ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 8672

3767 HTRA HB 23

643

must have a complete knowledge of architecture with all of its specialized features. It is not good management to expect bridge and highway engineers, with their training, to oversee marine operations and ship construction with their broad base of technical requirements. The results of the past few years have borne this fact out.

It is important to note that the operation of the vessels of the Alaska Marine Highway constitutes the largest passenger ship operation under the American flag and certainly requires the most skillful management by qualified marine professionals.

Focusing on the State of Alaska, in the eighteen years of operation the following Commissioners have been in responsible charge:

1. Dick Downing
2. George McClanahan
3. Harold Stranburg
4. George Easly
5. "Tex" Taggert
6. Don Harris
7. Bob Ward

This means that on the average, the ferry system has experienced a change in topside management and policy direction every two to four years. To make matters even worse, none of these men have had a marine background and each have had his own operational philosphy and have reflected his own political objectives.

Whereas there have been fewer Directors of the Alaska Marine Highway in the same time frame :

1. Admiral "Lew" Lewellen
2. Captain Gregg Mangan
3. Captain "Red" Lockert

4. Bill Hudson
5. Jim Eide

only Mangan and Lockert can be considered as having commercial ship operating experience.

In my opinion, if the Alaska Marine Highway is to be operated successfully, it should be divorced from the Department of Transportation with its preoccupation with bridges, highways, airports, etc., and made a separate entity unto itself. It is my further belief that the ferry system be operated under the policies setforth by a nine member Ferry Commission. The Ferry Commission would act as a Board of Directors who would concern itself solely with the welfare of the ferry system.

The members of the Commission would be appointed by the Governor from prominent and successful citizens to serve for a term of six years. Every two years, three new members would be appointed to replace those retiring. Of course, initially, the terms of the appointees would have to be staggered so that in four years, the member's terms would follow on the proper sequence. This would mean that for each Governor's four year term, he would have the opportunity of appointing six members, with three carryovers. In this manner, a consistant and stable operating policy could be established without political influence. You would want to run your own business in this manner.

The Commission would meet once a month to determine policy. They would receive their expenses and a modest stipend as their position should be considered honorary and a public service to the State. There are qualified people in Alaska who would serve under these circumstances, I am sure.

The Commision would hire a General Manager with a proper marine managerial background and set up his organization along the lines of a successful steamship operation.

As a point of departure, I would suggest the organization shown in Attachment (a) to this letter.

It is my belief that by following the suggested organization, responsibility would be placed where responsibility lies and that answers could be obtained directly without the confusion and overlapping authority that exists today in Alaska.

Not to belabor the point, however, the present tendancy seems to exclude ferry management and operating personnel from playing a vital role in new vessel construction or major conversion work. This practice has also been followed by the State of Washington with the resulting fiasco of the six ISSAQUAH Class ferries. There are numerous other examples we can cite where even in the private sector, when the same practice has been followed, where the results have been far less than desired.

This entire presentation is being made from the viewpoint of an outsider yet one who is vitally interested in the success of the Alaska Marine Highway.

I trust that you will find my effort worthwhile.

Sincerely yours,

NICKUM & SPAULDING ASSOCIATES, INC.

Philip F. Spaulding - President

PFS:lef

Meeting with Bill Hudson
December [illegible], 1983
11:00

1974 - 1979 Director Alaska Marine Highway Systems
- Fragmentation
- Looked to innovative changes
- 7½ millon subsidy
- Total inventory of Fleet
  - Spare parts
  - Tail Shafts
  - Reduction Gear

- Strategic Location of those parts
- System geared and generated around Seattle
- Marine Maintenance
  - Entire executive staff in Ketchikan
  - Warehouse

Bellingham - Joint operations with B.C. Ferries
- Vessel that could cross the gulf
- Back haul of fish
- Replacing Vessels — Ketchikan to Juneau; Prince Rupert to Ketchikan; Petersburg to Sitka - Juneau

- Pay more if they think they're getting more - referring to food and beverages
- Agents on board the ships during summer months
  - Come out of captain's staff
  - Captain and unlicensed personnel belong to the same trust fund thus creating a conflict of interest

- Doesn't believe a full scale floating drydock in Ketchikan
- Shoreside maintenance - Yes
- Communication with Unions
- Need to figure revenues by passenger miles. Forereach route
- Review of any route be required if the revenue drops below a certain level
- In favor of continuing Seattle Service
- Dedicating Taku, for example just to serve points within Alaska for just adminstrative cost or lower fares.

- Crew inventory, to ascertain if manning can be reduced
- Crew morale, key to operating more efficiently
- 1974 - 27,000,000 (Total operation cost)
- Federal funds are eligible to purchase new ships
- Dedicated funds from Federal Aid Highway Funds could be requested from our congressional delegation, over and above the State's annual share

- Seattle Run:
  - Never discontinue
  - Summer time - 2 vessels out of Seattle.
  - TAKU, MALASPINA and MATANUSKA start in Ketchikan to S.F.
  - Home base one ship in Sitka

- One ship from Juneau to Haines and Skagway

- Everytime a tie up of ship, the crew call out, is expensive because of overtime
- Recommends hiring of an economist, from say Dillingham, to do an economic analysis of the routes between Seattle and S.E. and within Southeast Seattle

- Have vital spare parts in both Ketchikan and Juneau
- B.C. Vancouver to Ketchikan in conjunction with one AMHS ship
- Opposed to the New Management Structure - he feel it's top heavy and won't work
- 2½ million a year - Insurance
- A/B's and ordinary's at one time - 3 - need 8 to tie up ship
- Selling Season Passes to Alaskans
  - Explore all possible incentives to increase ridership

- Personnel taking leave during Summer
- Layup of Columbia - 12 people (crew)
  Piped in steam from dock

- 84 hours is ridiculous
- Consider a separate state department to run the railroad and ferry system
- Building of road parallel to AMHS -
  - Passenger mile AMHS - 1.09
    Highways - 2.10

Ginger - Marine Highway Authorities (dating back years)
Ted - give Frank information received from B.C. ferries
8:00 Breakfast with Glenzer - Sheffield House - Wednesday - Anchorage - Mark Hickey

- Other utilization besides as a ferry
- Facilities
- McDonald Proposal

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M April 9, 1986

SUBJECT: Comparative Section-by-Section analysis of HB 23 and draft CSHB 23(Transportation)

TO: Representative Andre Marrou

FROM: George Utermohle
Legislative Counsel

As per your request the following is a comparative section-by-section analysis of HB 23 and draft CSHB 23(Transportation).

Section 1

HB 23
The purpose of this bill is to establish an authority that is the exclusive state agency for the management of the marine highway system.

CSHB 23(Trsp)
The purpose of this bill is to establish an authority for the management of the marine highway system that will allow the marine highway system to become self-supporting. The authority is a public corporation that has exclusive responsibility for operation of the marine highway system.

Section 2

Sec. 19.70.010 The language of this section is slightly different in the two versions but the effect is the same. The Alaska Marine Highway Authority is established as a public corporation and instrumentality of the Department of Transportation and Public Facilities.

Sec. 19.70.020(a)
HB 23
The board of directors of the authority consists of seven members-three members from various industry groups and four from different regions of the state. The four regions represented on the board are: Southeast Alaska, Kodiak Island, Prince Williams Sound, and Interior Alaska.

CSHB 23(Trsp)
The board of directors of the authority consists of seven members—three members from various industry groups and four from different regions of the state. The four regions represented on the board are: Southeast Alaska including Yakutat, Southcentral Alaska including Prince William Sound and Cook Inlet, Southwest Alaska including Kodiak Island, Alaska Peninsula, and the Aleutian Islands, and the remainder of the state that is not included in the other regions.

Sec. 19.70.020(b)-(d)
These subsections are identical in both versions of the bill.

Sec. 19.70.030 - 19.70.040
These sections are identical in both versions of the bill.

Sec. 19.70.050
This section is almost identical in both versions except that CSHB 23(Trsp) deletes the requirement that the funding of the authority is subject to appropriation by the legislature.

Sec. 19.70.055
This section is almost identical in both versions of the bill, except that CSHB 23(Trsp) gives the authority the power to control its own financial and legal matters.

Sec. 19.70.060 - 19.70.140
These sections are identical in both versions of the bill.

Sec. 19.70.150
Subsection (a) is contained in both versions of the bill. However CSHB 23(Trsp) also contains subsection (b) requiring the authority to report every five years on its efforts to transfer itself to private ownership.

Sec. 19.70.160
This section is identical in both versions of the bill.

Sec. 19.70.170
HB 23
This section makes the authority subject to the Executive Budget Act (AS 37.07)

CSHB 23(Trsp)
Reference to the Executive Budget Act is deleted from this section.

This section now contains provisions relating to the naming of marine highway vessels and facilities and is identical to the provision contained in Sec. 19.70.180 of HB 23.

Sec. 19.70.180
HB 23
This provision is identical with 19.70.170 in CSHB 23(Trsp).

CSHB 23(Trsp)
This section exempts the authority from compliance with several chapters of AS 37 relating to public finance. The authority is exempted from:

AS 37.05 the Fiscal Procedures Act;
AS 37.07 the Executive Budget Act;
AS 37.10.010 - 37.10.060 and AS 37.10.085 relating to the handling of public funds;
AS 37..20 relating to the acceptance of federal funds; and
AS 37.25 relating to appropriation balances.

There is no comparable section in HB 23.

Sec. 19.70.185 - 19.70.190
These sections are contained only in CSHB 23(Trsp); there are no comparable sections in HB 23. These sections provide for the sale or lease of the authority if the state is assured that the marine highway system will continue to operate after the sale or lease and if the state is able to recover the amount of money which it has spent ~~on~~ in connection with the authority. The sale of the authority is subject to legislative approval.

If the authority ever ceases to exist except by the sale of the authority, all assets of the authority revert to the state.

Sec. 19.70.199 and Sec. 19.70.900
These sectio s are identical definition sections. Sec. 19.70.199 contained in HB 23 has been renumbered to Sec. 19.70.900 in CSHB 23(Trsp).

