

**S B**

**268**



KABATA

**KNIK ARM CROSSING**

DOT&PF

**KNIK ARM BRIDGE AND TOLL AUTHORITY (KABATA)**

**PRESENTATION TO THE ALASKA SENATE TRANSPORTATION COMMITTEE**

March 25, 2008

**Senate Bill No. 268**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FIFTH LEGISLATURE - SECOND SESSION

**BY SENATOR ELLIS**

Introduced: 2/13/08

Referred: Transportation, Finance

**House Bill No. 36:**

IN THE LEGISLATURE  
TWENTY-FIFTH LEGISLATURE

**BY REPRESENTATIVE**

Introduced: 2/13/08

Referred: Transportation

*This is scheduled 2-3  
we can continue next  
Tues? (There is the Rail Road)  
(more people on line)*



**VI. LEGITIMATE CONCERNS - The Public, The Legislature, The Governor, ADOT, Indus**

- A. The Concerns.....**
- B. Resolving the Concerns KABATA's Conditions to Proceeding.....**

**VII. THE WAY FORWARD.....**

- A. KABATA's Primary Focus and Immediately Necessary Efforts.....**
- B. A Concurrent Process for Resolving Concerns & Proceeding Forward. ....**

**VIII. CONCLUSION AND RECOMMENDATION.....**

**APPENDIX A.....**

**I. THE CONTEXT**

**A. The KAC Project.** KABATA fully recognizes and understands:

- The KAC Project is one of the largest public works projects in Alaska, nearly equal to the Anchorage expansion and Anchorage's Highway-to-Highway project.
- The KAC Project has a high level of interest from the public, the Legislature, the media, and labor.
- Public awareness, understanding and participation are essential to any successful project.
- The KAC Project has attracted the investment interest of world class investors, financial institutions, and the private sector.

**II. THE LEGISLATURE'S DIRECTIVES and LEGISLATIVE ACTIONS**

**A. The Legislature's Directive to KABATA**

- *September 10, 2003.* The Legislature created and directed KABATA to build a Transportation Trust Fund Arm to advance the State's economic welfare and further the development of its transportation system. \*

**B. The Need for Supplemental Public and Private Sector Financing**

- *March 2, 2006 and March 14, 2006.* In presentations to the House and Senate Transportation Committees KABATA advised that the KAC Project's federal-aid funding had to be supplemented by significant additional public and private sector financing and it was essential the public and private sectors were assured KABATA had the authority to do so.

**II. THE LEGISLATURE'S DIRECTIVES and LEGISLATIVE ACTIONS**  
**(CONTINUED)**

**C. Authorization for a Public-Private Partnership**

- *June 14, 2006.* SCS CSHB 471 clarified KABATA's authority to obtain and explicitly authorized it to enter into public-private partnerships for the financial operation of the Knik Arm Bridge.

**D. Proposed Limitation on KABATA's Authority to Enter Into Contracts**

- *February 13, 2008:* SB 268 and HB 365 propose to severely limit KABATA's public-private partnership and other contracts.
  - **SB 268 and HB 365 are not compatible with the Legislature's mandate to build the Knik Arm Bridge nor with the procurement of a private partner to finance, design, and operate and maintain the KAC Project.**
    - These bills will almost certainly terminate the existing and prevent any future public-private partnership.
    - The bills are antithetical to maximizing the best value for the State.
    - The bills may well harm, if not preclude, the State's ability to use a public-private arrangement for other future projects.
  - A Summary of the SB 268 and HB 365 and KABATA's Analysis and Comments on the legislation is attached to this presentation as Appendix A.

**III. PUBLIC-PRIVATE PARTNERSHIPS (P3) – A Mechanism to Fund Public Projects With**

**A. Purpose for the State (The Public Partner)**

- Supplement federal-aid funds;
- Fulfill the need for additional financing; and
- Obtain a private sector partner to finance, design and construct the KAC Project and operate the toll bridge.
- Transfer a large portion, but not all, of project risk to the Private Partner.

### **III. PUBLIC-PRIVATE PARTNERSHIPS (P3) – A Mechanism to Fund Public Projects** ***(CONTINUED)***

#### **B. Purpose for the Developer (The Private Partner)**

- A long-term (50-60 years) business investment to make a profit.
  - As an investment, the Private Partner is buying a stream of income over a long period.
  - The Private Partner is ***not*** entering into a typical design-build construction contract. The contract will be between the Private Partner and its construction contractor, not the Private Partner and the Government.

#### **C. The P3 Agreement – A Typical Outline**



- ***Between*** the Public Partner (Government) and a private sector company.
- ***Funding for design and construction*** of the Project:
  - *Private Partner* provides the majority (approximately 85-90%) of the funding in the form of private sector loans.
  - *Public Partner* invests a minor portion (approximately 10-15%) of the funding in the form of government funds allocated to the Project;
- ***Funding for operation and maintenance*** of the toll bridge:
  - *Private Partner* uses toll revenue it collects;
  - *Public Partner* commonly provides some financial support to reduce, but not eliminate, toll revenue if toll revenue is insufficient.
- ***Design and Construction-The Design-Build Contract:***
  - *Private Partner* offers firm technical proposals for construction.
  - *Private Partner* **alone** performs or contracts with a private sector company or consortium to construct the Project.
  - *Public Partner* establishes the design and construction **standards** that must be met.

### **III. PUBLIC-PRIVATE PARTNERSHIPS (P3) – A Mechanism to Fund Public Projects** ***(CONTINUED)***

➤ ***Financial Terms:***

- *Private Partner* offers firm financial commitments in its proposal.
- *Public Partner* establishes the minimum acceptable financial terms.

➤ ***Toll Revenue*** during the term of the P3 agreement:

- *Private Partner* collects the toll revenue and uses it to:
  - ✓ Maintain and operate the toll facility to quality standards;
  - ✓ Establish reserves for liabilities and future expansion or additions;
  - ✓ Pay its debts and loans;
  - ✓ Make a profit on its investment.
- *Public Partner* receives a share of toll revenue and uses it to:
  - ✓ Establish reserves for liabilities and future expansion or additions;
  - ✓ Pay its costs of operation; and then
  - ✓ At the end of the P3 agreement receives all future tolls.

➤ ***P3 Benefits***

- The State furthers the development of its transportation system as directed by the
- The State receives a valuable toll bridge with no deferred maintenance;
- The State uses primarily private sector money rather than government capital and maintain the Knik Arm Crossing;
- The State advances and stimulates the economic development of the State Legislature;
- Payment for the cost of the facility through user fees over a long period of time.
- Transfers a large portion of financing, construction and operations risk to the private

➤ ***P3 Disadvantages***

- The ultimate cost of the Project may be greater because a large portion of the tolls are paid to the Private Partner;
- The carrying costs of debt are greater because they occur over a longer period of time.

#### **IV. THE P3 NATURE OF THE KAC PROJECT**

##### **A. The KAC Project – A “Greenfield” Project**

- ***A “Greenfield” Project.*** In the public-private partnership context the KAC Project is a new project which means:
  - The Project is a new project with no history of past traffic volumes and toll revenue on which to predict the sufficiency of future revenue to pay loans, construction and operation costs, and return a net profit.
  - Instead, toll revenue is estimated on the basis of expert surveys, traffic studies, and other data to predict future traffic volumes and toll revenues.
- ***The Risk in a “Greenfield” Project.*** The lack of any past history of traffic volumes presents a significant investment risk to the Private Partner whether revenue will be sufficient to cover construction, maintenance and operation costs, and return a net profit.
  - That revenue risk of a “Greenfield” project will be reflected in whether and how much the Private Partner will invest.
  - In a “Greenfield” project, the Private Partner will invest less, because the risk is higher than if the facility had proven revenue record.

#### **V. STATUS OF THE KNIK ARM CROSSING (KAC) PROJECT**

##### **A. The Final Environmental Impact Statement (FEIS) and Record of Decision (ROD)**

- After three years of intense environmental investigation, analysis, documentation, and public involvement by KABATA and its expert consultants, the FEIS was issued by the Federal Highway Administration (FHWA) December 20, 2007.
- The FHWA Record of Decision (ROD) on the KAC Project is nearing completion and

**V. STATUS OF THE KNIK ARM CROSSING (KAC) PROJECT**  
**(CONTINUED)**

**B. Private Activity Bonds**

- The United States Department of Transportation (USDOT) has allocated the Project obligation of the Private Partner \$600 million of federal tax exempt private activity issued on behalf of the Private Partner.

**C. TIFIA Subordinated Loan.**

- KABATA has applied to make available a preliminary commitment of a federal, s sector loans) transportation loan of approximately \$261 million to and as an ob partner from the USDOT TIFIA Office. (TIFIA = the federal Transportation Infr Innovation Act.)
  - The TIFIA Credit Council is expected to act on the application in the near fu optimistic that it will be approved.

**D. The Procurement** KABATA is in the second stage of a two-step, formal and procurement process in accordance with and as authorized by the State Procurement Co

- First Step: Qualify Responsible Private Developers through a public Request Qualifications (RFQ). Two world renowned private partners have been qualified:

**Knik Arm Crossing Constructors**

Macquarie Bank Limited  
Macquarie Holdings (USA) Inc.  
Macquarie Securities (USA) Inc.  
Kiewit/Manson JV  
Kiewit Pacific Co.  
Manson Construction Company  
Parsons Transportation Group Inc.  
Golder Associates Inc. & VMS Inc.

**Knik Arm Crossing Consortium.**

Bouygues Travaux Publics S  
URS Corporation  
ARUP Engineering Services  
USKH Inc.

