7Sec. 19.65.100 Definitions

(4) This provision defines "gross revenue" for the purpose of determining which revenues are deposited into the AMHS Fund. While it reflects current statutory language, it appears to be somewhat restrictive, defining revenues as those derived from "vessel operations and uses of authority facilities". There are other sources of current or potential revenue which do not qualify for deposit under a strict reading of this section, including the sale of gift and souvenir items from ticket offices, the potential sale of advertisement space in the Authority's seasonal schedules, sale of the rights to use the logo of the authority, as well as other possible sources of revenue not yet contemplated. It may also be desirable for the proceeds of any sale of assets to be deposited either into the AMHS fund, or the refurbishment fund. Finally, provision should be made for the earnings of the fund to be retained by requiring that they be accounted for separately, giving the legislature the option of appropriating them to the Fund.

Sec. 2Sec. 23.40.040 Collective Bargaining Agreement

While sec. 19.55.050(5) establishes the authority's right to negotiate the terms of employment with its employees, this section restates current law which requires the concurrence of the commissioner of Transportation and Public Facilities before labor agreements with shipboard employees become effective. It should be repealed.

Sec. 12Sec. 37.05.550 Alaska Marine Highway Authority Vessel Replacement Fund

This section amends the statute creating the AMHS vessel replacement fund to reflect the existence of the authority. The language should be changed to the "system replacement fund" in order to allow funding of shore facility refurbishment in addition to vessels. Section 37.0550(b) needs to be changed to reflect the passage of the budget reserve referendum. In its place an appropriation should be made to capitalize the fund.



*Department of Transportation
and Public Facilities*

POSITION PAPER

BILL NO: SB 118

APPROVED:

A handwritten signature in cursive, appearing to read "J. H. Dudgeon", written over a horizontal line.

TITLE: An act relating to ferries and ferry
terminals and establishing the Alaska
Marine Highway Authority.

DATE: February 26, 1991

This legislation established the Alaska Marine Highway Authority. While similar to House Bill 10, this bill does not accomplish all that is necessary to allow the authority to operate as contemplated by its authors. We have attached our comments on House Bill 10 for reference. Items which this legislation needs to address include eminent domain powers, adherence to the State Procurement Code, the selection of members of the board, maintenance of the system's fleet within the state to the "greatest extent possible" and clarification that employees are employees of the Authority. Another provision which we recommend should address the transfer of assets to the Authority. This provision should include real property assets of the Department of Natural Resources, as well as those of DOT&PF which are currently used in the operation of AMHS. These changes would provide us the opportunity to support a sound piece of legislation that would have long lasting benefits to the Alaska Marine Highway System.

TO: The Alaska State Senate, Committee on Transportation,
The Honorable Curt Menard, Chairman, and to the members
of the Committee.

FROM: Alaska State AFL-CIO; The Inland Boatmen's Union of the
Pacific, Alaska Region, AFL-CIO; The Alaska Public
Employees Association/AFT, Local 49, AFL-CIO; Public
Employees, Local 71, AFL-CIO; and the Alaska State
Employees Association/AFSCME, Local 52, AFL-CIO.

RE: CSSB 118, The Alaska Marine Highway Authority

Mr. Chairman and Committee members, we wish to thank you for this opportunity to provide written testimony for the committee's permanent record on the Committee Substitute for Senate Bill 118.

First of all, we would like to say that the CS for SB 118 is a vast improvement over its counterpart in the House of Representatives--the CS for House Bill 10. And we applaud Senator Jones of Ketchikan for trying to make the bill more palatable for the employees of the Alaska Marine Highway Authority the bill seeks to create.

Though we are pleased with the changes in CSSB 118, we have analyzed the committee substitute since its introduction March 3rd, 1991, and find it still contains provisions that are less than desirable to the 90% of the state's Marine Highway employees that we represent.

Following is a list of our concerns and suggested changes regarding CSSB 118:

1. Page 3, lines 13-16 and Page 24, lines 18-21: The Port Captain, Port Engineer, Marine Facilities Engineering Manager, and the Reservation and Marketing Manager are all classified employees in the Supervisory Bargaining Unit of APEA. None of the employees currently holding those positions are interested in leaving classified service; and several have declined offers of promotion into exempt positions in the past. This is because they consider their positions to be careers, as opposed to brief jobs which dangle in the prevailing political wind. We are opposed to the unilateral exemption from the State Personnel Relations Act of any employee currently covered by that Act.

2. Page 3, lines 24-25: The statement "Employees of the authority are state employees" should be clarified by adding--". . . and are covered by the provisions of AS 39."

3. Page 4, lines 8-9: Labor negotiations establishing terms and conditions of employment should continue to be between the existing bargaining units and the State Labor Relations Agency.

4. Page 16, line 31: Section 26 needs a statute reference.

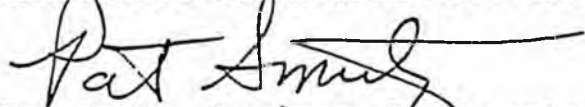
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Senate Transportation Committee
Testimony on CSSB 118, Continued
Page 2

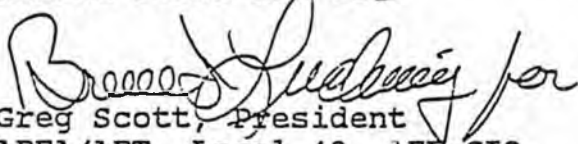
5. Page 17, lines 4-5: Strike the sentence, "The commissioner of transportation and public facilities shall determine which employees are transferred to the authority." This will avoid leaving any current employees of the AMHS behind in limbo (i.e., jobless).

6. Page 17, lines 10-11: This section needs to be clarified by including reference to collective bargaining units. For example: "Nothing in this Act terminates or modifies recognition of a collective bargaining unit, its exclusive bargaining representative or a collective bargaining agreement that is in effect on the effective date of this Act."

We believe these additional changes, if approved by the Legislature, would protect the collective bargaining rights of ALL Alaska Marine Highway System employees and urge the Senate Transportation Committee members to include them in the Committee Substitute for Senate Bill 118.