Sec. 19.70.200 and Sec. 19.70.990

These sections are identical short title sections. Sec. 19.70.200 contained in HB 23 has been renumbered to Sec. 19.70.990 in CSHB 23(Trsp).

Section 3.

This section is identical in both versions of the bill.

Section 4.

This section is identical in both versions of the bill.

Section 5.

This section is identical in both versions of the bill.

Section 6.

This section is identical in both versions of the bill.

Section 7.

This section is identical in both versions of the bill.

Section 8.

This section is identical in both versions of the bill.

Section 9.

This section is identical in both versions of the bill.

Section 10.

This section is identical in both versions of the bill.

GU:mkr
m4/089

 WORK DRAFT WORK DRAFT

Utermohle
4/9/86

Original sponsor: Cato

IN THE HOUSE BY THE TRANSPORTATION COMMITTEE

CS FOR HOUSE BILL NO. 23 (Transportation)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to ferries and ferry terminals and establishing the Alaska Marine Highway Authority."

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

* Section 1. PURPOSE. The purpose of this Act is to establish an authority as a public corporation for the operation, management, planning, and construction of facilities for the marine highway system ~~in a way that will allow the authority~~ to become a viable self-supporting economic, entity. The authority shall be exclusively responsible for the operation, management, planning, and construction of facilities for the marine highway system.

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

CHAPTER 70. ALASKA MARINE HIGHWAY AUTHORITY.

ARTICLE 1. CREATION AND ORGANIZATION.

Sec. 19.70.010. ALASKA MARINE HIGHWAY AUTHORITY. The Alaska Marine Highway Authority is established. The authority is a public corporation and is an instrumentality of the state within the Department of Transportation and Public Facilities. The authority has a legal existence independent of and separate from the state and has continuing succession until its existence is terminated by law.

Sec. 19.70.020. DIRECTORS. (a) The authority consists of seven directors appointed by the governor as follows: a representative of commercial carriers, a representative of the maritime industry, a representative of the tourism industry, and four members of the public representing regions served by the marine highway as follows: (1) one member from Southeastern (extending from Dixon Entrance to Icy Cape); (2) one member from Southcentral (extending from Icy Cape to Barren Islands and including Cook Inlet); (3) one member from Southwestern (extending from Barren Islands to Attu Island); and (4) one member from Interior Alaska (including all areas not included in other regions). The appointment of each director is subject to confirmation by the legislature.

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

(c) The directors must be residents of the state and qualified voters and shall comply with the requirements of AS 39.50 (conflict of interest). Each director before entering upon the director's duties shall take and subscribe to an oath to perform the duties of office faithfully, impartially, and justly to the best of the director's ability. A record of the oath shall be filed with the Office of the Governor.

(d) The directors of the authority serve without compensation, but are entitled to travel and per diem expenses as provided in AS 39.20.180.

Sec. 19.70.030. OFFICERS AND QUORUM. The directors shall elect one of their number as chairman. The directors shall elect a secretary and a treasurer who need not be directors, and the same person may be elected to serve both as secretary and treasurer. The powers of the authority are vested in the directors, and four voting directors of the authority constitute a quorum. Action may be taken and motions and resolutions adopted by the authority at any meeting by the affirmative vote of at least four directors. A vacancy in the directorship of the authority does not impair the right of a quorum to exercise all the powers and perform all the duties of the authority.

Sec. 19.70.040. STAFF. The authority shall employ an executive director who serves at the pleasure of the authority as its chief administrative officer. The executive director may with the approval of the authority select and employ additional staff as necessary. Employees of the authority other than legal counsel and the executive director are in the classified service under AS 39.25. In addition to its staff of regular employees, the authority may contract for and engage the services of consultants, and professional, technical, and financial advisors the authority considers necessary for the purpose of developing information, conducting hearings, studies, investigations, or other proceedings, or otherwise exercising its powers.

ARTICLE 2. POWERS AND DUTIES.

Sec. 19.70.050. POWERS OF AUTHORITY. In addition to other powers granted in this chapter, the authority may

(1) sue and be sued;

(2) adopt and alter an official seal;

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

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

(5) acquire, hold, use, lease, rent, construct, and dispose of real and personal property for its purposes;

(6) operate, maintain, improve, and extend a system of ferries connecting with the public roads and highways of the state and

including the boats, vessels, wharves, docks, approaches, landings, and appurtenances the authority determines to be necessary or desirable for safe and efficient operation of the ferry system so as to best serve the public;

(7) establish rates and tariffs, after public hearings;

(8) modify routes, after public hearings;

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

Sec. 19.70.055. DUTIES OF AUTHORITY. The authority shall

(1) be responsible for the management of the financial and legal obligations of the authority;

(2) assist the residents, businesses, and communities of the state in obtaining the best and most frequent possible marine passenger and freight service;

(3) schedule vessel sailings to maximize the frequency of service to all ports;

(4) encourage and integrate with other public and private carriers to the greatest extent possible to provide ferry service within the state and between Alaskan ports and ports outside the state in order to provide maximum service within the state;

(5) require pre-payment for reservations;

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

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

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

(9) recognize Alaska-based unions and employee associations

to the greatest extent legally possible.

Sec. 19.70.060. "ALASKA MARINE HIGHWAY SYSTEM": NAME AUTHORIZED. The authority is authorized to operate its ferry system under the name "Alaska marine highway system".

Sec. 19.70.070. COMPREHENSIVE LONG-RANGE PLAN. The authority, with the cooperation of the Department of Transportation and Public Facilities, shall prepare a comprehensive long-range plan for the development and improvement of the marine highway system and revise and update the plan, subject to legislative approval, at least every five years.

ARTICLE 3. ACQUISITION OF PROPERTY.

Sec. 19.70.080. ACQUISITION OF LAND AND EASEMENTS. The authority, as part of the cost of constructing, maintaining, or improving a ferry system, may acquire by purchase, gift, or exchange land in fee simple or easements that it considers necessary for present corporation use, either temporary or permanent, or that it considers necessary and reasonable for the public use. By the same means, the authority may obtain material, including clay, gravel, sand, or rock, or the land necessary to obtain the material, including access to it. The authority may so acquire the land or materials notwithstanding the fact that title to it is vested in the state or a department, agency, commission, or institution of the state.

Sec. 19.70.090. AUTHORITY TO PURCHASE PROPERTY FOR THE PURPOSE OF EXCHANGE. When a majority of the directors of the authority declares that it is in the best public interest of the state to do so, the authority may acquire by purchase, gift, or exchange privately or publicly owned land or an interest in it for the purpose of exchanging it for privately or publicly owned land that the authority is authorized by law to acquire.

Sec. 19.70.100. VACATING OF LAND OR RIGHTS IN LAND. The authority may vacate land, or part of it, or rights in land acquired for use in the marine highway system by executing and filing a deed in the appropriate recording district. Upon vacating, title reverts to the persons, heirs, successors, or assigns in whom it was vested at the time of the taking. The authority may transfer land no longer considered necessary for use in the marine highway system to the Department of Natural Resources for disposal. The proceeds of disposal by the Department of Natural Resources shall be credited to the funds from which the purchase was originally made.

ARTICLE 4. FERRY TERMINAL FACILITIES.

Sec. 19.70.110. ACQUISITION AND MAINTENANCE OF FERRY TERMINAL FACILITIES. The authority may construct, purchase, or lease ferry terminal facilities at locations it selects for the loading and unloading of passengers and vehicles under their own power, on and off ferries. The authority shall repair and maintain these facilities.

Sec. 19.70.120. CONNECTION OF FACILITIES TO HIGHWAYS. The authority may connect ferry terminal facilities with local highway systems.

Sec. 19.70.130. REGULATIONS. The authority may adopt regulations governing the use of ferry terminal facilities by the public that it considers necessary and proper in the public interest.

Sec. 19.70.140. EXISTING FACILITIES NOT AFFECTED. A ferry terminal facility in existence and serving the public on January 1, 1959, is not affected by AS 19.70.110 - 19.70.140.

ARTICLE 5. GENERAL PROVISIONS.

Sec. 19.70.150. ANNUAL REPORT. (a) By January 15 of each year, the authority shall submit to the governor and the legislature a comprehensive report describing the operations, income, and

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expenditures for the preceding fiscal year.

(b) Every five years the annual report shall include an analysis of potential sale arrangements whereby the corporation may be transferred into private ownership. The analysis shall include documentation of at least three offers to sell the corporation initiated by the corporation during the last five years.

Sec. 19.70.160. ANNUAL AUDIT. The authority shall have its financial records audited annually by a certified public accountant. The legislative auditor may prescribe the form and content of the financial records of the authority and shall have access to those records at any time.

Sec. 19.70.170. NAMING OF VESSEL OR FACILITY. (a) A vessel or facility of the Alaska marine highway system constructed or acquired by the authority under this chapter or AS 19.60 may be given a name only by law.

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

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

Sec. 19.70.180. APPLICATION OF EXISTING LAWS. Unless specifically provided otherwise in this chapter, the following laws do not apply to the operations of the authority:

(1) AS 37.05;

(2) AS 37.07;

(3) AS 37.10.010 - 37.10.060;

(4) AS 37.10.085;

(5) AS 37.20;

(6) AS 37.25.

Sec. 19.70.185. SALE OR LEASE OF THE AUTHORITY. (a) The governor may provide for the sale or lease of the authority and dissolve the corporation if

(1) it can be assured that the marine highway system will continue to operate after the sale or lease; and

(2) under the terms of the sale or lease, the state will receive the amount of money it has spent in connection with the authority.

(b) A sale under this section is subject to approval by law.

Sec. 19.70.190. REVERSION OF ASSETS. Except as provided in AS 19.70.185, if the authority ceases to exist its assets revert to the state.