**V. STATUS OF THE KNIK ARM CROSSING (KAC) PROJECT**

**D. The Procurement**  
**(CONTINUED)**

- **Second Step Part 1: Develop the Base Requirements for Proposals.** Over the past and its expert consultants have investigated, studied, analyzed the financial and value of the Project, its benefits to the State, the cost and economic risks associated with the means of delivery including design, permitting, construction and construction operation costs, its projected traffic and toll revenue, and its potential and probable risks. It also sought the views of the qualified private partners.
  - During and as a result of this part of the procurement process, there were issues with ADOT, the Governor, members of the Legislature, the qualified private partners. These are outlined below under LEGITIMATE CONCERNS.
- **Second Step Part 2: Request for Proposals (RFP) from the qualified private partner for design, construction, operation and maintenance of the KAC Project.**
  - The Request for Proposals is still under development.

**VI. LEGITIMATE CONCERNS - The Public, The Legislature, The Governor, ADOT, Industry**

**A. The Concerns.** Members of the Legislature, the Administration and the Department of Transportation, Public Facilities and members of the public have expressed legitimate concerns regarding the Project.

- The Project's expenditures;
- The cost of the Project;
- The Project's potential risk to the State and other federal-aid transportation program

These are KABATA's concerns as well.

**VI. LEGITIMATE CONCERNS - The Public, The Legislature, The Governor, ADOT, Industry**  
***(CONTINUED)***

**B. Resolving the Concerns - KABATA's Conditions to Proceeding.**

- ***Satisfactory resolution*** of the concerns is required prior to issuing a Request for Proposal to potential private partners.
- ***A publicly supported State position endorsed by the Governor and Legislature*** on the KAC Project is fundamental to any realistic expectation that the State will receive offers from developers that maximize the State's best interests.
- ***Protection must be provided*** ADOT's transportation projects and federal-aid funds not adversely affected by the KAC Project.
- ***The State's best interests*** must be maximized with value and benefit to State's transportation systems and the public.
- ***Pending satisfactory resolution*** of concerns, an RFP will not be issued until but will be issued as soon as possible.
- ***The RFP will be made publicly available when finalized.***

**VII. THE WAY FORWARD.**



**A. KABATA's Primary Focus and Immediately Necessary Efforts.**

- ***The FEIS and ROD.*** The primary responsibility and focus of KABATA's is to complete the NEPA environmental review process and obtain the necessary Record of Decision.
  - KABATA must support the FHWA in responding to comments on the FEIS and the Record of Decision.

## **VII. THE WAY FORWARD.**

### **A. KABATA's Primary Focus and Immediately Necessary Efforts.** **(CONTINUED)**

- ***Environmental Permits.*** KABATA must apply for and pursue the necessary environmental permits for the construction of the KAC while the FEIS remains current.
- ***Preserving the Private Activity Bond Allocation.*** KABATA must maintain the availability of the private partners of the USDOT allocation of \$600 million of federal tax exempt private activity bond use by the private partner.
- ***Preserving the TIFIA Loan.*** KABATA must maintain the availability of the \$2 billion TIFIA loan anticipated to be approved by the USDOT TIFIA office for borrowing by the private partner.
- ***Preserving the Interest of the Qualified Partners.*** KABATA must make every effort to preserve the interest of the qualified proposers in the KAC Project.

### **B. A Concurrent Process for Resolving Concerns & Proceeding Forward.**

Concurrent with its pursuit of the ROD and environmental permits, maintaining the availability of the private activity bond funds and preserving the investment interest of the qualified private partners,

- KABATA will continue to consult with the Administration.
- KABATA will continue to consult and coordinate with the Office of the Governor, the Office of Transportation, Revenue, Law, Natural Resources, Environmental Conservation, and the University of Alaska.
- KABATA will review and continue to evaluate the financial feasibility, funding, and implementation of the KAC Project under a public-private partnership.
- KABATA supports an independent and objective evaluation of the financial feasibility of the KAC Project by an independent task force or work group.



**VII. THE WAY FORWARD.**

**B. A Concurrent Process for Resolving Concerns & Proceeding Forward.**  
*(CONTINUED)*

- The independent evaluation would be open to public participation consistent with the State and its citizens.
- The independent evaluation would produce a report to the Governor, the Legislature its findings and evaluations together with recommendations for action by the Legislature and KABATA.
- The independent evaluation provides an expeditious process of providing the Legislature and the public at or prior to release of the request for proposals.
  - It is an appropriate and welcome step in the procurement process.
  - The qualified proposers likely will find this process to their advantage and submitting proposals.
- KABATA has demonstrated and will continue its engagement in and support involvement.

**VIII. CONCLUSION AND RECOMMENDATION**

- We recommend and the Legislature is respectfully urged to take no action on SB 268 and H
- KABATA also respectfully requests the Legislature to support KABATA's efforts in TH

**APPENDIX A.**  
to  
**KABATA's PRESENTATION TO THE ALASKA SENATE TRANSPORTATION COMMITTEE**  
March 25, 2008

**KABATA Summary, Analysis and Comments**  
Proposed Senate Bill 268 and House Bill 365

**SUMMARY OF PROPOSED BILLS:**

SB 268 and HB 365 amend AS 19.75.11(a)(5) to severely limit KABATA's ability to implement the Legislature's authority over the Knik Arm Crossing and KABATA's statutory authority to "make and execute agreements, contracts, and the financing design, construction, maintenance, improvement or operation of facilities, properties, or projects including incurring indebtedness, and public-private partnerships or other contracts in any form.

Any and all KABATA agreements, regardless of their nature or importance, would be subject to:

- a 60-day public comment period before entering into any proposed contract;
- a determination by the Authority after the comment period whether the agreement, contract, or project sufficiently maximizes the benefits to the people of Alaska, and
- A legislative hearing and approval of the agreement after receiving the KABATA determination

SB 268 and HB 365 also amend the Authority's powers and duties provided under AS 19.75.111(a)10 by:

- limiting toll rate increases to the Consumer Price Index for all urban consumers. Anchorage's current toll rate limitation would contradict compliance with 19.75.221(b) or of a provision of a trust entered into by the Authority;
- requiring approval of such toll change by the Commissioner Of Transportation And Public Facilities

SB 268 and HB 365 further amend AS 44.42.090 to establish the authority of the Commissioner Of Transportation And Public Facilities to approve toll rates.

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**KABATA's PRESENTATION TO THE ALASKA SENATE TRANSPORTATION COMMITTEE**

March 25, 2008

**KABATA Summary, Analysis and Comments**

Proposed Senate Bill 268 and House Bill 365

**KABATA'S ANALYSIS, COMMENT  
AND RECOMMENDATION ON SB 268 AND HB 365**

**KABATA recommends against passage of SB 268 and HB 365. These bills, if enacted into law, will likely prevent any future procurement of a public-private agreement to finance and build the project. These bills do not protect the public interest.**

**Introduction:**

A public-private partnership is an agreement between the government (in this instance KABATA) and a private group of companies by which the private sector provides all or a material part of the money for and designs the toll bridge. In return, the government provides a small portion of the funds and shares the toll revenue which may recover its costs, pay its debt and make a reasonable profit on its investment. The government receives an improved transportation infrastructure using primarily private sector moneys rather than its own government funds. The company that will be the private partner is selected through the use of a competitive procurement process where private companies submit proposals (offers) to finance, design, construct, operate and maintain the bridge and specific

Their proposals will offer firm financing commitments and designs for construction.

In May 2003 (SB 213) and again in May 2006 (SCS CSHB 471) the Legislature established the powers and a Bridge and Toll Authority. SCS CSHB 471 explicitly authorized KABATA to enter into a public private partnership for the construction and operation of the Knik Arm Bridge. *After just one intervening session* of the Legislature, SB 268 and HB 365 -propose to severely restrict the Authority's ability to carry out its mission to finance and construct the bridge to use a public-private partnership to do so. SB 268 and HB 365 also severely limit the Authority's ability to collect tolls.

**Effect of SB 268 and HB 365 Generally**

If enacted, SB 268 and HB 365 will likely result in the inability of KABATA to pursue the existing or any future public-private partnership.

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March 25, 2008

**KABATA Summary, Analysis and Comments**

Proposed Senate Bill 268 and House Bill 365

It is the apparent intent of SB 268 and HB 365 to limit KABATA's ability to enter into public-private partnerships requiring a *prior* public hearing and *prior* legislative approval. However, the actual language of these bills allows KABATA agreements, contracts, and other instruments without exception.

**Effect of Proposed Legislation on Public-Private Partnerships**

To compete for the contract, the private sector will have to spend between \$5 and \$10 million of their own money to prepare offers. To prepare binding financial and technical offers, they must investigate project characteristics, prepare the project, prepare cost estimates, perform traffic and revenue studies, develop operations and maintenance plans, analyze and comment on prospective contract documents with KABATA, negotiate a design and construction contract, ensure financial feasibility and obtain the necessary equity investments and loans needed to fund their offers. If the project is not approved, the private sector is subject to the political risk of legislative approval, in addition to the competitive risk, they will not expect to receive the \$5 million necessary to prepare an offer. Instead, they will choose to drop out of the procurement.

Further, under the current procurement, the private sector is required to irrevocably offer firm financial commitments for the project. To review and compare the private sector offers and enter into a binding contract with the state, it takes approximately three to six months. That is the absolute maximum time the private sector can reasonably hold firm commitments without a risk of increased costs and lower value to the public. The recent and continuing volatility in global markets may limit their ability to hold financial commitments to an even shorter period of time.

Any extended public hearing and legislative review process will negate the ability to obtain firm financial commitments and the value to the state.

**Status of Procurement**

KABATA has followed Alaska's Procurement Code and regulations as well as best industry practices in competitive procurement. It has hired the leading experts in the industry and with their assistance is developing Proposals and associated documents, including a draft Public-Private Agreement (PPA), in response to which the private sector will make their competing offers in an auction bid format to maximize value to the state and protect the public interest.