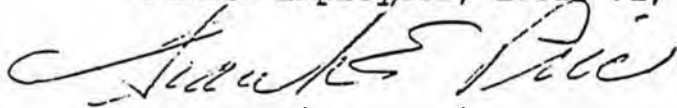
Pat Smutz, Business Representative
Alaska State AFL-CIO



Greg Scott, President
APEA/AFT, Local 49, AFL-CIO



Don Rouleau, Business Representative
Public Employees, Local 71, AFL-CIO



Frank Price, Regional Manager
Inland Boatmen's Union of the Pacific,
Alaska Region, AFL-CIO



Paul DeSloover, President
ASEA/AFSCME, Local 52, AFL-CIO

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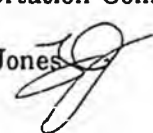
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The Administration is supportive of the authority concept and I believe we can move a piece of legislation that will help us create a marine highway system that will more consistently serve us well.



*Department of Transportation
and Public Facilities*

POSITION PAPER

BILL NO: SB 118

APPROVED:

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TITLE: An act relating to ferries and ferry
terminals and establishing the Alaska
Marine Highway Authority.

DATE: February 26, 1991

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FISCAL NOTE

Revision Date:
Title: An act relating to ferries and ferry terminals and establishing the Alaska Marine Highway Authority.
Sponsor: Senator Zharoff
Requestor:

Department Affected: DOT&PF
BRU: Alaska Marine Highway System

Component:
Component Serial Number:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY92	FY93	FY94	FY95	FY96	FY97
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	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
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)

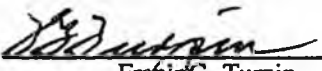
Assuming the Authority is granted the powers contemplated by the legislation, including the changes recommended in the AMHS position paper, operating efficiencies should offset any increased costs. This also assumes the current services provided by other state agencies will continue at no increased cost. The ultimate financial benefit of this legislation is to provide the AMHS management with the structure necessary to develop long term operating plans that maintain and expand service without increased demands on the General Fund.

Prepared by: John Halterman

Phone: 465-3950

Division: Alaska Marine Highway Systems

Date: February 27, 1991

Approved by Commissioner: 
Frank G. Turpin

Phone: 465-3900

Agency: Department of Transportation and Public Facilities

Date: February 27, 1991

Distribution By Preparer: Legislative Finance, Legislative Sponsor, Requestor, OMB, Impacted Agency(ies).

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{ EXCEPT FROM
 { GOVERNMENT CODE }
 - LABOR RELATIONS ?

7-LS0680D
 Utermohle
 3/6/91

CS FOR SENATE BILL NO. 118 (TRANSPORTATION)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE TRANSPORTATION COMMITTEE

Rev:
 BONDING

Offered:
Referred:

Sponsor(s): SENATORS JONES, Zharoff, Halford, Pearce

A BILL

FOR AN ACT ENTITLED

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

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

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

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

10 CHAPTER 55. ALASKA MARINE HIGHWAY AUTHORITY.

11 ARTICLE 1. CREATION AND ORGANIZATION.

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

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

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

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

12 (2) a member of a maritime union;

13 (3) two residents of Southeast Alaska;

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

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

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

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

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

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

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

7 Sec. 19.55.040. STAFF. (a) The board of directors shall employ a chief executive
 8 officer who serves at the pleasure of the board.

9 (b) The chief executive officer may, with the approval of the board, select and employ
 10 additional staff as necessary, including additional administrative officers. The chief executive
 11 officer may appoint, employ, and remove at the pleasure of the chief executive officer with the
 12 approval of the board the following employees of the authority:

- 13 (1) port captain;
- 14 (2) port engineer;
- 15 (3) marine facilities engineering manager;
- 16 (4) reservation and marketing manager;
- 17 (5) customer services supervisor;
- 18 (6) administrative services director;
- 19 (7) deputy and assistant directors.

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

24 Sec. 19.55.045. EMPLOYEES OF THE AUTHORITY. (a) Employees of the authority
 25 are state employees.

26 (b) Eligible employees of the authority shall participate in the supplemental employee
 27 benefits program under AS 39.30.150 - 39.30.180 and in the public employees' retirement system
 28 under AS 39.35. The authority shall pay the employer's contributions required under
 29 AS 39.30.150 - 39.30.180 and AS 39.35.

30 ARTICLE 2. POWERS AND DUTIES.

31 Sec. 19.55.050. POWERS OF AUTHORITY. In addition to other powers granted in this

1 chapter, the authority may

2 (1) sue and be sued;

3 (2) adopt and alter an official seal;

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

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

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

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

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

15 (8) acquire, hold, use, lease, or rent real property and dispose of real property
16 under AS 19.55.130;

17 CS → (9) exercise the power of eminent domain;

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

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

24 (12) establish annual rates and tariffs, after public hearings;

25 (13) modify scheduled routes, after public hearings.

26 Sec. 19.55.060. DUTIES OF AUTHORITY. The authority shall

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

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

30 (3) encourage and integrate with other public and private carriers to the greatest
31 extent possible to provide ferry service within the state and between Alaskan ports and ports

1 outside the state in order to provide optimum service within the state;

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

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

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

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

8 Sec. 19.55.070. USE OF NAME AUTHORIZED. The authority is authorized to operate
9 its ferry system under the name "Alaska Marine Highway System".

10 Sec. 19.55.080. COMPREHENSIVE LONG-RANGE PLAN. The authority, with the
11 cooperation of the Department of Transportation and Public Facilities, shall prepare a
12 comprehensive long-range plan for the development and improvement of the marine highway
13 system and shall revise and update the plan at least every five years.

14 ARTICLE 3. ACQUISITION OF PROPERTY.

15 Sec. 19.55.100. ACQUISITION OF LAND AND INTERESTS IN LAND. The authority,
16 as part of the cost of constructing, maintaining, or improving the marine highway system, may
17 acquire by purchase, gift, exchange, or eminent domain land in fee simple or interests in land that
18 it considers necessary and reasonable for either temporary or permanent public use. By the same
19 means, the authority may obtain material, including clay, gravel, sand, or rock, or the land
20 necessary to obtain the material, including access to it. The authority may acquire the land or
21 material notwithstanding the fact that title to it is vested in the state or a department, agency,
22 commission, or institution of the state.

23 Sec. 19.55.110. AUTHORITY TO ACQUIRE PROPERTY FOR THE PURPOSE OF
24 EXCHANGE. When a majority of the directors of the authority declares that it is in the best
25 public interest of the state, the authority may acquire by purchase, gift, exchange, or eminent
26 domain privately or publicly owned land or an interest in land for the purpose of exchanging the
27 land for privately or publicly owned land that the authority is authorized by law to acquire.

28 Sec. 19.55.120. EMINENT DOMAIN. (a) The authority may exercise the power of
29 eminent domain under AS 09.55.240 - 09.55.460 to acquire land on behalf of the state for the
30 purposes of this chapter. Notwithstanding AS 09.55.250, the authority may acquire a fee simple
31 title whenever, in the judgment of the board, ownership of a fee simple title is necessary to carry

1 out the purposes of this chapter.