Sec. 19.70.900. DEFINITIONS. In this chapter, unless the context requires otherwise,

(1) "authority" means the Alaska Marine Highway Authority established by this chapter;

(2) "capital improvement" means a project for the construction, rehabilitation, rebuilding, enlarging, or improving of all or any part of the marine highway system, including, without limitation, boats, vessels, wharves, docks, approaches, landings, offices, and appurtenances as determined by the authority to be necessary or desirable for efficient operation of the marine highway system and to best serve the public;

(3) "ferry" means a vessel used in the common carriage of passengers and self-propelled vehicles in intrastate commerce.

Sec. 19.70.990. SHORT TITLE. This chapter may be cited as the Alaska Marine Highway Authority Act.

* Sec. 3. AS 35.27 is amended by adding a new section to read:

Sec. 35.27.025. APPLICATION TO ALASKA MARINE HIGHWAY AUTHORITY. The requirements of this chapter apply to the Alaska Marine Highway

Authority. Compliance with this chapter is the sole responsibility of the authority with respect to the public buildings and facilities of the authority.

* Sec. 4. AS 35.27.030(2) is amended to read:

(2) "building" or "facility" means a permanent improvement constructed by the department <u>or authority</u>; the term

(A) includes, but is not limited to,

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

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

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

(iv) transportation facilities which accommodate traveling passengers;

(B) excludes other transportation facilities<u>;</u> [.]

* Sec. 5. AS 35.27.030 is amended by adding a new paragraph to read:

(5) "authority" means the Alaska Marine Highway Authority.

* Sec. 6. AS 39.50.200(b) is amended by adding a new paragraph to read:

(48) Alaska Marine Highway Authority (AS 19.70.010).

* Sec. 7. AS 44.42.020(a)(1) is amended to read:

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

* Sec. 8. AS 44.42.020(a)(7) is amended to read:

(7) manage, operate, and maintain state transportation

facilities and all docks, floats, breakwaters, and buildings, including all state highways, vessels, railroads, pipelines, airports, and aviation facilities, except that the department is not responsible for management, operation, or maintenance of transportation facilities, vessels, or equipment under the jurisdiction of the Alaska Marine Highway Authority;

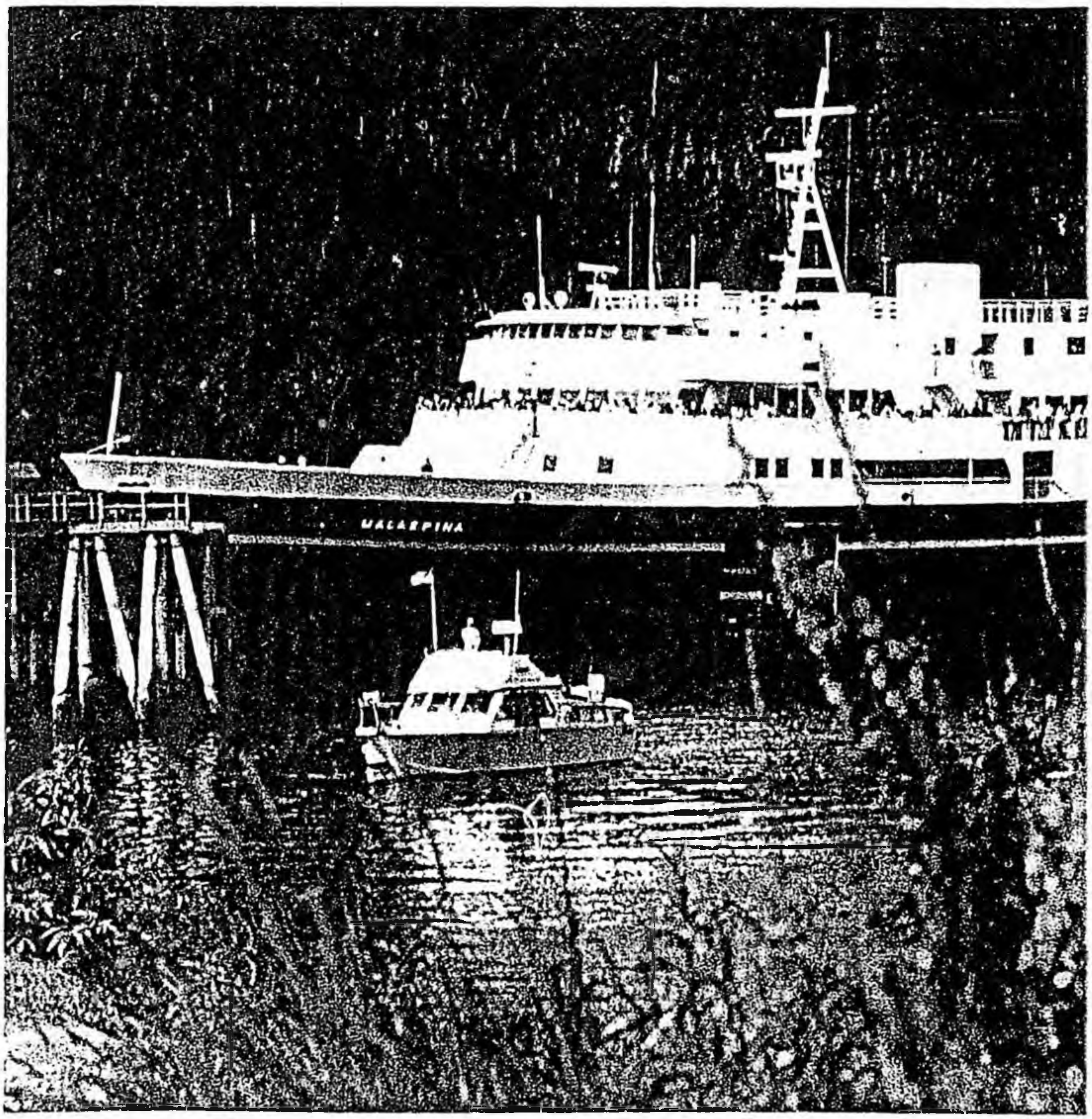
* Sec. 9. AS 19.60.010 - 19.60.070, and AS 19.65 are repealed.

* Sec. 10. APPOINTMENT OF FIRST DIRECTORS OF ALASKA MARINE HIGHWAY AUTHORITY. The governor shall designate the terms of the directors of the Alaska Marine Highway Authority first appointed under AS 19.70.020. Of the seven directors first appointed

(1) two shall serve a term of two years;

(2) two shall serve a term of three years;

(3) three shall serve a term of four years.



Squeezing revenues from a shrinking budget

Alaska Marine Highway chief Joe Camp must boost revenues by $1.8 million this year or cut expenses by a like amount.

BY CHUCK KLEESCHULTE

Courtesy Alaska Marine Highway System

IF IT WERE IN PRIVATE hands, its revenues would make it the 11th largest Alaskan-owned business. It would rank fourth in the number of employees.

If it were a private transportation company, it would be the largest Alaskan-owned firm in the category.

If it were a chain of hotels, its 1,000-plus bed capacity would make it Alaska's largest hotelier.

And if it were a restaurant, it would be among the state's 10 largest fast food chains.

The state-owned and operated Alaska Marine Highway System, which links 14 Panhandle, seven Southcentral and five Aleutian Chain communities, is all of these. Yet none.

"Running the ferry system isn't easy," says Joe Camp, head of the system and deputy commissioner of the Alaska Department of Transportation and Public Facilities. "Unlike an airline, we don't just sell seats. Unlike a hotel, we don't just sell beds. And unlike a barge company, we don't just sell cargo space. We do all of that and more."

Camp heads more than 1,000 employees, roughly 800 of whom man nine state ferries that ply Alaska's southern shores from Seattle to Dutch Harbor. He's responsible for wringing as much revenue as possible from a system that during summer rivals the busiest of Alaska tourism firms, but in winter provides an essential but less than lucrative transportation service for residents of 15 towns with no highway link to the rest of the state.

Heading into the ferries' busy 1986 summer season, Camp is caught in a

Sailing in Southeast isn't like running a bus system.

squeeze of trying to hike revenues by attracting more passengers while trimming costs. He faces increasing competition from commercial airlines and their "ultimate super saver" fares and private cruise lines. He can't trim fares or engage in rate competition to spur passenger or freight volumes.

He's competing for business at a time when it's crucial that he succeed – just as oil-fueled state revenues are sailing into increasingly stormy seas.

Camp last year was told by lawmakers he must increase revenues or cut costs $1.8 million or be prohibited from spending a like amount of his proposed $68 million budget for the year that ends July 1. At the same time, competition from a new private cruise line-ferry operation, the *Star Dancer*, helped to trim passenger counts in the lucrative Southeast trade and, more importantly, cut the bookings of campers and mobile homes aboard the system's car decks. Camp isn't expecting to fulfill the revenue mandate and has been trimming expenditures accordingly.

It traditionally has been from transporting oversized vehicles that the ferries have made their greatest revenues. So even though the ferries carried 99,164 vehicles last year – nearly 6,000 more than in 1984 – the system suffered a revenue setback. It made $46,000 less in vehicle tariffs last August than in August 1984, for example.

LAST YEAR THE FERRY system also suffered a rare decline in the number of passengers. Just 366,910 passengers rode the fleet last year – a slight drop of some 1,700 from 1984, but a drop just the same.

Camp has been forced to cut operating costs to the bone, changing longtime maintenance and manning policies and implementing more imaginative sailing schedules to keep the system within a shrinking budget. Still the storm clouds over the system aren't fading.

Gov. Bill Sheffield in his proposed budget for 1987 granted the system little additional money. It's likely the system will have to get by on less one more year.

The ferry system, set up in 1962 and fully operational in 1963, is a collection of nine vessels – the first, the tiny car ferry *Chilkat*, was taken over by the state after Alaska's admission to the union in 1959. Just 98 feet long, it can hold 15 vehicles, 75 passengers and can cruise at a leisurely 10-knot speed, limiting it to service in the southern Panhandle between Ketchikan and Hollis with a stop at Metlakatla.