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**KABATA's PRESENTATION TO THE ALASKA SENATE TRANSPORTATION COMMITTEE**

March 25, 2008

**KABATA Summary, Analysis and Comments**

Proposed Senate Bill 268 and House Bill 365

The proposal process will take 6-8 months because of the complexity of preparing a responsive offer, commence with release of the RFP. Issuance of the RFP does not cast the request for proposals in concrete - amended during the proposal process. Neither issuance of the RFP nor receipt of proposals will result in KABATA Board will have full discretion to decide whether either offer meets the proposal requirements and to the State.

**Public Involvement**

KABATA has demonstrated its engagement in and support of public involvement through 10 Gov't meetings, 4 other Community Council meetings, 8 non-governmental organization meetings, 16 meetings groups, 6 formal public open house presentations and public hearings, 5 other public information meetings, 2 on Draft EIS, 2 public surveys, and 49 other meetings with gov't agencies, interested groups and individuals outreach to 23 cooperating and participating government agencies through 6 interagency group meetings, 39 interagency meetings and 11 native tribal meetings.

KABATA has also made extensive documents and information available through its website including reports, informational presentations, project documents, the Draft and Final EIS, surveys, open houses and minutes, annual reports, comment forms, schedules and EIS activities,

KABATA is committed to continuing that public and agency outreach and dialogue. The request for proposal agreement and related documents, has always been assumed and intended to be a publicly available document private sector. An expeditious process of providing information to the Legislature and the public at or prior for proposals is an appropriate and welcomed step in the procurement process. Hopefully the private sector advantage and remain interested in submitting proposals.

**Capping Toll Rate Increases**

Private sector lenders and equity investors will provide 85-90% of the project funding. Obviously, without it not feasible. Lenders and equity investors will not fund against a revenue stream that is subject to political

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**KABATA's PRESENTATION TO THE ALASKA SENATE TRANSPORTATION COMMITTEE**

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**KABATA Summary, Analysis and Comments**

**Proposed Senate Bill 268 and House Bill 365**

order for the private sector to borrow funds and raise equity investment against the stream of toll revenue, must be certain and set forth in the agreement.

The authority recommends that a base maximum toll rate be established within the PPA rather than by law. The PPA already cap annual toll rate increases by the three year rolling average of Anchorage CPI-U as suggested.

A number of contingent compensation events where the risk is retained by KABATA could be covered by toll rates above the maximum base toll rate. KABATA also needs to retain the flexibility of using toll rates for the term of the agreement on a revenue neutral basis to the developer. Statutorily limiting toll rate setting, rather than in the best interest of the state or the Alaskan public and will not be acceptable to the private sector.

**ADOT Commissioner's Approval of Toll Rates**

The legislature contemplated a deliberative body to protect the public interest in toll rate setting when it is established under AS 19.75. The powers of toll rate setting are vested in the board of directors, which is comprised by persons that include the Commissioner of Revenue, the Commissioner of Transportation and Public Facilities, three persons appointed by the Governor, and two state legislators – one from the Senate and one from the House. This deliberative body provides the oversight of the Knik Arm Crossing Project. As such it provides a much broader perspective of the project than the Commissioner of ADOT alone.

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**KABATA's PRESENTATION TO THE ALASKA SENATE TRANSPORTATION COMMITTEE**

March 25, 2008

**KABATA Summary, Analysis and Comments**

Proposed Senate Bill 268 and House Bill 365

**Consultant's Legal Review of Proposed Legislation**

Nossaman Guthner Knox and Elliot, LLP, the nationally preeminent law firm representing solely government P3 transportation transactions, is KABATA's P3 legal counsel and has provided KABATA the following observations:

The legislation would vest in KABATA authority to increase toll rates, fees and other charges only by CP consistent with the toll regulation already contemplated, it does create certain unnecessary barriers and problems:

1. The new language is written in a way that implies the Authority would need to take a new action to do that clearly will not work.
2. The bill would preclude use of value pricing (we call it "traffic management pricing") as a means to fund project expansion. The provision contemplates higher pricing - beyond CPI increases - in peak hour tolling, to result in overall revenue neutrality.
3. The bill might be construed to preclude introduction of video toll premiums if the developer later wants to implement open road tolling. Query whether this would be a "periodic change" in the tolls, or an allowed "initial determination" of toll rates.
4. The bill could preclude a decision to increase toll rate caps as the means for KABATA to pay for a CMAQ PPA currently provides this as the exclusive means to compensate for real property taxes on the Developer's land.
5. The bill could preclude surcharging tolls with any tax imposed on gross toll receipts, as now contemplated. Again that depends on whether this would be a "periodic change" in the initial toll or an "initial determination" of toll rates.
6. The bill could preclude flexibility by the developer in adjusting its actual toll rates inside the cap. It could be precluded from using value pricing underneath the cap. It could be precluded from seasonal pricing.
7. The requirement for approval of each change by the DOT commissioner is a likely show stopper, especially if it requires a separate regulatory decision for each increase. The financial markets will not accept periodic adjustments. Nor is this necessary to protect the public interest. The authority already is vested with the DOT commissioner regarding toll rates. The board bears this public responsibility, and the Commissioner's board members represent other constituencies, giving the board a broader perspective of the public interest.

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**KABATA Summary, Analysis and Comments**

**Proposed Senate Bill 268 and House Bill 365**

8. CPI limits on fees and other charges is not necessarily a good idea, at least when applied to violation for incidental charges such as account maintenance fees, paper statement fees, and the like.

9. It appears the language in the bill would not preclude use of a 3-year rolling average CPI, but we raise about.

Contract approval by the Legislature certainly deserves comment from the qualified proposers. We strongly support the quick and sure death of this procurement. Layering on top of an already challenging project a new process will likely destroy the current P3 procurement.

Even if the current P3 procurement could be preserved, the time period required for the public and legislative process would undermine the state's ability to receive or hold firm financial proposals. Current market conditions make this difficult. KABATA might have to offer longer interest rate benchmark protections. And with the process of issuing the RFP, it is possible that the legislative review would not finish in one session and would be carried over.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

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Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

March 13, 2008

**SUBJECT:** Sectional summary of SB 268 (Work Order No. 25-LS1480\A)

**TO:** Senator Johnny Ellis  
Attn: Max Hensley

**FROM:** Brian J. Kane *BJK*  
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1 of the bill amends AS 19.75.111(a)(5) to make certain agreements, contracts, and other instruments the Knik Arm Bridge and Toll authority wants to enter into subject to the provisions of AS 19.75.345. The section also amends AS 19.75.111(a)(10) to set limits regarding the ability of the authority to increase the amount for fees, tolls, or other charges and requires the commissioner of transportation and public facilities to approve the changes.

Section 2 of the bill adds a new section to AS 19.75 directing opportunity for public review and requiring notice and legislative approval for certain agreements, contracts, and other instruments involving the authority. The section establishes a process for public review, legislative review, and legislative approval for agreements, contracts, and other instruments proposed to be entered into under AS 19.75.111(a)(5)(B).

Section 3 of the bill amends AS 44.42 by adding a new section requiring the commissioner of transportation and public facilities to consider proposed changes to tolls, fees, and other charges and possibly approve them in relation to the Knik Arm Bridge and Toll Authority.

BJK:med  
08-184.med

# ALASKA STATE LEGISLATURE

Senate Labor and Commerce  
Committee, Chair

•  
Legislative Budget and Audit  
Committee

•  
Senate Rules Committee

•  
Committee on Committees



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SENATOR JOHNNY ELLIS  
SENATE MAJORITY LEADER

## SECTIONAL ANALYSIS SB 268: Knik Arm Bridge & Toll Authority Oversight

**Section 1.** Amends AS 19.75 to make the ability of the Knik Arm Bridge and Toll Authority (KABATA) to enter into agreements regarding facilities or properties subject to the limitations described in section 2 and limits toll increases on facilities owned or controlled by KABATA to the rate of inflation or to remain in compliance with other provisions of state law or previous bond agreements. All increases must be approved by the commissioner of the Department of Transportation and Public Facilities (DOT).

**Section 2.** Adds new section to AS 19.75 to require that contracts as described in section 1 be submitted for 60 days of public comment followed by 60 days for legislative approval.

**Section 3.** Adds new section to AS 44.42 to give the commissioner of DOT authority to approve changes in tolls or fees charged in relation to contracts as described in section 1.



# Municipality of Anchorage

PO Box 190650 • Anchorage, Alaska 99519-6650 • Telephone: (907) 343-4431 • Fax: (907) 343-4499 <http://www.muni.org>

*Mayor Mark Begich*

**Office of the Mayor**

March 24, 2008

**The Honorable Johnny Ellis  
Alaska State Senate  
Juneau, AK 99801**

**Dear Senator Ellis:**

**I write in support of your Senate Bill 268 (SB 268) and its companion, House Bill 365 (HB 365). As I expressed in a letter to Governor Palin last summer, a public project of a size and cost like the Knik Arm Crossing requires a healthy and transparent public process and a thorough, performance-based project agreement.**

**As you know, I have been supportive of a Knik Arm Crossing that meets the needs of Southcentral Alaska without needlessly harming a resurgent downtown Anchorage or reducing federal and state transportation dollars for scores of other vital transportation projects. While I disagree with the AMATS decision to narrow the scope of the project and add more traffic to an already overburdened downtown C street corridor, this project is moving ahead, and I am committed to making it the best possible project for my constituents and this state.**

**As Governor Palin and the Legislature have rightfully championed with the Alaska Gasline Inducement Act, government functions best when it is open and transparent. SB 268 provides that transparency. Additionally, private parties accepting public funds also need clear benchmarks to ensure their performance. Projects of this scale require broad public trust. That trust is gained from wide-reaching, collaborative process that encourages citizen involvement.**

**The Knik Arm Bridge and Toll Authority (KABATA) currently contemplates that a public-private partnership construct and maintain this project in return for the rights to the toll revenues from the bridge. While these types of partnerships are gaining popularity across the United States, they are still new and we have no experience with them in Alaska. That should signal extreme caution in drafting**

***Community, Security, Prosperity***

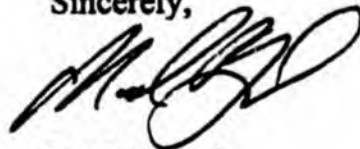
Senator Johnny Ellis  
March 24, 2008  
Page 2

such an agreement, and the standards required in SB 268 go a good distance towards that goal.