2 (b) The authority may file a declaration of taking in the manner provided for the state
3 under AS 09.55.420.

4 (c) The power of eminent domain conferred under this section includes the power to
5 obtain clay, gravel, sand, timber, rock, or other material for the operation of the authority, the
6 land necessary to obtain the material, and access to the land and material.

7 (d) The exercise of the power of eminent domain requires the prior approval of the
8 governor.

9 Sec. 19.55.130. DISPOSAL OF LAND OR INTERESTS IN LAND. (a) The authority
10 may vacate land or interests in land acquired for use in the marine highway system by executing
11 and filing a deed in the appropriate recording district. Upon vacating, title reverts to the persons,
12 heirs, successors, or assigns in whom it was vested at the time of the taking.

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

17 ARTICLE 4. VESSELS AND FERRY TERMINAL FACILITIES.

18 Sec. 19.55.310. FERRY TERMINAL FACILITIES. (a) The authority may construct,
19 purchase, or lease ferry terminal facilities at locations it selects for the loading and unloading of
20 passengers and vehicles under their own power, on and off ferries. The authority shall repair and
21 maintain those facilities that it owns.

22 (b) The authority may adopt regulations governing the use of ferry terminal facilities by
23 the public.

24 Sec. 19.55.320. CONNECTION OF FACILITIES TO HIGHWAYS. The authority may
25 connect ferry terminal facilities with local highway systems.

26 Sec. 19.55.330. NAMING OF VESSEL OR FACILITY. (a) A vessel or facility of the
27 marine highway system constructed or acquired by the authority may only be named by law.

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

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

31 Sec. 19.55.340. EXISTING FACILITIES NOT AFFECTED. A ferry terminal facility

1 in existence and serving the public on January 1, 1959, is not affected by AS 19.55.310 -
2 19.55.320.

3 ARTICLE 5. GENERAL PROVISIONS.

4 Sec. 19.55.900. BUDGET AND APPROPRIATIONS. The authority shall submit its
5 annual budget to the legislature through the governor as provided for state agencies by the
6 Executive Budget Act (AS 37.07). The authority shall expend money appropriated by the
7 legislature as authorized by the legislature.

8 Sec. 19.55.910. ANNUAL REPORT. By January 15 of each year, the board of directors
9 of the authority shall submit to the governor and the legislature a comprehensive report
10 describing the operations, income, and expenditures for the preceding fiscal year.

11 Sec. 19.55.920. ANNUAL AUDIT. The authority shall have its financial records audited
12 annually by a certified public accountant. The legislative auditor may prescribe the form and
13 content of the financial records of the authority and shall have access to those records at any
14 time.

15 Sec. 19.55.930. SUPPORT SERVICES. On request of the authority the Department of
16 Administration shall provide support services to the authority on the same basis as a state
17 department. Support services available to the authority include use of the state accounting
18 system, payroll system, and computer and telecommunications networks.

19 Sec. 19.55.940. APPLICATION OF EXISTING LAWS. AS 36.30 does not apply to the
20 operations or property of the authority, except as specifically provided in that chapter.

21 Sec. 19.55.990. DEFINITIONS. In this chapter, unless the context requires otherwise,

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

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

25 Sec. 19.55.995. SHORT TITLE. This chapter may be cited as the Alaska Marine
26 Highway Authority Act.

27 * Sec. 3. AS 03.53.010(a) is amended to read:

28 (a) An animal may not be transported into the state aboard a ferry operated by the
29 Alaska Marine Highway Authority [DIVISION OF MARINE TRANSPORTATION OF THE
30 DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES] unless the animal's
31 owner, custodian, or attendant possesses a valid health certificate for the animal. This certificate

1 shall accompany the animal or be in the possession of the animal's owner, custodian, or attendant
2 aboard the ferry and shall be presented when requested by an employee of the state ferry system
3 at the time the owner, custodian, or attendant makes arrangements to transport the animal, boards
4 the ferry with the animal, or at any other time.

5 * Sec. 4. AS 19.65.050 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

31 (2) increase revenue from the operation of the authority [SYSTEM] consistent

1 with the public interest, increase service consistent with sound fiscal policy, and assist the
2 prudent management and operation of the authority [SYSTEM]; and

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

5 * Sec. 5. AS 19.65.060 is amended to read:

6 Sec. 19.65.060. ALASKA MARINE HIGHWAY AUTHORITY [SYSTEM] FUND. (a)
7 There is created, as a special account in the general fund, the Alaska marine highway authority
8 [MARINE HIGHWAY SYSTEM] fund, into which shall be deposited

9 (1) the gross revenue of the authority [ALASKA MARINE HIGHWAY
10 SYSTEM];

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

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

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

25 * Sec. 6. AS 19.65.070 is amended to read:

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

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

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

6 (2) gross revenue generated during the current fiscal year [ANNUAL
7 OPERATING CYCLE] and an estimate of gross revenue for the remainder of the current fiscal
8 year [ANNUAL OPERATING CYCLE];

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

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

13 * Sec. 7. AS 19.65.080 is amended to read:

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

19 (b) The authority [DEPARTMENT OF TRANSPORTATION AND PUBLIC
20 FACILITIES] may request the legislature to appropriate money from the [ALASKA MARINE
21 HIGHWAY SYSTEM] fund to the authority [MARINE HIGHWAY SYSTEM] for capital
22 improvements, if

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

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

27 (3) the amount requested for appropriation under this subsection does not exceed
28 50 percent of the balance remaining after the appropriation for annual management and
29 operations is made under (a) of this section.

30 (c) The unexpended and unobligated balance of money appropriated from the [ALASKA
31 MARINE HIGHWAY SYSTEM] fund lapses into the [ALASKA MARINE HIGHWAY

1 SYSTEM] fund at the end of the fiscal year for which it was appropriated.

2 * Sec. 8. AS 19.65.100 is amended to read:

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

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

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

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

9 (4) "gross revenue" means all money, except money refunded to ticket holders
10 and others for unused services, that is generated from the operation of the authority [ALASKA
11 MARINE HIGHWAY SYSTEM], including that derived from vessel operations and uses of
12 authority [ALASKA MARINE HIGHWAY SYSTEM] facilities.