The largest ship in the fleet is the 13-year-old motor vessel *Columbia*, which at 418 feet can hold 1,000 passengers and 180 cars and makes the run from Seattle to Skagway during summer months in about 3-1/2 days. There are three other mainline ferries: the *Malaspina*, the *Matanuska* and the *Taku* – all of which have been extensively renovated over the past eight years.

Two smaller ferries operate in Southeast: the *Aurora* and *Leconte*. The *Bartlett* provides service from Cordova to Prince William Sound towns, and the open-, ocean-going *Tustumena* provides service to Seldovia, Homer, Port Lions and Kodiak and through the stormy Gulf of Alaska to the tip of the Aleutian chain.

For years, the ferry system, with roughly half of its budget ($33 million this year) subsidized from the state's General Fund, has been criticized by Interior legislators, sometimes for inefficiencies, sometimes for personnel costs. Some say the criticism is unfair.

"It's been recognized for over 100 years that sailing in Southeast – through the Wrangell Narrows and Peril Strait past the rocks and logs – is one of the most challenging places on earth. The weather is usually lousy, and maintaining a consistent schedule 365 days a year requires incredible dedication. It's not like running a bus system from Portland to Seattle," says Capt. Herbert Storey, whose 25 years make him senior mate aboard the ferry fleet.

prepare for meals. "Sometimes you have 300 show up for meals. Other times you have 400 without notice. You end up being really creative in salvaging leftovers for the next special," says the a former Juneau hotel chef.

In the ferries' hotel business, staterooms often are booked for short stays – stays that end not at an 11 a.m. check-out time, but at 2 a.m. with check-in at 2:30 a.m. or at 5 a.m. with check-in at 5:15.

"During the summer we have to keep people working around the clock since the bunks aren't cold before the next passengers want the staterooms. It keeps you constantly in motion," says Ed Marksheffel, chief purser aboard the *Taku*.

Employee costs always have been one of the prime targets of lawmakers. Ferry workers, represented by three bargaining units, the largest of which is the Inland Boatmen's Union of the Pacific (IBU-P) representing more than 600 of the vessels' crews, are among the best-paid state workers. Members of the Master, Mates and Pilots bargaining unit, the nearly 100 licensed crew members who operate the fleet, average more than $51,000 a year.

Employees respond they work 12-hour days for a week; their 84-hour work weeks are nine hours more than

STANDING ON THE BRIDGE of the 352-foot *Taku*, Storey says few understand the complexities of maintaining a schedule when fog can close down to the waterline in Southeast in minutes. A key section of the trip from Skagway to Seattle passes through the Wrangell Narrows, where the channel closes to 350 feet for most of its 21 miles and course changes come as often as every quarter mile.

"Very few people with good sense would enter the narrows in fog, but if we can't stay on schedule it produces costs for the system," says the skipper, who normally handles *Columbia*, the flagship of the fleet.

Camp says running the ferries is further complicated by the relationships among the system's money-making functions. Three years ago, for example, the state decided it had outgrown its former ticket reservations computer system, one that worked great for airlines but not for ferries. The state had to spend $2 million to design its own system from the ground up – a reservations and bookkeeping system that went on line just this winter.

"Until now I've had a group of people with green eye shades hand-counting every ticket at the end of the month to find out our revenues. The new computer system will allow us to keep track of our revenues and our expenses in a timely manner," says Camp. "Standard computer systems counted seats, but we needed something that would sell seats, book vehicles, keep track of staterooms and print and refund tickets. No one had a system that did all those things."

The ferries also have been difficult to operate since unlike a hotel that can tailor staffing to reservations, they have extensive walk-on traffic – no reservations are needed for two-thirds of the year. That causes a host of problems. Just ask Ponce Agahona.

The chief chef of the *Taku*, who's been with the ferries for 17 years, Agahona says it's impossible to know how much food to order and how much to most state workers log in twice the time.

To cut costs, Camp has changed long standing maintenance procedures, dry docking *Columbia* in Seattle without its crew during the winter. The change has saved about $500,000 in employee costs.

He also has shortened the maintenance period for the other mainline ferries, pushing to get 13.8 additional weeks of sailings from his ships in hopes of increasing revenues without hiking costs.

He's attempting to cut employee replacement costs by barring workers from taking more than three weeks of leave (one work period of vacation) during the ferry's busy season from mid-May to mid-September. He hopes the change – unpopular with employees – will save more than $100,000 a year.

Starting this month, two ferries will provide weekly service north from Seattle in hopes of competing more effectively with the *Star Dancer*. The change, which will decrease by two the number of weekly sailings from Prince Rupert, British Columbia, to Panhandle towns, could generate another $75,000 a week in revenue – provided the *Matanuska* sailings prove popular with northbound tourists.

1986 Chuck Kleeschulte

Wringing revenues from a shrinking budget.

TO CUT THE COST of no-shows, who book car or cabin space and then don't appear for sailings, Camp has imposed a 45-day advance payment policy for placing vehicles on the ferries' busier routes. Those who cancel reservations less than 30 days before sailing no longer will receive full refunds.

In recent years the system also has done ever-thing from adding computer and video games for children to upgrading gift shops and bars to hike revenues. It's also added television rooms. Until a recent attorney general's opinion on copyright law, movies where shown. Officials hope to resolve that dispute so they can reopen video rooms this spring.

In response to Alaskans who've complained staterooms are "block-booked" by travel agents for Outside tourists, a limit of a quarter of all staterooms was placed on the number that could be booked by groups. To curb complaints among Panhandle residents that vessels have become "less romantic," Camp reinstituted waiter meal service aboard the *Columbia* and was considering it for the *Matanuska*. Under the administration of former Gov. Jay Hammond, all ferries were converted to cafeteria-style food service to cut costs. Camp says he's making the change without hiking costs.

To the biggest complaint, the inability of passengers to get through on the telephone to make reservations, Camp has grouped reservationists in Juneau, expanded their hours from 6 a.m. to 9 p.m. daily and set up toll-free calling from Alaska and the Lower 48 and added operators.

"We feel these changes better position us to market the ferries," Camp explains.

ONE COMPLAINT LINGERS: the system is competing too aggressively with private enterprise. While the state has halted sightseeing cruises to Glacier Bay and Misty Fjords in Southeast, it still provides service between Valdez and Whittier that often competes against private cruise operators providing Columbia Glacier sightseeing trips.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Taku head chef Agahona lives with uncertainty.

Camp says the state has no plans to curtail Prince William Sound service, but also has no interest in escalating competition with tour operators. He adds his vessels are so overscheduled he doesn't have the vessels to climb back into sightseeing runs to Glacier Bay, even if he wanted to.

These changes are improving both revenues and public reaction to ferry service, but the fleet is facing other longer-range problems. A new system plan indicates a need for higher-speed vessels – potentially catamarans – to increase frequency in southern Southeast. A high-speed jetfoil was tested two summers ago, but it was judged too expensive and had too little freight-vehicle capacity.

The ferry system four years ago did preliminary work to replace the 22-year-old *Tustumena*, which has been jostled repeatedly because of its Gulf of Alaska service. But since then the state has lost federal highway money to fund a replacement. Camp says a new study of the vessel's hull shows it still has a number of years of service in it. The state has pared replacement plans to a cabin expansion and renovation effort; some $4.5 million is being sought this year to start on the work.

Still, Camp says the state needs to plan on purchasing a second open-ocean-certified ferry to serve as a back-up for the *Tustumena* while it is laid up for annual maintenance. That could cost more than $50 million. He says the state needs at least $3 million apiece for two smaller catamarans for southern Southeast service, plus a third larger, faster boat for northern Southeast service. Eventually the system will face at least an $80 million pricetag to replace *Columbia* – provided the vessel is built solely in U.S. shipyards.

Where the millions will come from in a climate of greater demand for fewer state capital improvement dollars, however, is a matter of no small concern for ferry officials as they chart the future of the Alaska Marine Highway System. □

October 23, 1962

MEMORANDUM

TO: William A. Egan
Governor

FROM: John E. Havelock
Deputy Attorney General

RE: Passenger and Vehicle Tariff--
Prince Rupert, B. C. to Skagway, Alaska

Tariffs established for the Southeastern Alaska Ferry System include as representative rates $118 for car and $30 for the driver and each passenger from Haines to Prince Rupert. The rates from Juneau are $98 and $23.50 respectively. It is my view that certain important factors were either ignored or given insufficient weight in the determination of this rate structure, and as a result, the rates are much higher than the state interest requires.

1. General Rate Levels

One of the basic aims of the first year's operation of the system is traffic generation. No one expects that the ferry system will show in the black for at least three years. The greatest management disaster of the first year's operations would be insufficient traffic. If the ferry is going to be called the administration's folly it will be so nominated as caption to a picture of the M. S. Malaspina discharging only three passengers and a truck at one of its main terminals. The system is designed to carry a hugh volume of traffic right from the beginning as the ferries are launched in close succession. The first measure of success of the ferry is whether that capacity is utilized, not whether the system pays for itself in tariff revenues. It is obvious that the real return to the state will be derived from the ferry's effect in stimulating the state's economy, rather than profits from the ferry system itself.

The Gilman report and the tariff schedules of the Division of Marine Transportation are predicated on the assumption that the important consideration on which to base tariff rates is long term feasibility and fiscal "soundness" as a business enterprise. The Gilman report and tariff recommendation is based on the following analysis:

a. The ferry may be expected to divert 14% of existing passenger traffic movement in and out of Alaska from existing modes of travel and 6.7% of intra-Alaska air travel. The ferry operation itself will induce a 5% increase in deck passengers and 22.7% increase in automobile passengers over present total Alaska traffic. Therefore a total traffic of "x" passengers and cars can be expected.

b. Operating and debt service charges of "y" can be expected.

c. With x traffic and y expenses a tariff of z will produce revenues A, B, C and D for 1962, 1963, 1964, and 1965, so that in the fourth year the ferries will be paying propositions as traffic increases.. Presumably as the projections are extended the ferry will become a better and better business investment for the state starting with half a million profit in the fourth year. 1/

The only reference that I can find to the effect of tariff on traffic is at p. VI-1 of the report proposing rates, where it is stated:

> "The tariffs recommended for automobiles (including driver) 2/ are based on about 45 cents per mile and are shown in Table 4. While these rates are somewhat higher than those for

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1/ The break even point has been determined as 40% of capacity in summer, 10% in winter. Therefore the $1,326,650 deficit predicted by Gilman for the first year posits an extremely low traffic volume. Probably there is a peak month in July-August so that volume is well below 40% for the rest of the year even at the break even point three years hence.