Beyond the stewardship of the mammoth public investment to date, a private company's management actions would directly affect significant transportation, quality of life, and environmental issues for citizens in both Anchorage and the Matanuska-Susitna Valley. At minimum, performance standards should include: adequate maintenance of all infrastructure, adequate and measurable air quality and noise standards, pedestrian, bicycle and multi-modal transportation options, as well as concrete triggers for completing the connection to the Gambell-Ingra corridor to relieve the inevitable traffic congestion brought about by any additional traffic the bridge delivers to downtown Anchorage.

Revisiting KABATA's authorizing legislation via SB 268 is a good step towards establishing these benchmarks. Thank you for sponsoring this forward-thinking legislation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Begich', written in a cursive style.

Mark Begich  
Mayor

cc: The Honorable Les Gara

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3887 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

March 13, 2008

**SUBJECT:** Sectional summary of SB 268 (Work Order No. 25-LS1480\A)

**TO:** Senator Johnny Ellis  
Attn: Max Hensley

**FROM:** Brian J. Kane *BJK*  
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1 of the bill amends AS 19.75.111(a)(5) to make certain agreements, contracts, and other instruments the Knik Arm Bridge and Toll authority wants to enter into subject to the provisions of AS 19.75.345. The section also amends AS 19.75.111(a)(10) to set limits regarding the ability of the authority to increase the amount for fees, tolls, or other charges and requires the commissioner of transportation and public facilities to approve the changes.

Section 2 of the bill adds a new section to AS 19.75 directing opportunity for public review and requiring notice and legislative approval for certain agreements, contracts, and other instruments involving the authority. The section establishes a process for public review, legislative review, and legislative approval for agreements, contracts, and other instruments proposed to be entered into under AS 19.75.111(a)(5)(B).

Section 3 of the bill amends AS 44.42 by adding a new section requiring the commissioner of transportation and public facilities to consider proposed changes to tolls, fees, and other charges and possibly approve them in relation to the Knik Arm Bridge and Toll Authority.

BJK:med  
08-184.med

# ALASKA STATE LEGISLATURE

Senate Labor and Commerce  
Committee, Chair

•  
Legislative Budget and Audit  
Committee

•  
Senate Rules Committee

•  
Committee on Committees



*While in Session*  
State Capitol, Rm. 9  
Juneau, AK 99801  
(907) 465-3704  
Fax: (907) 465-2529

*While in Anchorage*  
716 W. 4<sup>th</sup> Ave, Ste. 440  
Anchorage, AK 99501  
(907) 269-0169  
Fax: (907) 269-0172

SENATOR JOHNNY ELLIS  
SENATE MAJORITY LEADER

## SECTIONAL ANALYSIS SB 268: Knik Arm Bridge & Toll Authority Oversight

**Section 1.** Amends AS 19.75 to make the ability of the Knik Arm Bridge and Toll Authority (KABATA) to enter into agreements regarding facilities or properties subject to the limitations described in section 2 and limits toll increases on facilities owned or controlled by KABATA to the rate of inflation or to remain in compliance with other provisions of state law or previous bond agreements. All increases must be approved by the commissioner of the Department of Transportation and Public Facilities (DOT).

**Section 2.** Adds new section to AS 19.75 to require that contracts as described in section 1 be submitted for 60 days of public comment followed by 60 days for legislative approval.

**Section 3.** Adds new section to AS 44.42 to give the commissioner of DOT authority to approve changes in tolls or fees charged in relation to contracts as described in section 1.



# Municipality of Anchorage

P.O. Box 196650 • Anchorage, Alaska 99519-6650 • Telephone: (907) 343-3331 • Fax: (907) 343-3398 <http://www.muni.org>

*Mayor Mark Begich*

**Office of the Mayor**

March 24, 2008

The Honorable Johnny Ellis  
Alaska State Senate  
Juneau, AK 99801

Dear Senator Ellis:

I write in support of your Senate Bill 268 (SB 268) and its companion, House Bill 365 (HB 365). As I expressed in a letter to Governor Palin last summer, a public project of a size and cost like the Knik Arm Crossing requires a healthy and transparent public process and a thorough, performance-based project agreement.

As you know, I have been supportive of a Knik Arm Crossing that meets the needs of Southcentral Alaska without needlessly harming a resurgent downtown Anchorage or reducing federal and state transportation dollars for scores of other vital transportation projects. While I disagree with the AMATS decision to narrow the scope of the project and add more traffic to an already overburdened downtown C street corridor, this project is moving ahead, and I am committed to making it the best possible project for my constituents and this state.

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***Community, Security, Prosperity***

Senator Johnny Ellis

March 24, 2008

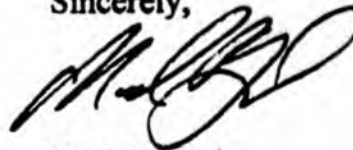
Page 2

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Mark Begich  
Mayor

cc: The Honorable Les Gara



KABATA

**KNIK ARM CROSSING**

DOT & PF



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**KNIK ARM BRIDGE AND TOLL AUTHORITY (KABATA)**

**PRESENTATION TO THE ALASKA SENATE TRANSPORTATION COMMITTEE**

March 25, 2008

---

**Senate Bill No. 268**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FIFTH LEGISLATURE - SECOND SESSION  
BY SENATOR ELLIS

Introduced: 2/13/08

Referred: Transportation, Finance

**House Bill No. 36**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FIFTH LEGISLATURE - SECOND SESSION  
BY REPRESENTATIVE

Introduced: 2/13/08

Referred: Transportation



**VI. LEGITIMATE CONCERNS - The Public, The Legislature, The Governor, ADOT, Industry**

- A. The Concerns.....**
- B. Resolving the Concerns KABATA's Conditions to Proceeding.....**

**VII. THE WAY FORWARD.....**

- A. KABATA's Primary Focus and Immediately Necessary Efforts.....**
- B. A Concurrent Process for Resolving Concerns & Proceeding Forward. ....**

**VIII. CONCLUSION AND RECOMMENDATION.....**

**APPENDIX A.....**

## **I. THE CONTEXT**

### **A. The KAC Project.** KABATA fully recognizes and understands:

- The KAC Project is one of the largest public works projects in Alaska, nearly 100 miles long, including the Anchorage expansion and Anchorage's Highway-to-Highway project.
- The KAC Project has a high level of interest from the public, the Legislature, the media, and labor.
- Public awareness, understanding and participation are essential to any successful project.
- The KAC Project has attracted the investment interest of world class investors, financial institutions, and the private sector.

## **II. THE LEGISLATURE'S DIRECTIVES and LEGISLATIVE ACTIONS**

### **A. The Legislature's Directive to KABATA**

- *September 10, 2003.* The Legislature created and directed KABATA to build a Transportation Trust Fund (TTF) to advance the State's economic welfare and further the development of its transportation system.

### **B. The Need for Supplemental Public and Private Sector Financing**

- *March 2, 2006 and March 14, 2006.* In presentations to the House and Senate Transportation Committees KABATA advised that the KAC Project's federal-aid funding had to be supplemented by significant additional *public* and *private* sector financing and it was essential the public and private sectors were assured KABATA had the authority to do so.

## **II. THE LEGISLATURE'S DIRECTIVES and LEGISLATIVE ACTIONS** ***(CONTINUED)***

### **C. Authorization for a Public-Private Partnership**

- ***June 14, 2006.*** SCS CSHB 471 clarified KABATA's authority to obtain and explicitly authorized it to enter into public-private partnerships for the financial operation of the Knik Arm Bridge.

### **D. Proposed Limitation on KABATA's Authority to Enter Into Contracts**

- ***February 13, 2008:*** SB 268 and HB 365 propose to severely limit KABATA's public-private partnership and other contracts.
  - **SB 268 and HB 365 are not compatible with the Legislature's mandate to build, operate and maintain the Knik Arm Bridge nor with the procurement of a private partner to finance, design and construct the KAC Project.**
    - **These bills will almost certainly terminate the existing and prevent any future public-private partnership.**
    - **The bills are antithetical to maximizing the best value for the State.**
    - **The bills may well harm, if not preclude, the State's ability to use a public-private arrangement for other future projects.**
  - **A Summary of the SB 268 and HB 365 and KABATA's Analysis and Comments on the legislation is attached to this presentation as Appendix A.**

## **III. PUBLIC-PRIVATE PARTNERSHIPS (P3) – A Mechanism to Fund Public Projects With**

### **A. Purpose for the State (The Public Partner)**

- Supplement federal-aid funds;
- Fulfill the need for additional financing; and
- Obtain a private sector partner to finance, design and construct the KAC Project and operate the toll bridge.
- Transfer a large portion, but not all, of project risk to the Private Partner.

### **III. PUBLIC-PRIVATE PARTNERSHIPS (P3) – A Mechanism to Fund Public Projects** ***(CONTINUED)***

#### **B. Purpose for the Developer (The Private Partner)**

- A long-term (50-60 years) business investment to make a profit.
  - As an investment, the Private Partner is buying a stream of income over a long period.
  - The Private Partner is ***not*** entering into a typical design-build construction contract. The contract will be between the Private Partner and its construction contractor, not between the Private Partner and the Government.