13 * Sec. 9. AS 23.40.040 is amended to read:

14 Sec. 23.40.040. COLLECTIVE BARGAINING AGREEMENT. The Alaska Marine
15 Highway Authority [COMMISSIONER OF TRANSPORTATION AND PUBLIC FACILITIES]
16 or an authorized representative, in accordance with AS 23.40.020 - 23.40.030, may negotiate and
17 enter into collective bargaining agreements concerning wages, hours, working conditions, and
18 other employment benefits with the employees of the authority [DIVISION OF MARINE
19 TRANSPORTATION] engaged in operating the state ferry system as masters or members of the
20 crews of vessels or their bargaining agent. [A COLLECTIVE BARGAINING AGREEMENT
21 IS NOT FINAL WITHOUT THE CONCURRENCE OF THE COMMISSIONER OF
22 TRANSPORTATION AND PUBLIC FACILITIES.] The authority [COMMISSIONER OF
23 TRANSPORTATION AND PUBLIC FACILITIES] may make provision in the collective
24 bargaining agreement for the settlement of labor disputes by arbitration.

25 * Sec. 10. AS 35.10.015(c) is amended to read:

26 (c) In this section, "public facilities" includes vessels owned by the state and operated
27 by the Alaska Marine Highway Authority [DIVISION OF MARINE TRANSPORTATION OF
28 THE DEPARTMENT AS A PART OF THE ALASKA MARINE HIGHWAY SYSTEM]. All
29 ferries owned or operated by the state shall be equipped with elevators or other passenger lifting
30 equipment, ramps, or other facilities and devices to ensure that these vessels are accessible to and
31 usable by physically handicapped, aged, or infirm passengers. In this subsection, "accessible to

1 and usable by" means that a physically handicapped, aged, or infirm passenger can board,
2 disembark, and move between decks and about the public areas aboard a state ferry with personal
3 comfort and safety, and with safety to, other passengers and members of the crew.

4 * Sec. 11. AS 35.10.015(d) is amended to read:

5 (d) A [AFTER JUNE 25, 1976, A] ferry may not be constructed, lengthened, completely
6 renovated, or purchased for use or entered into service by the Alaska Marine Highway
7 Authority [DIVISION OF MARINE TRANSPORTATION OF THE DEPARTMENT AS A
8 PART OF THE ALASKA MARINE HIGHWAY SYSTEM] that does not include adequate
9 facilities and devices to ensure that the vessel is accessible to and usable by physically
10 handicapped, aged, or infirm passengers. Some staterooms and all restrooms, indoor passageways,
11 outdoor weather decks, and other public areas aboard the vessel shall be so designed and
12 constructed as to permit access and use by physically handicapped, aged, or infirm passengers,
13 including but not limited to those persons occupying a wheelchair.

14 * Sec. 12. AS 35.27 is amended by adding a new section to read:

15 Sec. 35.27.025. APPLICATION TO ALASKA MARINE HIGHWAY AUTHORITY.

16 This chapter applies to the Alaska Marine Highway Authority. Compliance with this chapter is
17 the sole responsibility of the authority with respect to the public buildings and facilities of the
18 authority.

19 * Sec. 13. AS 35.27.030(1) is amended to read:

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

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

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

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

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

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

29 (B) excludes other transportation facilities;

30 * Sec. 14. AS 35.27.030 is amended by adding a new paragraph to read:

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

1 * **Sec. 15.** AS 36.30.015 is amended by adding a new subsection to read:

2 (g) The board of directors of the Alaska Marine Highway Authority shall adopt policies
3 to manage the procurement of supplies, services, professional services, and construction. The
4 policies must be based on principles of competitive procurement consistent with this chapter to
5 satisfy the special requirements of the authority as determined by the board of directors of the
6 authority.

7 * **Sec. 16.** AS 36.30.990(1) is amended to read:

8 (1) "agency"

9 (A) means a department, institution, board, commission, division,
10 authority, public corporation, the Alaska Pioneers' Home, or other administrative unit of
11 the executive branch of state government:

12 (B) does not include

13 (i) the University of Alaska;

14 (ii) the Alaska State Housing Authority;

15 (iii) the Alaska Railroad Corporation;

16 (iv) the Alaska Housing Finance Corporation;

17 (v) a regional Native housing authority created under

18 AS 18.55.996, or a regional electrical authority created under AS 18.57.020;

19 (vi) the Alaska Marine Highway Authority;

20 * **Sec. 17.** AS 37.05.550 is amended to read:

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

29 (b) The legislature may appropriate to the fund money received by the state as Alaska
30 Marine Highway Authority [MARINE HIGHWAY SYSTEM] program receipts or from a
31 settlement or final judicial determination of the Dinkum Sands case (United States v. Alaska) and

1 the North Slope royalty case (State v. Amerada Hess, et al.) and not deposited into the Alaska
2 permanent fund under AS 37.13.010(a)(1) or (2) or into the public school trust fund under
3 AS 37.14.150.

4 * Sec. 18. AS 39.20.310(8) is amended to read:

5 (8) persons employed by the Alaska Marine Highway Authority [DIVISION
6 OF MARINE TRANSPORTATION] as masters and members of the crews operating the state
7 ferry system who are covered by collective bargaining agreements as provided in AS 23.40.040,
8 except as expressly provided by law;

9 * Sec. 19. AS 39.25.110(16) is amended to read:

10 (16) persons employed by the Alaska Marine Highway Authority [DIVISION
11 OF MARINE TRANSPORTATION] as masters and members of the crews of vessels who
12 operate the state ferry system and who are covered by a collective bargaining agreement provided
13 in AS 23.40.040;

14 * Sec. 20. AS 39.25.110 is amended by adding a new paragraph to read:

15 (30) the following employees of the Alaska Marine Highway Authority:

- 16 (A) chief executive officer;
- 17 (B) deputy or assistant director;
- 18 (C) port captain;
- 19 (D) port engineer;
- 20 (E) marine facilities engineering manager;
- 21 (F) reservation and marketing manager;
- 22 (G) customer services supervisor;
- 23 (H) administrative services supervisor.

EXEMPT
STATE SERV.

24 * Sec. 21. AS 39.30.150(b) is amended to read:

25 (b) Employees of the Alaska Marine Highway Authority [DIVISION OF MARINE
26 TRANSPORTATION] included in the public employees' retirement system through the process
27 of collective bargaining under AS 39.35.680(21)(D) may, under the terms of a collective
28 bargaining agreement, utilize contributions made under (a) of this section on their behalf to offset
29 the costs of inclusion in the public employees' retirement system; however,

30 (1) the state is placed under no obligation to continue making contributions under
31 this section if the state resumes participation in the federal social security system;

1 (2) the bargaining agreement must provide a mechanism for satisfying any
2 residual liabilities that might exist if the state resumes participation in the federal social security
3 system; and

4 (3) funds contributed under (a) of this section on behalf of employees who are
5 not covered by maritime union contracts may not be obligated or expended to pay any costs
6 associated with the inclusion of authority [MARINE TRANSPORTATION] employees in the
7 public employees' retirement system under this subsection.