2/ This rate is broken up so that the driver is charged separately as a passenger and the automobile tariff reduced slightly. The report recommended Prince Rupert to Haines $196.50. This is now $148 ($118 plus $30). However, this reduction still leaves the rates too high, particularly considering the fact that the passenger rate was raised from $25.50 to $30. Consider the husband, wife and two children: $238 present schedule; $273, Gilman.

ferry systems in the Northwest area, we believe them to be reasonable and attractive to both tourists and residents."

The belief that the rates are "reasonable and attractive" is nowhere substantiated, nor is any indication given that the "reasonableness" and "attractiveness" can have a substantial bearing on traffic. By supplementary memorandum of February 13, 1961, the Gilman Company analyzed the effect of certain reductions in the original proposed tariff. As far as I am able to determine without benefit of an adding machine, no consideration (or no more than 1%) was given, in reassessing revenues, to any probable increase in volume engendered by the tariff cut. In other words, traffic is supposed to be a fixed quantity not correlative to revenue. I believe this supposition is erroneous.

A project such as the Alaska ferry contains so many uncertainties in terms of traffic and revenue that the management must be highly flexible. During the first year, even day by day experience will be of the utmost importance since it will furnish the first concrete information on actual traffic behavior for future prediction. Passengers should be heavily polled to determine why they are on the system, how they heard of it, who they are, style of travel, effect of rates, etc., so that appropriate adjustments can be made to further induce traffic development, and revenue advantages. Since traffic is originally more important to the system than revenue, I would suggest that original tariff schedules be low. If the traffic volume justifies an increase, tariffs can always be adjusted upwards to beef up revenue. If tariffs start high, the state has lost forever the advantage of an early traffic boom in terms of psychological success of the ferry. In addition, the state will have lost the substantial factor of the effective publicity travelers may give to the system when they return home, together with the economic boost such travelers can give the state through subsidiary Alaskan private spending. The travelers who won't travel if the ferry gets off to a slow start represent dollars irretrievably lost to Alaska.

2. Internal Rate Structure

In view of the overall economic purpose of the ferry system, the tariff scales should contain internal flexibility, that is, variability according to the types of traffic to be induced. The only mention of this aspect of rates thus far made public is a plan for reduced rates for package tours. This variation is an overly modest beginning considering what we already know about types of traffic and state policy towards various kinds of traffic.

In assessing rates, management must be careful not to fall into private enterprise habits of thinking which are inapplicable to a state operated enterprise. A private enterprise must stand or fall on its own success as a financial venture. A state enterprise must be examined with different criteria. The ferry system can be looked at as one critical corporation in an interlocking chain of enterprises consisting of the rest of the private enterprises of the state. By way of illustration, in Los Angeles a number of Las Vegas and Lake Tahoe vacation hotel operators offer "free", or near free, air charter champagne flight transportation to their Nevada operations. The hotels take an enormous loss on their air charter operations but they calculate that they make it up on their take through the hotel accommodations, gambling, entertainment, etc. As to the tourist-segment of the traffic, the state ferry system operation can be looked at the same way on a much larger scale since every drug store, motel, grocery store, gas station is, from the state's point of view, part of the same interlocking economic establishment--the business of the state.

Not all traffic can be given the same tariff treatment. For the reasons suggested by the example, the most desirable traffic is the tourist trade. Business passenger traffic has almost no priority standing since we are there talking about travel that comes to Alaska anyway, which has no special inducement to use the ferry for its own sake, and which is likely to hurt existing carriers to the detriment of the state's economy. Tourist travel can be self-generating, arises from untapped sources, and is not likely to be diversionary except to some extent in the first year or two. 3/

The ferry's basic appeal will be to the automobile family.

For a large body of Americans, to whom the cost of ferry transportation would be a vital factor in calculation, the annual vacation consists of packing the kids in the car and driving somewhere with no more definite plans than that they must be back

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3/ Note that the private tour lines are planning to build more tour ships in the face of the state's operation. Tour ship operations also cater more to the retired couple type of traffic--people who need accommodations of comparative luxury and personalized care.

in two weeks. The car is as important psychologically as a symbol of mobility as it is as a method of getting from one place to another. The traveling family will want to take the car with them and they will be more likely to debark at ports along the way if they can take the car with them cheaply, despite the few miles of road available. Many auto tourists will be looking for a circuitous trip. The "up the highway and down the ferry" route or vice versa, may well become a great tourist route. Until the ferry is operating at full auto capacity, everything is to be gained and little lost by encouraging such people to take their car with them. Present ferry rates, however, are hardly encouraging. $238 ($476 round trip) is a sum that the vast proportion of auto tourists will be unwilling to spend on ferry transportation alone. 4/

How can this type of traffic be distinguished from a tariff point of view? They will almost always travel by auto-- more often station wagon than compact.

Trailer travel is almost entirely by this group. Therefore vehicle fares geared arithmetically to length will outprice them. The tourist auto family always contains a wife and almost always children. Therefore a tariff structure which provides special rates or even a subsidy on the automobile tariff for a spouse and pre-working children (under 15 or 16) will be particularly beneficial to it. There are many ways preferences can be effected. The tariff should be so planned that an upward revision should be necessary within one or two years to control over-capacity loadings. In the meantime the ferry will be maximizing utilization of idle ferry space while generating recurrent travel and publicity.

At some point there is clearly a point of diminishing returns in terms of direct revenue. However, the side effects of ferry travel on tourism are so important that direct revenues should be given a back seat in tariff management of the operation in the pre-capacity years.

Besides auto family tourism, the ferry operation should

4/ One consideration is that for travel, the family manager will be noting that he is spending this sum to travel 600 miles which could take him 47,000 miles translated into straight gas mileage. While considering oil, depreciation, repairs, etc., his costs will be higher, (living costs will be higher on the ferry) Alaska is still put in competition with all the United States from Maine to Florida for the west coast tourist family.

have distinctive tariffs for several other varieties of traffic. During winter months when the ferry system is likely to be operating at minimum capacity, tourists should receive lower rates. Marginal season tourism may also be encouraged through the rate structure. May is a beautiful month in Southeastern Alaska and may offer skiing opportunities to the restless souls who went to Sun Valley last year. For ski traffic, winter and spring, the ferry would have to consider its competitive situation with air carriers. The skier's ferry should be priced to cater to carloads of two couples who will drive to Prince Rupert. The ferry can afford a cheaper rate for the skier because of the substantial gain from expensive ski sports in Alaska. The state can also consider the priority it must give to development of the off season economy in Southeastern Alaska. The airline, calculating privately, cannot consider this an advantage.

Another group that might be considered for selective treatment is the Alaskan tourist. Air travel encourages out of state jaunts. Hard winters encourage winter vacations. Possibly the system should consider making itself financially attractive to these tourists. The prospect of a cheap way in and out for the car is one of these. If I am going to Yuma for a winter vacation from Anchorage, the ferry could be attractive to me as a method of getting my car to the contiguous states so I can save on air fare from Seattle south. Possibly an intra-Alaskan vacation in Southeastern Alaska will be attractive if the ferry offers a good rate.

While discussing possible rate variations, it might be noted that the existing rate structure, whether accidentally or not, contains a substantial rate discrimination by basing vehicle tariffs purely on an arithmetic length calculation. The rate is calculated roughly on a per foot length basis. By this method of calculation trucking is placed in an extremely favored position. While superficially an arithmetic length calculator appears simply to render the quid pro quo according to the commodity, (transportation) rendered, in fact this is an over-balanced way of calculating prices both from a market and policy standpoint. Market calculations are based on the competitive situation, and how badly the customer needs the product, not just how much it cost the seller. Competitively the trucker is getting a very good deal indeed. For intra-southeastern traffic, the competing tariffs are the cost of special charter, for traffic into-southeast the much higher rates of Alaskan Steam. A length calculus instead of weight is extremely advantageous to the trucker and disadvantageous to the tourist whose car is a fraction of the height of a truck and contains many feet of unuseful length. Even on trucking traffic to Alaska Westward I am informed that truckers expect an average saving of $800 per trip. Do we need to offer an $800 saving? If space becomes premium how do we gauge the desirability of three families of tourists and the truck in terms of balancing the tariff? A good size truck will carry a load of 40,000 pounds or more. A 60-foot trailer truck under the proposed tariff will cost $244.90 from Prince Rupert to Juneau. This comes out to approximately 6/10th of a cent per pound. A raise of $100 on this truck rate costs 5/20ths of a cent per pound of cargo. The ferry operation is conducted by the state to subsidize the economy. But in comparative subsidization do we want to subsidize truck travel this much and tourist travel so much less?

What distinct calculation of "fair and reasonable" was made in the case of truck traffic? Obviously none, since it is calculated on an identical basis with auto traffic.

I do not want to be understood as contending that truck tariffs are necessarily too low. I use the truck tariff only to show the inconsistency of the tariff planning.

3. Conclusion

The legislation establishing the ferry system does not indicate that it was intended to be operated as a business enterprise. To the contrary, all evidence indicates that the ferries were intended as links in the highway system. There is nothing improper in running the ferries at a "loss" any more than there is in building roads not paid for in tolls. If travelers on the Alaska Highway were asked to pay for even the cost of maintenance, without regard to the cost of construction, the tolls would assure that no one ever used the highway. The ferry system is another key artery looming large in the future growth of all Alaska, and the same logic should govern its management. Throughout the state the average annual maintenance cost for highways is $1500 per mile, higher for gravel. Considering travel over water by the system as highway (a fraction of the mileage if a road were actually built), maintenance costs alone would amount to $900,000 per year. This figure could be taken as one guide to the average annual subsidy over the life of the ferries that might reasonably be allowed. The tariff planners actually have constructed a tariff that will, if conservative traffic estimates hold true, put the whole system, including debt service (i.e., construction costs) in the black already by the third year still running well below capacity!