#### **C. The P3 Agreement – A Typical Outline**

- ***Between*** the Public Partner (Government) and a private sector company.
- ***Funding for design and construction*** of the Project:
  - *Private Partner* provides the majority (approximately 85-90%) of the funding in the form of equity and private sector loans.
  - *Public Partner* invests a minor portion (approximately 10-15%) of the funding in the form of government bonds or funds allocated to the Project;
- ***Funding for operation and maintenance*** of the toll bridge:
  - *Private Partner* uses toll revenue it collects;
  - *Public Partner* commonly provides some financial support to reduce, but not eliminate, the toll. Toll revenue is insufficient.
- ***Design and Construction-The Design-Build Contract:***
  - *Private Partner* offers firm technical proposals for construction.
  - *Private Partner alone* performs or contracts with a private sector company or contractor to construct the Project.
  - *Public Partner* establishes the design and construction standards that must be met.

### **III. PUBLIC-PRIVATE PARTNERSHIPS (P3) – A Mechanism to Fund Public Projects** **(CONTINUED)**

➤ ***Financial Terms:***

- *Private Partner* offers firm financial commitments in its proposal.
- *Public Partner* establishes the minimum acceptable financial terms.

➤ ***Toll Revenue*** during the term of the P3 agreement:

- *Private Partner* collects the toll revenue and uses it to:
  - ✓ Maintain and operate the toll facility to quality standards;
  - ✓ Establish reserves for liabilities and future expansion or additions;
  - ✓ Pay its debts and loans;
  - ✓ Make a profit on its investment.
- *Public Partner* receives a share of toll revenue and uses it to:
  - ✓ Establish reserves for liabilities and future expansion or additions;
  - ✓ Pay its costs of operation; and then
  - ✓ At the end of the P3 agreement receives all future tolls.

➤ ***P3 Benefits***

- The State furthers the development of its transportation system as directed by the
- The State receives a valuable toll bridge with no deferred maintenance;
- The State uses primarily private sector money rather than government capital and maintain the Knik Arm Crossing;
- The State advances and stimulates the economic development of the State Legislature;
- Payment for the cost of the facility through user fees over a long period of time.
- Transfers a large portion of financing, construction and operations risk to the private

➤ ***P3 Disadvantages***

- The ultimate cost of the Project may be greater because a large portion of the toll is paid by the Private Partner;
- The carrying costs of debt are greater because they occur over a longer period of time.

#### **IV. THE P3 NATURE OF THE KAC PROJECT**

##### **A. The KAC Project – A “Greenfield” Project**

- ***A “Greenfield” Project.*** In the public-private partnership context the KAC Project is a “Greenfield” project which means:
  - The Project is a new project with no history of past traffic volumes and toll revenues on which to predict the sufficiency of future revenue to pay loans, construction and operation costs, and return a net profit.
  - Instead, toll revenue is estimated on the basis of expert surveys, traffic studies, and other data to predict future traffic volumes and toll revenues.
- ***The Risk in a “Greenfield” Project.*** The lack of any past history of traffic volumes presents a significant investment risk to the Private Partner whether revenue will be sufficient to cover construction, maintenance and operation costs, and return a net profit.
  - That revenue risk of a “Greenfield” project will be reflected in whether and how much the Private Partner will invest.
  - In a “Greenfield” project, the Private Partner will invest less, because the risk is higher than if the facility had proven revenue record.

#### **V. STATUS OF THE KNIK ARM CROSSING (KAC) PROJECT**

##### **A. The Final Environmental Impact Statement (FEIS) and Record of Decision (ROD)**

- After three years of intense environmental investigation, analysis, documentation and public involvement by KABATA and its expert consultants, the FEIS was issued by the Federal Highway Administration (FHWA) December 20, 2007.
- The FHWA Record of Decision (ROD) on the KAC Project is nearing completion and is expected to be issued in the next few weeks.

**V. STATUS OF THE KNIK ARM CROSSING (KAC) PROJECT**  
**(CONTINUED)**

**B. Private Activity Bonds**

- The United States Department of Transportation (USDOT) has allocated the Project obligation of the Private Partner \$600 million of federal tax exempt private activity issued on behalf of the Private Partner.

**C. TIFIA Subordinated Loan.**

- KABATA has applied to make available a preliminary commitment of a federal, s sector loans) transportation loan of approximately \$261 million to and as an ob partner from the USDOT TIFIA Office. (TIFIA = the federal Transportation Infr Innovation Act.)
  - The TIFIA Credit Council is expected to act on the application in the near fu optimistic that it will be approved.

**D. The Procurement** KABATA is in the second stage of a two-step, formal and procurement process in accordance with and as authorized by the State Procurement Co

- First Step: Qualify Responsible Private Developers through a public Reque Qualifications (RFQ). Two world renowned private partners have been qualified:

**Knik Arm Crossing Constructors**

Macquarie Bank Limited  
Macquarie Holdings (USA) Inc.  
Macquarie Securities (USA) Inc.  
Kiewit/Manson JV  
Kiewit Pacific Co.  
Manson Construction Company  
Parsons Transportation Group Inc.  
Golder Associates Inc. & VMS Inc.

**Knik Arm Crossing Consortium**

Bouygues Travaux Publics S  
URS Corporation  
ARUP Engineering Services  
USKH Inc.

**V. STATUS OF THE KNIK ARM CROSSING (KAC) PROJECT**

**D. The Procurement**

**(CONTINUED)**

- **Second Step Part 1: Develop the Base Requirements for Proposals.** Over the past and its expert consultants have investigated, studied, analyzed the financial and value of the Project, its benefits to the State, the cost and economic risks associated with the means of delivery including design, permitting, construction and construction operation costs, its projected traffic and toll revenue, and its potential and probable risks. It also sought the views of the qualified private partners.
  - During and as a result of this part of the procurement process, there were issues raised by ADOT, the Governor, members of the Legislature, the qualified private partners. These issues are outlined below under LEGITIMATE CONCERNS.
- **Second Step Part 2: Request for Proposals (RFP) from the qualified private partner.** design, construction, operation and maintenance of the KAC Project.
  - The Request for Proposals is still under development.

**VI. LEGITIMATE CONCERNS - The Public, The Legislature, The Governor, ADOT, Industry**

**A. The Concerns.** Members of the Legislature, the Administration and the Department of Transportation, Public Facilities and members of the public have expressed legitimate concerns regarding the Project.

- The Project's expenditures;
- The cost of the Project;
- The Project's potential risk to the State and other federal-aid transportation programs.

These are KABATA's concerns as well.

**VI. LEGITIMATE CONCERNS - The Public, The Legislature, The Governor, ADOT, Industry**  
**(CONTINUED)**

**B. Resolving the Concerns - KABATA's Conditions to Proceeding.**

- *Satisfactory resolution* of the concerns is required prior to issuing a Request for Proposal to potential private partners.
- *A publicly supported State position endorsed by the Governor and Legislature* on the KAC Project is fundamental to any realistic expectation that the State will receive offers from developers that maximize the State's best interests.
- *Protection must be provided* ADOT's transportation projects and federal-aid funds not be adversely affected by the KAC Project.
- *The State's best interests* must be maximized with value and benefit to State's transportation systems and the public.
- *Pending satisfactory resolution* of concerns, an RFP will not be issued until but will be issued as soon as possible.
- *The RFP will be made publicly available when finalized.*

**VII. THE WAY FORWARD.**

**A. KABATA's Primary Focus and Immediately Necessary Efforts.**

- *The FEIS and ROD.* The primary responsibility and focus of KABATA's is to complete the NEPA environmental review process and obtain the necessary Record of Decision.
  - KABATA must support the FHWA in responding to comments on the FEIS and the Record of Decision.

## **VII. THE WAY FORWARD.**

### **A. KABATA's Primary Focus and Immediately Necessary Efforts.**

*(CONTINUED)*

- ***Environmental Permits.*** KABATA must apply for and pursue the necessary environmental permits for the construction of the KAC while the FEIS remains current.
- ***Preserving the Private Activity Bond Allocation.*** KABATA must maintain the availability of the private partners of the USDOT allocation of \$600 million of federal tax exempt private activity bond use by the private partner.
- ***Preserving the TIFIA Loan.*** KABATA must maintain the availability of the \$200 million TIFIA loan anticipated to be approved by the USDOT TIFIA office for borrowing by the private partner.
- ***Preserving the Interest of the Qualified Partners.*** KABATA must make every effort to preserve the interest of the qualified proposers in the KAC Project.

### **B. A Concurrent Process for Resolving Concerns & Proceeding Forward.**

Concurrent with its pursuit of the ROD and environmental permits, maintaining the availability of funds and preserving the investment interest of the qualified private partners,

- KABATA will continue to consult with the Administration.
- KABATA will continue to consult and coordinate with the Office of the Governor, the Office of Transportation, Revenue, Law, Natural Resources, Environmental Conservation, and the University of Alaska.
- KABATA will review and continue to evaluate the financial feasibility, funding, and structure of the KAC Project under a public-private partnership.
- KABATA supports an independent and objective evaluation of the financial feasibility of the KAC Project by an independent task force or work group.

**VII. THE WAY FORWARD.**

**B. A Concurrent Process for Resolving Concerns & Proceeding Forward.**

***(CONTINUED)***

- The independent evaluation would be open to public participation consistent with the State and its citizens.
- The independent evaluation would produce a report to the Governor, the Legislature and the public at or prior to release of the request for proposals.
- The independent evaluation provides an expeditious process of providing the Legislature and the public at or prior to release of the request for proposals.
  - It is an appropriate and welcome step in the procurement process.
  - The qualified proposers likely will find this process to their advantage and submitting proposals.
- KABATA has demonstrated and will continue its engagement in and support involvement.

**VIII. CONCLUSION AND RECOMMENDATION**

- We recommend and the Legislature is respectfully urged to take no action on SB 268 and H
- KABATA also respectfully requests the Legislature to support KABATA's efforts in TH

**APPENDIX A.**  
to  
**KABATA's PRESENTATION TO THE ALASKA SENATE TRANSPORTATION COMMITTEE**  
March 25, 2008

**KABATA Summary, Analysis and Comments**  
Proposed Senate Bill 268 and House Bill 365

**SUMMARY OF PROPOSED BILLS:**

SB 268 and HB 365 amend AS 19.75.11(a)(5) to severely limit KABATA's ability to implement the Legis the Knik Arm Crossing and KABATA's statutory authority to "make and execute agreements, contracts, and the financing design, construction, maintenance, improvement or operation of facilities, properties, or p including incurring indebtedness, and public-private partnerships or other contracts in any form.