8 * Sec. 22. AS 39.35.680(21) is amended to read:

9 (21) "member" or "employee"

10 (A) means a person eligible to participate in the system and who is
11 covered by the system;

12 (B) includes

13 (i) active member;

14 (ii) inactive member;

15 (iii) vested member;

16 (iv) deferred vested member;

17 (v) non-vested member;

18 (vi) disabled member;

19 (vii) retired member;

20 (viii) an elected public officer under AS 39.35.381;

21 (C) does not include

22 (i) former members;

23 (ii) persons compensated on a contractual or fee basis;

24 (iii) casual or emergency workers or nonpermanent employees as
25 defined in AS 39.25.200;

26 (iv) persons covered by the Alaska Teachers' Retirement System
27 except as provided under AS 39.35.131 and 39.35.381, or persons covered by the
28 optional university retirement program;

29 (v) employees of the Alaska Marine Highway Authority
30 [DIVISION OF MARINE TRANSPORTATION] engaged in operating the state
31 ferry system who are covered by a union or group retirement system to which the

1 state makes contributions;

2 (vi) justices of the supreme court or judges of the court of appeals
3 or of the superior or district courts of Alaska; (vii) the administrative director of
4 courts appointed under art. IV, sec. 16 of the state constitution unless the director
5 becomes a member under AS 39.35.158; and

6 (viii) members of the elected public officers' retirement system
7 (former AS 39.37);

8 (D) may include employees of the Alaska Marine Highway Authority
9 [DIVISION OF MARINE TRANSPORTATION] excluded under (C)(v) of this paragraph
10 provided that

11 (i) the State of Alaska, acting through the board of directors of
12 the authority, formally agrees to their inclusion through the process of collective
13 bargaining; and

14 (ii) no collective bargaining agreement has the effect of obligating
15 contributions made by the state under AS 39.30.150 in the event the state resumes
16 participation in the federal social security system;

17 * Sec. 23. AS 39.50.200(b) is amended by adding a new paragraph to read:

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

19 * Sec. 24. AS 44.42.020(a)(1) is amended to read:

20 (1) plan, design, construct, and maintain all state modes of transportation and
21 transportation facilities and all docks, floats, breakwaters, buildings, and similar facilities, except
22 that the department is not responsible for planning, design, construction, or maintenance
23 of transportation modes or facilities under the jurisdiction of the Alaska Marine Highway
24 Authority;

25 * Sec. 25. AS 44.42.020(a)(7) is amended to read:

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

31 * Sec. 26. TRANSFER OF EMPLOYEES, APPROPRIATIONS, AND ASSETS TO THE ALASKA

1 MARINE HIGHWAY AUTHORITY. (a) Employees of the Department of Transportation and Public
2 Facilities assigned to the management, operation, and maintenance of the Alaska marine highway system
3 on the effective date of this Act are transferred to the Alaska Marine Highway Authority as state
4 employees of the authority. The commissioner of transportation and public facilities shall determine
5 which employees are transferred to the authority. An employee who is transferred to the authority under
6 this subsection shall continue to participate without interruption in the supplemental employee benefits
7 program under AS 39.30.150 - 39.30.180 and in the public employees' retirement system under
8 AS 39.35, if the employee was a participant in these programs on the day before the employee was
9 transferred to the authority.

10 (b) Nothing in this Act terminates or modifies recognition of an exclusive bargaining
11 representative or a collective bargaining agreement that is in effect on the effective date of this Act.

12 (c) Subject to appropriation by the legislature, the unexpended and unobligated balances of
13 operating and capital appropriations for the Department of Transportation and Public Facilities, Alaska
14 marine highway system, shall be transferred to the Alaska Marine Highway Authority.

15 (d) Subject to appropriation by the legislature, the personal property assets and real property
16 assets, including ferries, equipment, buildings, and associated facilities, of the Department of
17 Transportation and Public Facilities, Alaska marine highway system, shall be transferred to the Alaska
18 Marine Highway Authority.

19 * Sec. 27. INITIAL APPOINTMENT OF MEMBERS OF THE ALASKA MARINE HIGHWAY
20 AUTHORITY. Notwithstanding AS 19.55.020(b), enacted by sec. 2 of this Act, the terms of the initially
21 appointed members of the Alaska Marine Highway Authority shall be staggered as set out in
22 AS 39.05.055(4).

23 * Sec. 28. AS 19.60 and AS 19.65.020 are repealed.

FISCAL NOTE

BILL NO. SB 118

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Revision Date: _____
Title: Alaska Marine Highway Authority Act
Sponsor: Jones
Requestor: _____

Department Affected: Administration
BRU: Labor Relations
Component: Labor Relations

COMPONENT SERIAL NO.

0	0	5	8
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	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: _____

ANALYSIS: (Attach a separate page if necessary.)

The enactment would separate the Marine Highway System into a separate quasi-governmental authority. All authority employees including those now in the classified service would be removed from coverage of State Personnel laws and regulations and from coverage by the Public Employment Relations Act. Legislative approval of monetary terms is thereby removed. Actual economic impact is unknown, but "whipsawing" potential for other employee groups is increased. There will be no direct increase in costs for this division.

Prepared by: Bruce Cummings, Director
Division: Labor Relations

Phone: 465-4404
Date: February 26, 1991

Approved by Commissioner: Millett Keller
Agency: Administration

Date: 3/5/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB 118

Revision Date: _____ Department Affected: Administration
 Title: An act establishing the -- BRU: Risk Management
Alaska Marine Highway Authority Component: _____
 Sponsor: Jones, etc.
 Requestor: Transportation and Finance COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	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.)
See Attached

Prepared By: Donald Hircanock Phone: 465-2180
 Division: Risk Management Date: 3-1-91

Approved by Commissioner: Millett Keller
 Agency: Administration Date: 3/1/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, CMB, & Impacted Agency(ies).

TO: The Alaska State Senate, Committee on Transportation, The Honorable Curt Menard, Chairman, and to the members of the Committee.