As all agree, traffic is a great unknown, though there is cause for optimism in the innate attractiveness of the enterprise. Actual traffic compared to capacity will be much lower, spectacularly so in the off season, than the general public probably appreciates. Lack of traffic is the only real disaster (short of casualty) which could hurt the ferries and the administration badly. 4/ For three years the books of the ferry system will show a loss anyway. The public is not likely to be more disturbed, with proper assurances, by the difference between a \$1,326,650 operating deficit (Gilman prediction for first year) and a \$2,326,650 deficit. They will be more likely to be disturbed if the former figure is pointed out to them with a picture of an empty ferry boat. They will be much less likely to be disturbed by the latter figure if the streets are full of automobiles with California, Idaho and Washington license plates, bearing ferry system bumper stickers, or if their own plans can include taking the family out the easy ferry way for a vacation. If no traffic would be the great disaster for the ferry, what greater tribute to the foresight of the system's supporters than if a new ferry goes to the drawing boards in 1966 to contain the growing volume--even if the system is costing the state half a million a year.

4/ This discussion rests on the assumption that wheeled traffic loadings will be invariably below system capacity, with possible exception only in one or two days of the summer. At such time as the ferries are full, length and system revenues become important considerations.

Respectfully submitted,

GEORGE N. HAYES
ATTORNEY GENERAL

By
John E. Havelock
Deputy Attorney General

JEH:lb

APPENDIX

As a basis for discussion, I would recommend the following changes in the tariff:

1. A standard price for passenger vehicles eliminating the distinction between compact and standard autos.

2. A cut in auto tariff (using 15' as base) of up to 50% graduated according to how far the traveler is going on the ferry.

3. A special rate for camp caravans under 20' of approximately 1/2 an auto.

4. No charge for wife or children under 16 traveling with husband and auto.

5. 10% cut for return ticket on end to end travel, good for auto with same license plate.

6. 10% rate reduction for autos for months of October, November, March, April and May.

7. 20 increase in truck rates, 30% for vehicles over 40'.

GEORGE N. HAYES
ATTORNEY GENERAL

By
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Deputy Attorney General

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Institute of Public Administration

ESTABLISHING PUBLIC CORPORATIONS IN ALASKA

A GUIDE FOR LEGISLATIVE DECISION MAKING

A REPORT TO

THE LEGISLATIVE BUDGET AND AUDIT COMMITTEE

BY ANNMARIE WALSH AND DAVID MAMMEN

DECEMBER 15, 1982

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ESTABLISHING PUBLIC CORPORATIONS IN ALASKA

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Table of Contents

ESTABLISHING PUBLIC CORPORATIONS IN ALASKA

A GUIDE FOR LEGISLATIVE DECISION MAKING

1. Introduction

Continuing demands for greater and more varied government services have resulted in rapid growth in the use of public corporations for loan programs, large scale construction projects and enterprise-type public services. Every session of the Alaska Legislature faces several proposals to create, to change and to subsidize independent public corporations of the state.

In January 1982 the Institute of Public Administration (IPA) prepared a report (Alaska's Public Corporations: a framework for assessment) for the Legislative Budget and Audit Committee of the Alaska Legislature which described the state's major corporations and developed a framework for assessing and overseeing them. This guide is designed to summarize IPA's earlier report by providing a checklist of questions and issues that should be considered during the process of legislative decision making with respect to public corporations.

What are the characteristics of public corporations or authorities?

Public corporations are government instrumentalities established by legislative statute to operate to some extent outside the regular structure of executive departments, usually to finance, construct or operate revenue producing enterprises. As corporations, they have separate legal existence (to sue, to be sued, and to assume credit obligations in their own name). They are variously called corporations, public authorities, commissions, banks, services or agencies.

How do public corporations differ from regular government?

Public corporations differ from government itself in these ways:

*Public corporations do not have general government police or reserve powers or powers to tax;

*Public corporations can exercise only those powers and conduct only those activities specifically authorized in their charter or statute.

Public corporations differ from the line agencies of the executive branch of government in the following ways:

*They have separate legal identity (corporate personality);

*They may be exempt from many of the administrative procedures and regulations that apply to line agencies, such as civil service and other personnel regulations, procurement and other administrative procedures, rules and controls by central executive staff agencies;

*Their powers and structure can usually be changed only by statutory amendment (not by executive order), and such changes may be limited by legal covenants entered into by the corporation for borrowing and other contracts;

*They can be permitted business-type budgets without line item or expenditure period limitations, and may be permitted to retain their own earnings, subject to dedicated fund prohibitions;

*Public corporations usually have independent borrowing capacities and credit ratings.

2. Selecting the Corporate Form

None of the advantages described below can be achieved only through use of public corporations, and none of them are automatically achieved by use of public corporations. The record of public corporations throughout the nation includes examples of political corruption, financial debacles, and construction failures as well as numerous success stories. However, in some states legislators have sought the following through the use of the corporate form.

*Managerial and budgetary flexibility for enterprise-type activities that need to be continually adapted to changes in consumer demand, construction contingencies, and other market factors;

*Speed and efficiency of large scale construction using planned funding schedules, flexible contract administration, and non-controlling, multi-year construction budgets;

*Increased access to bond markets;

*Protected, earmarked funding for priority projects and long term debt service, subject to dedicated fund prohibitions;

*Business-like and self supporting activities, particularly where the benefit produced goes primarily to the person or organanization that uses and can pay for the service;

*Insulation from political influence,for philosophical or other reasons;

*Use of an agency with mixed ownership, with the potential for transfer to the private sector, or with a jurisdiction that spans several government units.

What are the pitfalls to be avoided in deciding on and designing public corporations?

An increasing number of public corporations have been formed, particularly for loan programs, public transportation, housing finance and energy development. The single purpose corporation seems a simple and clear cut answer to many demands for new and complex government functions. Their advantages are relatively easy to list. Their disadvantages appear only over time and experience. It is important therefore to keep in mind some of the potential disadvantages when making the initial decision. Potential disadvantages include the following:

*The accumulation of independent debt burden and other financial obligations and potential claims against future taxes and tax payers without control, financial planning or early warning. Two facts affect this potential problem. First, high volumes of borrowing through corporate revenue bonds do tend to tighten the market for general obligation borrowing by state and local governments from the same state. Second, even when the state clearly has no legal obligation for the debts of its corporations, if those corporations get into financial difficulty the state will have to help them (by channeling appropriations into reserve funds, by offsetting operating deficits, by helping to refinance debt or otherwise avoid default). The credit standing of the state is affected by the credit record of its corporations. Unforeseen changes in interest rates, in economic conditions or in revenues have caused problems with even the seemingly strongest corporations in some states.

*The separation of important development decisions (such as distribution and pricing of transportation, energy, industrial investment and housing) from legitimate political institutions based upon voter support and executive leadership. Conflicts over social, environmental and economic impacts may arise too late, after the corporation has made decisions to which the people's representatives did not have access, even when there are public hearing requirements. Similarly, lack of consistency between corporate programs and departmental programs and plans can increase the costs and reduce the effectiveness of government as a whole.

*Undermining government procedures established for desirable purposes of accountability and legitimacy, including appropriations and budgeting, equitable job classification and salary scales, merit recruitment and promotion, standardized accounting and auditing procedures, and contracting and procurement controls. There is often a temptation to by-pass regular government agencies when these procedures seem too rigid and cumbersome for good management. However, reform of procedures is preferable to progressively cutting chunks of government activity out of them altogether.

*Creating pockets of public activity susceptible to narrow special interest control.

*The potential for "creaming", or removing revenue producing activities from government budgets, leaving deficit operations to fall more heavily on taxpayers or appropriations. Many states have tried unsuccessfully, for example, to tap the revenues from successful corporation toll facilities to help finance public roads or transit.

What are the alternatives?

Not all of the differences between public corporations and line agencies are necessary. Indeed, some of the characteristics of public corporations can be given to line agencies in order to allow them to undertake enterprise-type activities efficiently without giving up executive and legislative controls. For example, some of the legislative alternatives to the full blown corporation are the following:

*A separate executive agency or administration, headed by an administrator reporting to the governor, with special powers designated by statute but without independent corporate status. This arrangement is often used for enterprises that will be funded by appropriations and state bond issues (eg., tranportation bond issues). In California, for example, a State Department of Water Resources issues special general obligation bonds, with project revenues to cover debt service channeled into a trust fund. The Department also issues revenue bonds in the name of the Department; they are obligations of the Department only.

*A revolving fund or corporate loan fund within an executive department. This is used for loan and subsidy programs that require protected financial integrity, revenue bonding powers and separate credit obligations, but which do not require separate administrative bureaucracies and which benefit by policy coordination with related programs. Such arrangements in other states have provided revenue streams which are identifiable, allowing for accounting separate from the general agency budget in order to maintain credit ratings for revenue bonds. Examples include the Airports Division of the Hawaii Department of Transportation, which is authorized to issue revenue bonds to construct and operate airports. A separate Harbors Division within the Transportation Department constructs and operates harbors. In the State of Washington, a motor vehicle revolving fund is used by the Department of Transportation which issues revenue bonds backed by motor vehicle fuel taxes to construct toll road and bridge facilities. In Maryland, a separate port authority was abolished in 1971; port administration was made part of a reorganized Department of Transportation.

Regional/local enterprises run by representative commissions or intergovernmental boards. Examples include public utility districts, such as those in the State of Washington. The Metropolitan Council in the Minneapolis - St. Paul region is a regional enterprise governed by an intergovernmental board.

In summary, the selection of the corporate form should be based upon four kinds of information:

*What characteristics for financing and management are implied by the mission of the proposed agency?