Any and all KABATA agreements, regardless of their nature or importance, would be subject to:

- a 60-day public comment period before entering into any proposed contract;
- a determination by the Authority after the comment period whether the agreement, contr sufficiently maximizes the benefits to the people of Alaska, and
- A legislative hearing and approval of the agreement after receiving the KABATA determination

SB 268 and HB 365 also amend the Authority's powers and duties provided under AS 19.75.111(a)10 by:

- limiting toll rate increases to the Consumer Price Index for all urban consumers Anchorage limitation would contradict compliance with 19.75.221(b) or of a provision of a trust entered into
- requiring approval of such toll change by the Commissioner Of Transportation And Public Facili

SB 268 and HB 365 further amend AS 44.42.090 to establish the authority of the Commissioner Of Tr Facilities to approve toll rates.

**APPENDIX A. to**

**KABATA's PRESENTATION TO THE ALASKA SENATE TRANSPORTATION COMMITTEE**

March 25, 2008

**KABATA Summary, Analysis and Comments**

Proposed Senate Bill 268 and House Bill 365

**KABATA'S ANALYSIS, COMMENT  
AND RECOMMENDATION ON SB 268 AND HB 365**

**KABATA recommends against passage of SB 268 and HB 365. These bills, if enacted into law, will likely prevent any future procurement of a public-private agreement to finance and build the project. These bills do not protect the public interest.**

**Introduction:**

A public-private partnership is an agreement between the government (in this instance KABATA) and a private group of companies by which the private sector provides all or a material part of the money for and designs the toll bridge. In return, the government provides a small portion of the funds and shares the toll revenue with the private company. The private company may recover its costs, pay its debt and make a reasonable profit on its investment. The government receives improved transportation infrastructure using primarily private sector moneys rather than its own government money. The private company that will be the private partner is selected through the use of a competitive procurement process where private companies submit proposals (offers) to finance, design, construct, operate and maintain the bridge and specific

Their proposals will offer firm financing commitments and designs for construction.

In May 2003 (SB 213) and again in May 2006 (SCS CSHB 471) the Legislature established the powers and authority of the Bridge and Toll Authority. SCS CSHB 471 explicitly authorized KABATA to enter into a public private partnership for the construction and operation of the Knik Arm Bridge. *After just one intervening session* of the Legislature, the Legislature passed HB 365 -propose to severely restrict the Authority's ability to carry out its mission to finance and construct toll bridges to use a public-private partnership to do so. SB 268 and HB 365 also severely limit the Authority's ability to collect tolls.

**Effect of SB 268 and HB 365 Generally**

If enacted, SB 268 and HB 365 will likely result in the inability of KABATA to pursue the existing or any future public-private partnership.

**APPENDIX A. to**  
**KABATA's PRESENTATION TO THE ALASKA SENATE TRANSPORTATION COMMITTEE**

March 25, 2008

**KABATA Summary, Analysis and Comments**

Proposed Senate Bill 268 and House Bill 365

It is the apparent intent of SB 268 and HB 365 to limit KABATA's ability to enter into public-private partnerships requiring a *prior* public hearing and *prior* legislative approval. However, the actual language of these bills allows KABATA agreements, contracts, and other instruments without exception.

**Effect of Proposed Legislation on Public-Private Partnerships**

To compete for the contract, the private sector will have to spend between \$5 and \$10 million of their own money to prepare offers. To prepare binding financial and technical offers, they must investigate project characteristics, prepare the project, prepare cost estimates, perform traffic and revenue studies, develop operations and maintenance plans, analyze and comment on prospective contract documents with KABATA, negotiate a design and construction contract, obtain financial feasibility and obtain the necessary equity investments and loans needed to fund their offers. If the project is not approved, the private sector is subject to the political risk of legislative approval, in addition to the competitive risk, they will not expect to receive the \$5 million necessary to prepare an offer. Instead, they will choose to drop out of the procurement.

Further, under the current procurement, the private sector is required to irrevocably offer firm financial commitments for the project. To review and compare the private sector offers and enter into a binding contract with the state will take approximately three to six months. That is the absolute maximum time the private sector can reasonably hold firm commitments without a risk of increased costs and lower value to the public. The recent and continuing volatility in the capital markets may limit their ability to hold financial commitments to an even shorter period of time.

Any extended public hearing and legislative review process will negate the ability to obtain firm financial commitments from the private sector and reduce the value to the state.

**Status of Procurement**

KABATA has followed Alaska's Procurement Code and regulations as well as best industry practices in competitive procurement. It has hired the leading experts in the industry and with their assistance is developing Proposals and associated documents, including a draft Public-Private Agreement (PPA), in response to which the private sector will make their competing offers in an auction bid format to maximize value to the state and protect the public interest.

**APPENDIX A. to**

**KABATA's PRESENTATION TO THE ALASKA SENATE TRANSPORTATION COMMITTEE**

March 25, 2008

**KABATA Summary, Analysis and Comments**

**Proposed Senate Bill 268 and House Bill 365**

The proposal process will take 6-8 months because of the complexity of preparing a responsive offer, commence with release of the RFP. Issuance of the RFP does not cast the request for proposals in concrete - amended during the proposal process. Neither issuance of the RFP nor receipt of proposals will result in KABATA Board will have full discretion to decide whether either offer meets the proposal requirements and to the State.

**Public Involvement**

KABATA has demonstrated its engagement in and support of public involvement through 10 Gov't F meetings, 4 other Community Council meetings, 8 non-governmental organization meetings, 16 meetings groups, 6 formal public open house presentations and public hearings, 5 other public information meetings, 2 on Draft EIS, 2 public surveys, and 49 other meetings with gov't agencies, interested groups and individuals outreach to 23 cooperating and participating government agencies through 6 interagency group meetings, 39 interagency meetings and 11 native tribal meetings.

KABATA has also made extensive documents and information available through its website including st reports, informational presentations, project documents, the Draft and Final EIS, surveys, open houses and minutes, annual reports, comment forms, schedules and EIS activities,

KABATA is committed to continuing that public and agency outreach and dialogue. The request for prop agreement and related documents, has always been assumed and intended to be a publicly available documen private sector. An expeditious process of providing information to the Legislature and the public at or prior for proposals is an appropriate and welcomed step in the procurement process. Hopefully the private sector advantage and remain interested in submitting proposals.

**Capping Toll Rate Increases**

Private sector lenders and equity investors will provide 85-90% of the project funding. Obviously, without t not feasible. Lenders and equity investors will not fund against a revenue stream that is subject to politica

**APPENDIX A. to**

**KABATA's PRESENTATION TO THE ALASKA SENATE TRANSPORTATION COMMITTEE**

March 25, 2008

**KABATA Summary, Analysis and Comments**

Proposed Senate Bill 268 and House Bill 365

order for the private sector to borrow funds and raise equity investment against the stream of toll revenue, must be certain and set forth in the agreement.

The authority recommends that a base maximum toll rate be established within the PPA rather than by law. The PPA already cap annual toll rate increases by the three year rolling average of Anchorage CPI-U as suggested.

A number of contingent compensation events where the risk is retained by KABATA could be covered through toll rates above the maximum base toll rate. KABATA also needs to retain the flexibility of using toll rates for the term of the agreement on a revenue neutral basis to the developer. Statutorily limiting toll rate setting, rather than leaving it to the discretion of the private sector, is in the best interest of the state or the Alaskan public and will not be acceptable to the private sector.

**ADOT Commissioner's Approval of Toll Rates**

The legislature contemplated a deliberative body to protect the public interest in toll rate setting when it passed AS 19.75. The powers of toll rate setting are vested in the board of directors, which is comprised by statute of members that include the Commissioner of Revenue, the Commissioner of Transportation and Public Facilities, three appointed by the Governor, and two state legislators – one from the Senate and one from the House. This deliberative body – the oversight of the Knik Arm Crossing Project. As such it provides a much broader perspective of the toll rate setting than the Commissioner of ADOT alone.

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**Consultant's Legal Review of Proposed Legislation**

Nossaman Guthner Knox and Elliot, LLP, the nationally preeminent law firm representing solely government P3 transportation transactions, is KABATA's P3 legal counsel and has provided KABATA the following observations:

The legislation would vest in KABATA authority to increase toll rates, fees and other charges only by CPI consistent with the toll regulation already contemplated, it does create certain unnecessary barriers and problems:

1. The new language is written in a way that implies the Authority would need to take a new action to do that. That clearly will not work.
2. The bill would preclude use of value pricing (we call it "traffic management pricing") as a means to fund project expansion. The provision contemplates higher pricing - beyond CPI increases - in peak hour tolling, to result in overall revenue neutrality.
3. The bill might be construed to preclude introduction of video toll premiums if the developer later wants to implement open road tolling. Query whether this would be a "periodic change" in the tolls, or an allowed "initial determination" of toll rates.
4. The bill could preclude a decision to increase toll rate caps as the means for KABATA to pay for a CMAQ PPA currently provides this as the exclusive means to compensate for real property taxes on the Developer's tolling.
5. The bill could preclude surcharging tolls with any tax imposed on gross toll receipts, as now contemplated. Again that depends on whether this would be a "periodic change" in the initial toll or an "initial determination" of toll rates.
6. The bill could preclude flexibility by the developer in adjusting its actual toll rates inside the cap. It could be precluded from using value pricing underneath the cap. It could be precluded from seasonal pricing.
7. The requirement for approval of each change by the DOT commissioner is a likely show stopper, especially if it requires a separate regulatory decision for each increase. The financial markets will not accept price adjustments. Nor is this necessary to protect the public interest. The authority already is vested with the responsibility for setting toll rates in the public interest regarding toll rates. The board bears this public responsibility, and the Commissioner of Transportation. Other board members represent other constituencies, giving the board a broader perspective of the public interest.