FROM: Alaska State AFL-CIO; The Inland Boatmen's Union of the Pacific, Alaska Region, AFL-CIO; The Alaska Public Employees Association/AFT, Local 49, AFL-CIO; Public Employees, Local 71, AFL-CIO; and the Alaska State Employees Association/AFSCME, Local 52, AFL-CIO.

RE: CSSB 118, The Alaska Marine Highway Authority

Mr. Chairman and Committee members, we wish to thank you for this opportunity to provide written testimony for the committee's permanent record on the Committee Substitute for Senate Bill 118.

First of all, we would like to say that the CS for SB 118 is a vast improvement over its counterpart in the House of Representatives--the CS for House Bill 10. And we applaud Senator Jones of Ketchikan for trying to make the bill more palatable for the employees of the Alaska Marine Highway Authority the bill seeks to create.

Though we are pleased with the changes in CSSB 118, we have analyzed the committee substitute since its introduction March 3rd, 1991, and find it still contains provisions that are less than desirable to the 90% of the state's Marine Highway employees that we represent.

Following is a list of our concerns and suggested changes regarding CSSB 118:

1. Page 3, lines 13-16 and Page 24, lines 18-21: The Port Captain, Port Engineer, Marine Facilities Engineering Manager, and the Reservation and Marketing Manager are all classified employees in the Supervisory Bargaining Unit of APEA. None of the employees currently holding those positions are interested in leaving classified service; and several have declined offers of promotion into exempt positions in the past. This is because they consider their positions to be careers, as opposed to brief jobs which dangle in the prevailing political wind. We are opposed to the unilateral exemption from the State Personnel Relations Act of any employee currently covered by that Act.
2. Page 3, lines 24-25: The statement "Employees of the authority are state employees" should be clarified by adding--". . . and are covered by the provisions of AS 39."
3. Page 4, lines 8-9: Labor negotiations establishing terms and conditions of employment should continue to be between the existing bargaining units and the State Labor Relations Agency.
4. Page 16, line 31: Section 26 needs a statute reference.

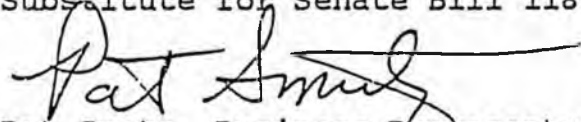
(continued)

Senate Transportation Committee
Testimony on CSSB 118, Continued
Page 2

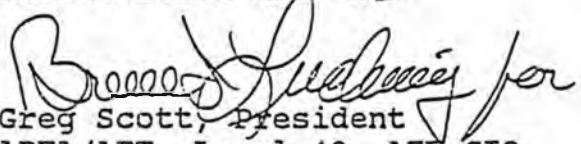
5. Page 17, lines 4-5: Strike the sentence, "The commissioner of transportation and public facilities shall determine which employees are transferred to the authority." This will avoid leaving any current employees of the AMHS behind in limbo (i.e., jobless).

6. Page 17, lines 10-11: This section needs to be clarified by including reference to collective bargaining units. For example: "Nothing in this Act terminates or modifies recognition of a collective bargaining unit, its exclusive bargaining representative or a collective bargaining agreement that is in effect on the effective date of this Act."

We believe these additional changes, if approved by the Legislature, would protect the collective bargaining rights of ALL Alaska Marine Highway System employees and urge the Senate Transportation Committee members to include them in the Committee Substitute for Senate Bill 118.



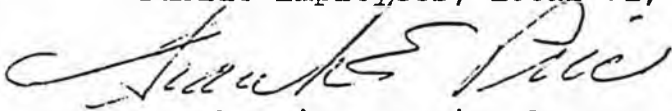
Pat Smutz, Business Representative
Alaska State AFL-CIO



Greg Scott, President
APEA/AFT, Local 49, AFL-CIO



Don Rouleau, Business Representative
Public Employees, Local 71, AFL-CIO



Frank Price, Regional Manager
Inland Boatmen's Union of the Pacific,
Alaska Region, AFL-CIO



Paul DeSloover, President
ASEA/AFSCME, Local 52, AFL-CIO

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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Mail Stop 3101

MEMORANDUM

March 11, 1991

SUBJECT: Sectional Summary of CSSB 118(Transportation); An Act relating to ferries and ferry terminals and establishing the Alaska Marine Highway Authority

TO: Senator Lloyd Jones

FROM: George Utermohle *JU*
Legislative Counsel

This memorandum is a sectional summary of CSSB 118(Transportation), an Act relating to ferries and ferry terminals and establishing the Alaska Marine Highway Authority.

A summary of a bill is not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 of the bill sets out the purpose of the bill.

Section 2 of the bill amends AS 19 by adding a new chapter relating to the Alaska Marine Highway Authority.

CHAPTER 55. ALASKA MARINE HIGHWAY AUTHORITY.

ARTICLE 1. CREATION AND ORGANIZATION.

Sec. 19.55.010 establishes the Alaska Marine Highway Authority as a public corporation of the state within the Department of Transportation and Public Facilities.

Sec. 19.55.020 relates to the directors of the authority. There are seven directors of the authority: the commissioner of transportation and public facilities and six other persons appointed by the governor. The qualifications for the directors are set out.

The appointed directors serve for four year terms. Appointed directors may only be removed for cause.

The directors of the authority are subject to conflict of interest laws under AS 39.50.

The appointed directors of the authority are entitled to compensation in the amount of \$300 for each day they are engaged in the business of the authority. The directors also receive travel and per diem expenses.

Sec. 19.55.030 provides for the election of officers by the directors of the authority and sets the quorum for meetings of the directors.

Sec. 19.55.040 authorizes the board of directors of the authority to employ a chief executive officer who serves at the pleasure of the authority. Certain employees of the authority are employed at the pleasure of the chief executive officer and the board of directors. The authority may also employ consultants and advisors.

Sec. 19.55.045 provides that employees of the authority are state employees. Eligible employees of the authority shall participate in the Public Employees Retirement System and the supplemental employee benefits program (SBS).

ARTICLE 2. POWERS AND DUTIES.

Sec. 19.55.050 sets out the powers of the authority.

Sec. 19.55.060 sets out the duties of the authority.

Sec. 19.55.070 authorizes the authority to operate a ferry system under the name "Alaska Marine Highway System".

Sec. 19.55.080 requires the authority to prepare a long-range plan for development and improvement of the ferry system, in cooperation with the Department of Transportation and Public Facilities, at least every five years.

ARTICLE 3. ACQUISITION OF PROPERTY.

Sec. 19.55.100 provides that the authority may acquire land and material necessary for the construction, maintenance, or improvement of the marine highway system.