*What alternative forms of organization can provide these characteristics with minimal loss of democratic control?

*How important is it to relate these activities to political representation? to community preferences? to departmental policies?

*How can a corporation be effectively monitored in terms of financial and administrative impacts on state and local government?

3. The Design of the Corporation

Careful design of each public corporation to meet the needs of the particular mission, financing situation, and desired patterns of leadership and oversight is crucial if the agency is to live up to the expectations for it, and not prove to be a source of future problems. There are many different ways to organize a public corporation, and the form appropriate for a loan fund may not be appropriate for a railroad or a local port. This section of the Guide provides a check list of questions and legislative alternatives to be considered. These are grouped under recommendations summarized from the earlier IPA report.

Legislative intent and oversight

The corporate mission should be stated clearly enough to provide policy guidelines to the corporation and to provide standards for subsequent legislative oversight. Goals, priorities and performance targets should be expressed clearly so that performance can be judged against them. (For example, are services to be self supporting from revenues? Is the aim to increase production of some unit such as ship maintenance, passenger trips, or kilowatt capacity? To aid or subsidize certain groups?) .

The most effective way to hold an enterprise accountable is to measure its performance against targets for that performance. Without targets or priorities, oversight tends to consist of random interchanges between legislators and corporate managers that are frustrating to both sides. If legislative statements of corporate mission are ambiguous or shift from year to year, there is little that the supervising executive officials can do except try to assure that the corporation is acting prudently. It is always difficult to express clear goals and priorities for public programs because the nature of the democratic process is such that they are often the product of shifting compromise. Nevertheless, the exercise of trying to develop coherent statements of mission for each corporation and related departmental programs - however imperfect - can clarify the issues that are relevant to audit a budget review, and can provide a framework within which successive requests for statutory amendment can be judged.

*What are the goals and the policy guidelines that the legislature intends for the corporation?

*Are goals and guidelines sufficiently clear and consistent to judge the performance of the corporation in the future?

*Should legislative authorization be required for each major capital project or new program expansion?

The relationship of the corporation to the state government

Coordination calls for clarification of the relationship between corporations and the departments of state government. The two linkages presently used in Alaska are to specify in statute that a corporation is attached to a specific department, and to put one or more state commissioners on the corporate board. Currently, provisions that a public corporation be "within" or "attached to" a department are *pro forma* compliance with state law concerning departmentalization.

*What role should the related department play?

*How should departmental programs and policy plans relate to corporate activities?

The use of a governing board for public coporations is derived from the structure developed to represent stockholders in investor owned companies. But experience in federal and state government generally has shown that the ability of part-time boards to provide policy leadership to public corporations is limited, and ex-officio appointment of busy government officials does little to overcome those limitations. Experience has shown that it is difficult for cabinet members to serve both as supervisors of the corporation from general perspectives and be part of corporate management on the board of directors. Problems are compounded if board meetings must cope with managerial detail, or if board members lack timely information on policy and performance.

Other alternatives should be examined. One is to have the corporation headed by a single administrator who reports to a departmental commissioner and who is aided, not by a governing board but by an advisory board that draws primarily from the private sector. This is particularly appropriate for enterprises closely linked to other state services (transit agencies, equipment maintenance agencies, revolving loan funds related to specific economic programs). Advisory boards without direct responsibility for management can be larger and draw on a broader range of expertise and objective opinion. By reporting their assessment of the corporation to the related state department and to the legislature, they can often provide for better accountability than can governing boards that get bogged down in details.

Another alternative, one suitable for regional enterprises, uses a policy council representing local groups or elected officials together with a strong executive director (see, for example, the public utility districts of the Pacific Northwest).

*If a governing board is to be used, who shall appoint the members? The governor? The head of an executive department when the corporation is subsidiary to one department? Local representatives? Should the board be representative? Should it be large enough to use special committees (eg., audit and finance committees typical of the private sector)? If it is large, will it have problems scheduling meetings or assembling a quorum to conduct business?

*Should terms of members be staggered (giving the board added stability and some political insulation, but making it somewhat less responsive to elected leaders in the short run)? Or should their terms coincide with those of the appointing authorities, making them political executives like department heads?

*Has provision been made for removal of board members for conflict of interest violations, for non attendence, or for malfeasance?

*Who shall appoint the executive director? The board? The governor? The department head (corporation subsidiary of one department)? Will the executive director serve by contract, or at the pleasure of the appointing authorities? What provision has been made for removal?

*Have means of improving the effectiveness of boards been explored? (e.g., use of working and advisory committees or staff to the board)?

In addition to careful design of the corporate governing structure, three other considerations are important to produce good corporate management with state government leadership.

First, the powers and responsibilities of the general manager, the board or council (if there is one) and of the appropriate government officials must be sorted out clearly and sensibly. The manager should have full responsibility to manage, and can then be held responsible for corporate performance. (See below). The board should not be burdened with detailed decisions and personnel choices below that of the manager. The board should focus on continuing evaluation of what is going on in the corporation. And state officials should have a clear role in decisions that have substantial impact on the public interest.

Second, state officials (including the legislature) need timely information concerning the corporation's programs and plans. Multi-year program and financial plans should be required. So should annual reports showing actual results. Statutes should specify the kinds of information and factors that should be included in plans and reports. They should also specify who is to review those documents and approve them.

Third, statutes should specify key policy decisions by the corporation that will affect public welfare and costs. Shall the governor or a commissioner have certain veto powers, prior approval powers or [illegible]r to give the corporation certain directions?

<u>Impact on state budgets</u>

There should be provided ongoing means of assessing and controlling the extent to which the corporation may burden the state with direct or indirect financial costs.

*Are the corporation's services likely to be self supporting out of operating revenues? At what price levels? Are services to be provided at below market prices? What interests will be served?

*If operating subsidies are to be provided by appropriations, should there be a ceiling imposed in statute? Absolute or percentage ceiling? What factors will effect the level of subsidies: interest rates, user charges, volume of use, costs? Should prices be regulated? By whom? By what formula?

*Should specific cost controls be imposed (eg., salary ceilings; executive scale; administrative expense limitations; interest rate ceilings)? How can cost control and efficiency incentives by management be encouraged if deficits are to be absorbed by appropriations?

Impacts on capital finance and debt

Corporate financial plans, debt burden, security arrangements and borrowing volume should be continuously monitored together with those of other state corporations and state and local government. Some orderly process should be established to analyse information on current and planned borrowing, lending, investments, and potential demands on capital appropriations, including impacts on the economy and on state credit given varying market trends.

*What security will underlie corporate borrowing? Is the estimated revenue stream adequate to secure the borrowing necessary to complete planned projects?

*What will borrowing costs do to revenue requirements (for example, costs of retail or wholesale electricity, freight and passenger fares, costs of ship maintenance, home mortgage rates, etc.)? What are the fall back resources for debt repayment if the revenue stream diminishes?

*Does the state have a moral obligation (legislative option to keep corporate reserves up to specified levels)? Can the corporation's finances be leveraged by federal grants, by state loans or grants, or by other sources? Are lease payments by state or local government agencies pledged to back up debt?

*Where will the liability or risk fall in case of extraordinary circumstances (eg., impacts of power plant failure, of earthquake or bankruptcies on mortgage and loan obligations, etc.?)

*How will the authorized debt and debt security affect the ratios of debt of and in the state, and the ratings and indices used by the financial community to assess and cost out state and local government borrowings?

*What arrangements have been made for payback of state capital appropriations or loans (interest, time period, enforcement and forgiveness provisions)?

*Regarding nonguaranteed borrowing authority, what ceiling shall be established by statute? What agency of state government shall approve issues after reviewing timing, volume, interest costs, and terms of bond resolutions or offical statements?

<u>What will be the management capabilities of the corporation?</u>

To do its job well the corporation needs stable financing, concentrated management authority, marketing expertise, high quality labor force, and flexible procurement and contracting capabilities. Sometimes these require exemption from some of the provisions of state administrative law. If such exemptions are applied when they are not needed, however, the public purposes for which the corporations were established are undermined.

*Should the agency's personnel be part of the civil service? Should it have its own merit-based personnel system? Should it have salary comparability? Should it offer no job security but provide full management prerogatives to hire and fire? If so, what protection from abuses should be provided? Will the agency assume labor agreements from predecessor organizations? Do collective bargaining provisions make civil service regulation unneccessary?

*Should regular provisions for public participation and public information apply? (Freedom of information, sunshine laws, equal employment opportunity, community reviews, environmental impact statements, zoning approvals, and public notice and hearings, etc.)? In general these should not be waived without strong justifications.

*Should regular procurement and contracting procedures be waived for the agency? Rigid competitive bidding requirements may slow down and raise the costs of large scale or repetitive construction projects, and slow procurement procedures are a problem in high technology activities.

*Should the corporation be permitted to promulgate regulations? If so, should all aspects of the Administrative Procedures Act apply?

*Does the structure of top leadership for the agency assure strong management together with coordination with the executive branch? The full time executive director is the key to corporate management. Will that position be clearly responsible (eg., appoint other personnel, have duties clearly distinguished from the chairman of the board, be should the borrowing requirements generated by short term debt be reported and monitored? Are there adequate provisions for coordination with other capital programs?

How should legislative oversight be exercised?

*What procedures should the legislature use to monitor the agency's performance with respect to goals? Legislative performance audit? Periodic public hearings or committee investigations (special circumstances only)? Legislative veto of financial plans or budgets which will exceed spending ceilings?

Legislative oversight should not involve intervention in specific management applications of policy (e.g., approval of specific loan applications, personnel actions, contractor selections, detailed budget lines.) If legislative judgment dominates these types of administrative action, the advantages sought from using the corporate form in the first place are lost.

In order for legislative oversight to be effective, legislative staff reviewing and dealing with the corporations must be adequate to keep up with the material coming to it, to analyse, to summarize, and to help distill out the policy implications. Investment in the capacity to continue to evaluate the public corporations would be small in comparison to the state appropriations supporting them.