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8. CPI limits on fees and other charges is not necessarily a good idea, at least when applied to violation for incidental charges such as account maintenance fees, paper statement fees, and the like.

9. It appears the language in the bill would not preclude use of a 3-year rolling average CPI, but we raise about.

Contract approval by the Legislature certainly deserves comment from the qualified proposers. We strongly support the quick and sure death of this procurement. Layering on top of an already challenging project a new process will likely destroy the current P3 procurement.

Even if the current P3 procurement could be preserved, the time period required for the public and legislative process would undermine the state's ability to receive or hold firm financial proposals. Current market conditions make this difficult. KABATA might have to offer longer interest rate benchmark protections. And with the process of issuing the RFP, it is possible that the legislative review would not finish in one session and would be carried over.

# ALASKA STATE LEGISLATURE

Senate Labor and Commerce  
Committee, Chair

Legislative Budget and Audit  
Committee

Senate Rules Committee

Committee on Committees



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**SENATOR JOHNNY ELLIS**  
**SENATE MAJORITY LEADER**

## MEMORANDUM

**DATE:** March 13, 2008

**TO:** Senator Albert Kookesh, Chair  
Senate Transportation Committee

**FROM:** Senator Johnny Ellis

**RE:** Hearing Request for SB268 – Knik Arm Bridge & Toll Authority

I am requesting that SB268 be scheduled for a hearing in the Senate Transportation Committee at your earliest convenience.

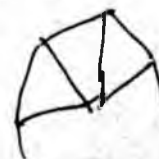
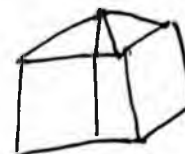
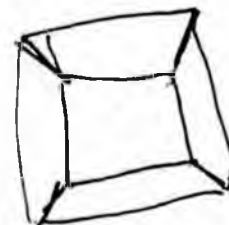
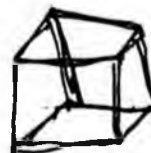
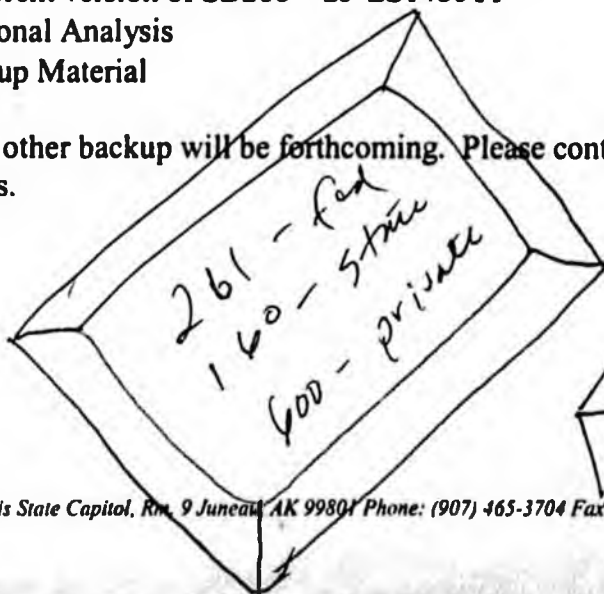
This bill adds transparency and accountability to the process of building a potential Knik Arm bridge. If built, this bridge would be one of the most expensive public works projects in Alaska history, and this bill ensures that the legislature and the public will have the chance to see and evaluate any proposal before construction can begin.

Included in this packet:

- Sponsor Statement
- A current version of SB268 – 25-LS1480A
- Sectional Analysis
- Backup Material

If necessary, other backup will be forthcoming. Please contact me or Max Hensley of my staff with any questions.

Thank you.



# ALASKA STATE LEGISLATURE

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Committee, Chair

•  
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•  
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**SENATOR JOHNNY ELLIS**  
**SENATE MAJORITY LEADER**

## **Sponsor Statement** **SB 286: Knik Arm Bridge & Toll Authority**

At an estimated price of \$600 million, the potential Knik Arm bridge would be one of the most expensive public works projects in Alaska history. Since its founding in 2003, the Knik Arm Bridge & Toll Authority (KABATA) has already spent nearly \$40 million in public money. With the amount of dollars at stake, ensuring that any agreement KABATA enters into is an economical use of state funds that is in the best interests of Alaskans is essential. The Alaska Gasline Inducement Act (AGIA) process has shown us the value of public input and legislative oversight, and a similar role is appropriate in any potential Knik Arm bridge process as well.

SB268 would install safeguards similar to those in AGIA to ensure that KABATA follows an open and accountable process. The bill would establish a 60-day public review period of any proposed agreement to build a Knik Arm bridge. Additionally, the legislature would have to approve any proposal submitted by KABATA before the authority could enter into an agreement.

The bill also contains a consumer protection provision, which limits the amount that KABATA could increase tolls. Any toll changes would have to be approved by the Commissioner of the Department of Transportation and Public Facilities, and are limited to matching the rate of inflation. This is necessary to protect residents of Anchorage and the Mat-Su valley who may come to depend on a potential bridge for commuting.

The amount of public money at stake in this project requires a certain level of governmental oversight in order to ensure that any project is a good deal for the state and the communities the bridge will effect.

**SENATE BILL NO. 268****IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FIFTH LEGISLATURE - SECOND SESSION****BY SENATOR ELLIS****Introduced: 2/13/08****Referred: Transportation, Finance****A BILL****FOR AN ACT ENTITLED**

1 **"An Act amending the ability of the Knik Arm Bridge and Toll Authority to make and**  
2 **execute certain agreements, contracts, and other instruments; and relating to the facility**  
3 **toll charges that the authority may collect from its operation of the Knik Arm bridge**  
4 **and appurtenant facilities and to the necessity of securing the approval of the**  
5 **commissioner of transportation and public facilities as to the amounts to be collected as**  
6 **toll charges."**

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

8 **\* Section 1. AS 19.75.111(a) is amended to read:**

9 (a) Except as otherwise explicitly made applicable to the authority, the  
10 performance of the authority's duties and the exercise of its powers, including its  
11 powers to issue bonds and otherwise incur debt, shall be governed exclusively by this  
12 chapter. In furtherance of its purposes, the authority may

13 (1) own, acquire, construct, develop, create, reconstruct, equip,

1 operate, maintain, extend, and improve the Knik Arm bridge and its appurtenant  
2 facilities;

3 (2) sue and be sued;

4 (3) adopt a seal;

5 (4) adopt, amend, and repeal regulations under AS 44.62 and establish  
6 bylaws;

7 (5) make and execute agreements, contracts, and all other instruments

8 (A) with any public or private person, governmental unit or  
9 agency, corporation, or other business entity lawfully conducting business in  
10 the United States for the exercise of its powers and functions under this  
11 chapter, other than those described under (B) of this paragraph: and

12 (B) subject to the provisions of AS 19.75.345, for the  
13 financing, design, construction, maintenance, improvement, or operation of  
14 facilities, properties, or projects of the authority, including making and  
15 executing contracts with any person, firm, corporation, governmental agency,  
16 or other entity for the purpose of

17 (i) [(A)] incurring indebtedness, obtaining investments  
18 in the authority's projects, acquiring or granting lump sum payments for  
19 services in advance or in arrears, grants, and other financing; and

20 (ii) [(B)] entering into public-private partnerships or  
21 service contracts in any form;

22 (6) in its own name acquire, lease, rent, sell, or convey real and  
23 personal property;

24 (7) issue and refund bonds in accordance with this chapter, in order to  
25 pay the cost of the Knik Arm bridge and its appurtenant facilities; the authority may  
26 also secure payment of the bonds as provided in this chapter;

27 (8) incur other indebtedness, including lines of credit and indebtedness  
28 to the Federal Highway Administration, United States Department of Transportation,  
29 under 23 U.S.C. 601 - 610 (Transportation Infrastructure Finance and Innovation Act  
30 of 1998), as amended, and secure that indebtedness as provided in this chapter;

31 (9) apply for and accept gifts, grants, or loans from a federal agency or

1 an agency or instrumentality of the state, or from a municipality, private organization,  
2 or other source, including obtaining title to state, local government, or privately owned  
3 land, directly or through a department of the state having jurisdiction of the land;

4 (10) fix and collect fees, rents, tolls, rates, or other charges for the use  
5 of the Knik Arm bridge and appurtenant facilities, or for a service developed,  
6 operated, or provided by the authority; for purposes of exercising the power granted  
7 in this paragraph.