Sec. 19.55.110 provides that the authority may acquire land for the purpose of exchanging the land for other land that the authority needs to acquire.

Sec. 19.55.120 authorizes the authority to exercise the power of eminent domain.

Sec. 19.55.130 provides that the authority may vacate land or rights in land held by the authority. The authority may also transfer its surplus lands to the Department of Natural Resources for disposal. The proceeds of the disposal shall be returned to the source of funds from which the original purchase of the land was made.

ARTICLE 4. VESSELS AND FERRY TERMINAL FACILITIES.

Sec. 19.55.310 authorizes the authority to construct, purchase, or lease ferry terminal facilities, to maintain these facilities, and to adopt regulations regarding the use of these facilities by the public.

Sec. 19.55.320 authorizes the authority to connect ferry terminal facilities with local highway systems.

Sec. 19.55.330 provides that the vessels of the authority shall be named by law.

Sec. 19.55.340 exempts ferry terminal facilities that were in existence on January 1, 1959 from AS 19.55.310 - 19.55.320.

ARTICLE 5. GENERAL PROVISIONS.

Sec. 19.55.900 provides that the authority is subject to the Executive Budget Act and that the expenditures of the authority are subject to appropriation by the legislature.

Sec. 19.55.910 provides that the authority shall annually submit a report to the governor and legislature regarding its operations, income, and expenditures for the preceding fiscal year.

Sec. 19.55.920 provides that the authority shall have its financial records audited annually and that the legislative auditor may prescribe the form and content of the financial records of the authority.

Sec. 19.55.930 provides that the authority may use the support services of the Department of Administration on the same basis as a state department.

Sec. 19.55.940 provides that the authority is largely exempt from the procurement code (AS 36.30).

Sec. 19.55.990 sets out the definitions of "authority" and "ferry".

Sec. 19.55.995 provides that this chapter may be cited as the Alaska Marine Highway Authority Act.

Senator Lloyd Jones

March 11, 1991

Page 4

Section 3 of the bill makes a technical amendment to AS 03.53.010(a) relating to the transportation of animals aboard state ferries.

Section 4 - 8 of the bill make technical and editorial amendments to AS 19.65 relating to the Alaska Marine Highway System Fund.

Section 9 of the bill amends AS 23.40.040 to provide that the authority shall be responsible for negotiating with the unions representing the ship board employees of the authority.

Sections 10 - 11 of the bill make technical amendments to AS 35.10.015 relating to access to and use of state ferry vessels by handicapped, aged, and infirmed passengers.

Sections 12 - 14 of the bill amend AS 35.27 to provide that the authority is solely responsible for implementation of the "art in public places" program for vessels and facilities of the authority.

Sections 15 - 16 of the bill amend provisions of the procurement code (AS 36.30) and set out the responsibilities of the authority under the procurement code.

Section 17 of the bill makes technical amendments to AS 37.05.550 relating to the Alaska Marine Highway System Vessel Replacement Fund.

Section 18 of the bill makes a technical amendment to AS 39.20.310(8) relating to the eligibility of ship board employees of the authority to participate in the leave system for state employees.

Sections 19 - 20 of the bill amend AS 39.25.110 to provide that certain officers and employees of the authority are in the exempt state service.

Section 21 of the bill makes a technical amendment to AS 39.30.150(b) relating to the participation of certain employees of the authority in the supplemental employee benefit program (SBS).

Section 22 of the bill makes a technical amendment to AS 39.35.680(21) relating to the participation of certain employees of the authority in the Public Employees Retirement System.

Section 23 of the bill amends AS 39.50.200(b) to provide that directors of the authority are subject to the conflict of interest law (AS 39.50).

Sections 24 - 25 of the bill amend AS 44.42.020 in order to transfer the authority of the Department of Transportation and Public Facilities over the planning, design,

Senator Lloyd Jones
March 11, 1991
Page 5

construction, maintenance, management, and operation of the facilities, vessels, and equipment of the marine highway system to the authority.

Section 26 of the bill provides for the transfer of the employees, appropriations, and assets of the Division of Marine Transportation in the Department of Transportation and Public Facilities to the Alaska Marine Highway Authority upon enactment of this bill. This section also provides that nothing in this bill terminates or modifies the bargaining representation or bargaining agreements that are in effect at the time of enactment of the bill.

Section 27 of the bill provides for the terms of the initial appointees to the board of directors of the authority in order to provide for staggered terms.

Section 28 of the bill repeals AS 19.60 (Ferry Terminal Facilities) and AS 19.65.020 (Alaska Marine Highway System), which have been replaced by AS 19.55 as contained in sec. 2 of this bill.

GU:pl
91-148.plm

MEMORANDUM

State of Alaska
Department of Law

TO: Hon. Frank Turpin, Commissioner
Department of Transportation and
Public Facilities

DATE: March 26, 1991

THROUGH: Katie McHugh *KM*
Legislative Liaison

FILE NO:

TEL. NO: 465-3600

SUBJECT: Comments on labor
relations aspects of
proposed amendments
to HB10

FROM: Kathleen Strasbaugh *KS*
Assistant Attorney General

At Ms. McHugh's request, we have reviewed the latest draft of the above bill with regard to a couple of the labor relations issues it raises.

We understand that there is some question about whether AS 23.40.040 currently requires the commissioner of transportation and public facilities to be the agent of the state for collective bargaining with the vessel employees of the Alaska Marine Highways System. We think not. We previously addressed this issue in 1983 and concluded that the governor has the inherent authority to designate an agent for bargaining under Article III of the Alaska Constitution. 1983 Inf. Op. Att'y Gen. (March 8; 366-480-83). We have attached a copy of the opinion for your information. AS 23.40.040 refers to the commissioner of transportation's involvement in bargaining in permissive terms, and requires an approval which a commissioner is unlikely to be able to withhold from a governor once he/she determines that an agreement is in the best interests of the state. Thus Hafling v. Inlandboatmen's Union of the Pacific, 585 P2d 870, 877 (Alaska 1978) does not compel a contrary result. Traditionally, the authority to bargain has been delegated to the division of labor relations in the Department of Administration.

HB10 as introduced would commit bargaining to the discretion of the authority's board of directors. P. 3 at lines 19-20. Because the authority would be independent, the governor's authority with regard to bargaining would arguably be exercised through his control over the board members rather than directly.

The March 21, 1991, amendment to the March 14, 1991, draft of the House Transportation Committee's committee substitute does not remove the above provision, but does make the authority's employees "state employees" rather than exempt employees under AS 39.25.110. March 21, 1991, Memorandum from Rep. Mackie to Committee chair Foster (Mackie memo). The proponent of the amendments apparently believes that (1) this change, (2) the elimination of an amendment to AS 39.25.110(16) which would have placed all marine highways employees, not just vessel employees, in the exempt service, and (3) a change to the 3/14/91 draft's section 22 transferring employees as state employees rather than as

authority employees, will maintain current classifications of employees but still allow the authority to conduct negotiations. Though PERA will apply under any version of the bill proposed, we believe these changes render the legislature's intent both with respect to the authority's independence and to the scope of the authority's ability to conduct its own collective bargaining uncertain where they were once clear. While it appears that the amendments' proponent intends otherwise, we believe a reasonable reader of the language could conclude that it is intended to preserve the status quo as to most employment matters.^{1/} The governor may of course delegate any authority to bargain as he sees fit in this situation. However, the difference between the proponent's intent and the language of his amendments, as well as the mixed signals given by the bill as a whole as to the status of marine highways employees (which is affected by the degree of independence of the authority as well as the language regarding that status), create ambiguities which will affect the management of the authority, and any court's effort to construe the statute.

We understand that there is some concern about whether proposed section 22(b), which indicates that HB10 does not terminate an existing collective bargaining agreement or recognition of a current bargaining representative, limits the parties' ability to engage in negotiations for reopeners they have contracted for. We believe that it does not. Further, it does not affect the employees' or managements' rights under the statute with respect to selection of a representative or clarification of a bargaining unit.

We have not covered the similarities and differences between this bill and SB118, though we note that some of its provisions have been included in the proposed committee substitute. Please let us know if you would like such a comparison, or any other assistance in this matter.

^{1/} The proposed amendments to AS 23.40.040 are of little significance in this regard; it is the structure of the authority which will likely determine how the governor will exercise his control of the authority's bargaining.

MEMORANDUM

State of Alaska

TO: Honorable Lisa S. Rudd
Commissioner
Department of Administration

DATE: March 8, 1983

FILE NO: 366-480-83

ATTN: Eleanor Andrews
Deputy Commissioner

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: Collective bargaining
re employees of
Alaska Marine Highway System

By: Jonathan B. Rubini
Assistant Attorney General

You have requested our preliminary observation regarding the respective roles of the Department of Administration and the Department of Transportation where the state engages in collective bargaining with employees of the Alaska Marine Highway System.

The collective bargaining process for employees of the Alaska Marine Highway System is governed by both AS 23.40.040 and the Public Employees Relation Act, AS 23.40.070 -- 23.40.260. In Hafling v. Inlandboatmen's Union of the Pacific, 585 P.2d 870 (Alaska 1978), the Alaska Supreme Court addressed the confluence of these overlapping statutory schemes. Rejecting the argument that the adoption of PERA constituted an implied repeal of AS 23.40.040, the court held that the two, related schemes can be harmonized and should thus be construed in a fashion which gives effect to all statutory provisions. Id. at 877.

With the limited exception involving collective bargaining between the Board of Regents and an employee organization, AS 23.40.212, PERA does not specify which state agency must represent the public employer in the collective bargaining process. A "public employer" subject to the responsibilities imposed under PERA includes "a person designated by the public employer to act in its interest in dealing with public employees." AS 23.40.250(6). Indeed, the statutory authorization to delegate the responsibility to engage in collective bargaining is only a restatement of the governor's inherent authority under the broad powers conferred by Article III of the Alaska Constitution. See Bradner v. Hammond, 553 P.2d 1 (Alaska 1976). As you know, the Department of Administration, Division of Labor Relations has been delegated the principal responsibility to negotiate and to implement collective bargaining agreements for most state employees.

In contrast to PERA, AS 23.40.040 does impose a limited restraint on the delegation of responsibility to negotiate a collective bargaining agreement with employees of the Alaska Marine Highway System.

Sec. 23.40.040. COLLECTIVE BARGAINING AGREEMENT. The commissioner of public works or his authorized representative, in accordance with AS 23.40.020 -- 23.40.030, may negotiate and enter into collective bargaining agreements concerning wages, hours, working conditions, and other employment benefits with the employees of the division of marine transportation engaged in operating the state ferry system as master or members of the crews of vessels or their bargaining agent. No collective bargaining agreement is final without the concurrence of the commissioner of public works. The commissioner of public works may make provision in the collective bargaining agreement for the settlement of labor disputes by arbitration.

In Hafling the Alaska Supreme Court observed in dictum that AS 23.40.040 "was likely left intact deliberately to designate the commissioner of public works as the state's representative in bargaining with the ferry union." 585 P.2d at 877 (footnote omitted). The court's hypothesis should not be interpreted, however, to infringe the governor's authority to designate to one state agency the responsibility to negotiate collective bargaining agreements with all state employees. Clearly, AS 23.40.040 contemplates that the commissioner of public works, now the commissioner of transportation, may designate a representative to perform any responsibilities which may arise under AS 23.40.040. An exception to the broad authorization to delegate the responsibility to engage in collective bargaining with employees of the Marine Highway System is that the commissioner of transportation must "approve" any agreement before it is final. It is noteworthy, though, that if the governor determines that it is in the best interests of the state to have one agency in the executive branch negotiate all collective bargaining agreements, the commissioner of transportation's obligation to concur in an agreement is, as a practical matter, more illusory than an effective "check" on the negotiated terms and provisions of an agreement. In substance, therefore, the executive branch has broad authority to delegate the responsibility to negotiate with ferry unions.

The authority to be principally responsible for the negotiation and execution of a collective bargaining agreement

Honorable Lisa S. Rudd, Commissioner
Department of Administration
File No. 366-480-83

March 8, 1983
Page 3

raises the concomitant obligation to play an active role in the enforcement and implementation of the agreement. A collective bargaining agreement may concern all aspects of "terms and conditions of employment" as defined in AS 23.40.250(7). Consequently, implementation and enforcement of the agreement may have collateral consequences which affect the operational aspects of a program. The expansive scope of the collective bargaining process may pose jurisdictional concerns where one department is responsible for the execution and negotiation of a collective bargaining agreement, and another department is responsible for program design and administration. It is, unfortunately, impossible to define in a rigid fashion which questions are principally operational, and which are principally related to the collective bargaining agreement. Ultimately, the only "answer" is that each department must recognize the respective expertise of the other, and that effort be coordinated to accommodate varying concerns.

JBR:md

cc: Guy Stringham, Director
Division of Labor Relations
Dept. of Administration