8 (A) notwithstanding AS 37.10.050(a), fees, rents, tolls, rates,  
9 and other charges fixed and collected under this paragraph may exceed the  
10 actual operating cost of the use of the bridge, facility, or service; and

11 (B) the authority may make periodic changes in the tolls,  
12 fees, and other charges that it imposes and collects for a vehicle's use of a  
13 facility owned, controlled, or managed by the authority for which the toll,  
14 fee, or other charge is imposed only if

15 (i) the amount of the percentage of change in the toll,  
16 fee, or charge does not exceed the amount of the percentage of  
17 change in the Consumer Price Index for all urban consumers for  
18 the Anchorage metropolitan area compiled by the Bureau of Labor  
19 Statistics, United States Department of Labor, since the initial  
20 determination of a toll, fee, or other charge or the last periodic  
21 change, whichever is later; however, the authority may exceed the  
22 limitation of this sub-subparagraph if a greater change in a toll,  
23 fee, or other charge is necessary to allow the authority to remain in  
24 compliance with a provision of AS 19.75.221(b) or of a provision of  
25 a trust agreement entered into to secure the bonds of the authority  
26 issued under this chapter; and

27 (ii) the change is approved by the commissioner of  
28 transportation and public facilities;

29 (11) bring civil actions, refer criminal actions to the appropriate  
30 authority, and take other actions or enter into agreements with law enforcement and  
31 collection agencies to enforce the collection of its fees, rents, tolls, rates, other

1 charges, penalties, and other obligations;

2 (12) pledge, encumber, transfer, or otherwise obligate revenue derived  
3 by the authority from the ownership, use, or operation of toll facilities, including fees,  
4 rents, tolls, rates, charges, or other revenue of the authority or money that the  
5 legislature may appropriate, except a state tax or license, as security for bonds or other  
6 indebtedness or agreements of the authority;

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

9 (14) procure insurance against any loss in connection with its  
10 operation;

11 (15) contract for and engage the services of consultants, experts, and  
12 financial and technical advisors that the authority considers necessary for the exercise  
13 of its powers and functions under this chapter;

14 (16) apply for, obtain, hold, and use permits, licenses, or approvals  
15 from appropriate agencies of the state, the United States, a foreign country, and any  
16 other proper agency in the same manner as any other person;

17 (17) perform reconnaissance studies and engineering, survey, and  
18 design studies with respect to the Knik Arm bridge and its appurtenant facilities;

19 (18) exercise powers of eminent domain or file a declaration of taking  
20 as necessary for the Knik Arm bridge and appurtenant facilities under AS 09.55.240 -  
21 09.55.460 to acquire land or an interest in land; the authority's exercise of powers  
22 under this paragraph may not exceed the permissible exercise of those powers by the  
23 state;

24 (19) confer with municipal and other governments, metropolitan  
25 planning organizations, and the department, concerning the Knik Arm bridge;

26 (20) do all acts and things necessary to carry out the powers expressly  
27 granted or necessarily implied in this chapter; nothing in this chapter limits the powers  
28 of the authority that are expressly granted or necessarily implied.

29 \* **Sec. 2.** AS 19.75 is amended by adding a new section to article 2 to read:

30 **Sec. 19.75.345. Public review and legislative notice and approval.** (a) The  
31 authority shall publish notice and provide a 60-day period for public review and

1 comment on all agreements, contracts, and other instruments proposed to be entered  
2 into under AS 19.75.111(a)(5)(B).

3 (b) If, after consideration of public comments received under (a) of this  
4 section, the authority determines that a potential agreement, contract, or other  
5 instrument proposes a project that will sufficiently maximize the benefits to the people  
6 of this state and merits the authority entering into the agreement, contract, or other  
7 instrument, the authority shall

8 (1) issue a determination, with written findings addressing the basis for  
9 the determination;

10 (2) publish notice of intent to enter into the agreement, contract, or  
11 other instrument; and

12 (3) forward the notice under (2) of this subsection, along with the  
13 findings, supporting documentation, and determination under (1) of this subsection, to  
14 the presiding officer of each house of the legislature.

15 (c) If, after consideration of public comments received under (a) of this  
16 section, the authority determines that a potential agreement, contract, or other  
17 instrument, does not sufficiently maximize the benefits to the people of this state and  
18 merit the authority entering into the agreement, contract, or other instrument, the  
19 authority shall issue a written finding that addresses the basis for that determination.

20 (d) After the presiding officer of each house of the legislature receives a  
21 determination from the authority under (b) of this section, the rules committee of each  
22 house of the legislature shall introduce a bill in the committee's respective chamber  
23 that provides for the approval of agreement, contract, or other instrument.

24 (e) If a bill approving the agreement, contract, or other instrument passes the  
25 legislature within 60 days after the last date a presiding officer receives a  
26 determination by the authority under (b) of this section, the authority shall make and  
27 execute the agreement, contract, or other instrument after the effective date of the Act  
28 approving the agreement, contract, or other instrument.

29 (f) Notwithstanding a legislative rule that prohibits the carryover of a bill after  
30 the end of a special session or after the end of a regular session of a legislature, a bill  
31 introduced under (d) of this section that is not passed or not withdrawn, defeated,

1 vetoed, or indefinitely postponed shall be carried over to any subsequent regular or  
2 special legislative session convened during the 60-day period described in (e) of this  
3 section in the same reading or status it was in at the time of adjournment. However, a  
4 bill introduced under (d) of this section may not be carried over to the first regular  
5 session of a legislature.

6 (g) If the legislature fails to approve the agreement, contract, or other  
7 instrument entered into under AS 19.75.111(a)(5)(B), the authority may not enter into  
8 the agreement, contract, or other instrument that the legislature failed to approve.

9 \* Sec. 3. AS 44.42 is amended by adding a new section to article 1 to read:

10 **Sec. 44.42.090. Commissioner to approve toll changes of the Knik Arm**  
11 **Bridge and Toll Authority. The commissioner**

12 (1) shall consider all proposed changes in the tolls, fees, and other  
13 charges to be imposed and collected by the Knik Arm Bridge and Toll Authority under  
14 AS 19.75; and

15 (2) may approve those changes; the commissioner shall exercise  
16 authority under this paragraph in conformity to the standard set out in  
17 AS 19.75.111(a)(10)(B).

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Anchorage Daily News

[Print Page](#) | [Close Window](#)**Knik bridge****Knik Arm crossing project will benefit from more oversight**

(02/16/08 01:21:14)

Two legislators have introduced bills that, if passed, should increase Alaskans' comfort level with future decisions about the proposed Knik Arm bridge.

Right now, the Knik Arm Bridge and Toll Authority is empowered to make a deal on its own with private investors to build the bridge.

But the project, estimated to cost \$600 million, is relying on about \$105 million of Alaska's federal highway money and another \$10 million in direct state contributions, in addition to private financing.

That's a lot of government funding at stake. More oversight is essential.

Senate Majority Leader Johnny Ellis and Rep. Les Gara, both of Anchorage, filed bills Wednesday that ensure the Legislature has final approval of any deal to build the bridge.

Their bills, SB 268 and HB 365, call for a 60-day public review of any bridge-building agreement. The deal would need legislative approval to go forward.

Leaving the final approval in the hands of KABATA never made sense. It is an agency that is dedicated to making the project happen -- a necessary and important role. What's missing is someone to stand back and say, "Wait a minute -- is this a good deal for the state and the borough and cities it will affect?"

The Legislature can effectively fill that role.

Two international groups have shown interest in the bridge. The toll authority is already preparing a request for proposals that will ask possible private investors how they would finance, build and maintain the crossing.

Already, the state administration has concerns about potential state costs and about lack of public discussion on the terms of the request for proposals, according to Randy Ruaro, a special assistant to the governor. He was quoted in a Daily News story Thursday.

The toll authority was widely criticized in 2006 after its board gave three top executives raises of \$25,000 to \$40,000 each, for salaries in the \$130,000 range. Rep. Gara brought the raises up this week as he sought more control over the agency's dealings.

The raises did show poor judgment. But they're small potatoes compared to the decisions that lie ahead, involving hundreds of millions of dollars.

Alaska will be able to rest easier if a bill calling for legislative oversight becomes law.

**BOTTOM LINE:** Don't let the toll authority have final say on any deal to build the Knik Arm Crossing. That's the Legislature's job.

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(www.adn.com)

## **Lawmakers introduce bills seeking review of bridge deal**

(02/14/08 09:53:30)

Anchorage Democrats in the state House and Senate have introduced bills that would require legislative approval of any deal signed to build a Knik Arm Bridge.

The bills by Rep. Les Gara and Sen. Johnny Ellis would require a 60-day public review of a bridge deal.

Currently, the authority can sign a bridge deal without lawmakers' approval.

Lois Epstein, a spokeswoman for the Alaska Transportation Priorities Project, a watchdog group, said the bill is needed to make sure the Knik Arm Bridge and Toll Authority does not strike a bad bargain with international investors to get the bridge built.

The bridge authority board met Wednesday in Juneau. Spokeswoman Mary Ann Pease said that the bills caught the authority by surprise and that it was too early to comment on them in detail.

The authority wants to work with the state, she said, and one part of the identical bills, limiting toll increases to the rate of inflation, may not be a problem.

Former Gov. Frank Murkowski and the Legislature created the toll authority in 2003 to plan for construction of the bridge and figure out how to pay for it.

"Now that we're going to shine a public light on this, it encourages KABATA to cut a good deal for the state rather than one that costs a lot of money," Gara said.

The bridge authority for years has estimated the project would cost about \$600 million, with most of that money expected from private investors. Critics believe the cost will be higher.

Two international consortia have shown an interest in building and running the bridge, according to the authority.

The bridge authority is preparing a request for proposals that will ask possible investors to make their best pitch for financing, building and maintaining the bridge.

The state has been reviewing a draft of the authority's request for proposals for weeks, said Randy Ruaro, a special assistant to the governor.

"Both the Department of Law and the Department of Transportation, in their limited, initial review to date, have pointed out some areas of concern," he said.

State officials are worried about potential costs to the state and about a lack of public comment on terms of the request for proposals, he said.

The authority will work with state officials on changes they want made, Pease said.

Gara said the bills are meant to make the bridge process more like the one Gov. Sarah Palin successfully proposed last year for pursuing a natural gas pipeline.

Like Palin's Alaska Gasline Inducement Act, the bills propose a public comment period and then legislative approval of the deal. After the bridge is built, the state Transportation commissioner would approve any toll increases.

Gara said the bridge authority has been given a blank check to spend public money.

"There's no public oversight," he said. "Their main feat so far has been to hand out massive pay raises to KABATA members and they've disregarded the concerns of the public."

The bridge authority gave big pay hikes to three executives in 2006.

Pease said she did not want to comment on the raises.

"We've maintained the public process at the forefront ... there's a very small staff at KABATA and they're very diligently focused on doing what's best for the state," she said.

So far, the authority has spent about \$38 million or \$39 million on planning, studies and other costs, Pease said.

Palin had not seen the proposed bills Wednesday, said her spokeswoman Sharon Leighow. Palin "does support an open and transparent process," Leighow said.

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