Legislative oversight tools that have been used Outside include public authority control boards, special investigations, assignment of a full-time performance auditor to individual corporations, and codified corporation control acts. In other states, recent initiatives concerning public corporations have been part of broader efforts to strengthen debt management policies generally.

4. Implications of the Guide for the Alaska Railroad

The framework described in this Guide has implications for proposals before the Legislature. This Guide suggests that no public corporation should be created without thorough consideration of the rationale for selecting the corporate form and consideration of government alternatives. For example, an assessment of organizational alternatives for state ownership of the Alaska Railroad was undertaken in July 1981 for the State Department of Transportation and Public Facilities (An Assessment of the Alaska Railroad: Ownership and Operational Alternatives, by John T. Gray and John A. Bivens), and concluded that the corporate form would be best. The analysis noted these 'disadvantages' to the railroad as a state line agency:

- lack of ability to obtain essential capital investment funds except by state appropriations;

- competitive issues related to marketing, management flexibility, state agency regulations and procedures;

- potential for even more direct political influence on operational decisions;

- the public service versus business orientation questions.

The report went on to note "[The state agency alternative] clearly does not meet most of the criteria established for a viable railroad organization. A state agency organizational structure is the least desirable of the three alternatives discussed."

That conclusion may be correct, but it should be noted that access to the bond market is possible through alternatives such as state transportation bond issues or departmental revenue bonds. In any case the experience of the Alaska Railroad as a federal agency indicates that two attributes should be sought above all others: 1) flexible, concentrated, business-like management and 2) policy control by state government, exercised in the interests of Alaska.

Regarding the corporate form, the study of organizational alternatives noted:

> The principal advantages of the authority or public corporation alternative are an ability to obtain access to required capital funds and freedom to manage and operate the railroad within policies established by a board. Management could be given flexibility and responsibility for its decisions and could also be held accountable for its decisions. Passenger service could be accounted for separately and not subsidized by freight service. The Alaska governmental leadership could determine the appropriate levels, locations, and other parameters of passenger train service. Thus, under this scheme, it might be possible to reach a compromise between the public service and business purposes of the railroad.

That discussion raises two issues that are not resolved in the bill to establish the Alaska Railroad Authority (CS SB 212 [Transportation]). First, what decisions should be made or reviewed by state officials to assure the public service purposes, and what decisions and prerogatives should be left to management to assure efficient and effective running of the railroad enterprise? Second, what volume and purposes of subsidy should be planned for the railroad?

This Guide suggests that legislative authorizations and mechanisms for supervising the corporations should be based clearly on the premise that the corporations are wholly owned subsidiaries of government. CS SB 212 [Transportation] makes the status of the corporation as a state agency clear:

Sec.42.40.330(e): "the authority is an agency of the State of

Alaska for purposes of jurisdictional determinations and judicial review...." Sec.42.40.100(c)(4): the authority shall act "on behalf of the State of Alaska". Sec. 42.40.200: the authority is an "instrumentality of the state within the Department of Transportation....with legal existence independent of and separate from the state."

This Guide suggests that legislative intent for the goals and mission of the corporation should be sufficiently clear to provide policy guidance, criteria for performance evaluation and financial planning. But fundamental issues are unresolved in CS SB 212 [Transportation], which provides only that the Alaska Railroad should be operated to: "carry out its responsibilities on a self sustaining basis" and to "provide the best possible combination of high quality and reasonably low cost transportation", but be "supported where necessary by state investment in railroad capital improvements."

Is it or is it not to be self supporting? Are both freight and passenger services to be self supporting? Or are operating expenses to be paid for from the fare box, while capital investment is publicly provided? Is public investment to be repaid? On what schedule and with what interest? If it is not repaid, does it have implications for the competitiveness of other components of the state's transportation system?

If these decisions are not to be made by the Legislature at the time of the creation of the authority, what process is established by the statute to make these basic public policy decisions over time? The railroad's fare structure, mix of services, and collective bargaining agreements will each affect the degree to which subsidies will be needed. According to this Guide, a procedure for governmental participation in these decisions is essential, whether it be legislative fiat, review by the Department of Transportion and Public Facilities, review by the governor, and/or regulation.

Because of the ambiguity in the bill, basic issues of fare structure, subsidy levels, state investment and pay back may be left to the authority management to resolve and bargain over, with little clear guidance from the Legislature. Some forms of capital subsidy will be necessary; some form of operating subsidy may be necessary. According to what criteria; what limits; what procedures?

The Guide recommends that there be an orderly and timely process for assessing and controlling the impact of the corporation on state budget and credit. CS SB 212 [Transportation] implicitly permits subsidy of the railroad authority by state capital investments or revenues "from whatever source" to secure authority notes, but it is not clear about state or executive participation in, or review of, rates and fares, collective bargaining agreements, service expansions or contractions or debt ceilings which are crucial decision making points that will determine the volume and the effect of subsidies in the future. These decisions, plus the control over land (albeit in conjuction with the Department of Natural Resources), place very important policy powers in the hands of a council of six citizens with staggered terms.

Article 7 of the bill concerning state oversight provides procedures for gubernatorial veto, action forcing and intervention which are thorough. But by the time the specific undertakings described would be formally proposed and subject to these procedures, many options could be closed. Therefore review and approval of long range program and capital plans will be the more important process for purposes of policy guidance and oversight. Proposed service changes and credit transactions should be required to conform to the approved long range plan. The opinion of the Commissioner of Transportation should be required for state review under Section 7, as well as for annual approval of the long range plan. Service improvement and performance targets should be included in the annual plan and used as criteria for performance audit by the legislative auditor.

One procedure that might be provided for would call for the authority to include in the required financial plan a recommended fare structure that would completely cover costs and investment payback. Government decision not to approve such a fare structure would then have to be accompanied by either specific commitments to provide compensating subsidies or specific cost cutting proposals. The active involvement of the Department of Transportation would be needed to carry this out. The importance of some such arrangement can be underscored by the inefficiency of public rail systems elsewhere in the country where disorderly annual negotiations over fares and subsidies have left corporate managements without financial stability or the capability to plan for improvements. Moreover, if these issues are not resolved by orderly public decisionmaking processes, they may be resolved unilaterally by corporate management through bond resolutions that guarantee certain revenue levels be maintained and collective bargaining procedures that determine cost levels.

The Guide suggests that responsible executive officials should be able to influence the major decisions of the corporation in order to provide coordinated and coherent state policy. Yet, as CS SB 212

[Transportation] is written, the Commissioner of Transportation is in an uncertain position with respect to the authority. The Commissioner is one of seven board members; there is no requirement that the Commissioner be chairman. Alternatives should be considered. The manager of the railroad corporation might report to the Commissioner, making the council an advisory and review board rather than a governing board. Or, the Commissioner could be named chairman of the governing board, which might be expanded to represent a wider range of interests.

The Guide notes that fixed management responsibility and concentrated executive leadership are important parts of the business model that public corporations are set up to take advantage of. Yet the bill divides management authority (Section 42.40.250) in ways that may involve the governing council in too much detail ($11,000 real estate transactions; incurrence of debt, however small, and all changes of services). This may divert the council from policy issues such as program and capital plans and the establishment of rates.

In addition, the bill's provisions for appointment of railroad authority executives involve the council in appointing and removing personnel other than the general manager. This may make it more difficult to recruit a topflight railroad chief operating officer who will want to bring in his or her own management team. Accountability may be better served by giving the manager clear authority to manage, within the parameters of government policy, and holding him or her directly responsible for the results. The Legislature may therefore wish to consider whether the general manager should appoint, and have unhindered powers to dismiss, executive officials. Council involvement through other executive appointments and the provision that executives serve "at the pleasure of the council" merely divides management responsibilities.

The Guide suggests that corporations be exempted from standard administrative procedures only as required. CS SB 212 [Transportation] AS 42.40.330 provides blanket exemption from the Administrative Procedures Act, except for public meetings and legislative review. There appear to be no criteria or standards for corporate personnel, accounting, contracting or procurement systems. While management flexibility will be served by these exemptions, management quality is not assured by them. The characteristics of the personnel system might be specified. (Will civil service rights be superimposed over collective bargaining rules? Must recruitment and promotion be on a merit basis?) In addition, the legislature should require that the corporation's accounting system be approved by the legislative auditor or that it accord with Generally Accepted Accounting Practices (GAAP).

The Guide recommends that corporations develop systematic procedures for dealing with public interests and opinions concerning the distribution of benefits among groups and localities. The Legislature may want to consider mechanisms for involvement by citizen advisory panels or regional organizations, or by local governments.

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HOUSE BILL 23

BY REPRESENTATIVE CATO

INTRODUCED--14TH LEGISLATURE

STATUTES AFFECTED BY

THE MARINE HIGHWAY AUTHORITY BILL

Effect of amendment. — The 1977 amendment substituted "Department of Transportation and Public Facilities" for "Department of Public Works" in paragraphs (2) and (6).

Chapter 27. Art Works in Public Buildings and Facilities.

Section

Sec. 35.27.010. Purpose. The state recognizes its responsibility to foster culture and the arts and the necessity for the viable development of its artists and craftsmen. The legislature declares it to be a state policy that a portion of appropriations for capital expenditures be set aside for the acquisition of works of art to be used for state buildings and other public facilities. (§ 1 ch 54 SLA 1975)

Legislative history report. — For report on ch. 54, SLA 1975 (CSHB 133 (Finance)), see 1975 Senate Journal, p. 939.

Sec. 35.27.020. Art requirements for public buildings and facilities.

(a) A building or facility constructed after June 30, 1975, or remodeled or renovated after June 30, 1975, shall include works of art, including but not limited to sculptures, paintings, murals or objects relating to Native art.

(b) The department, before preparing plans and specifications for buildings and facilities, shall consult with the Alaska State Council on the Arts regarding the desirability of inclusion of works of art.

(c) At least one percent or, in the case of a rural school facility, at least one-half of one percent of the construction cost of a building or facility approved for construction by the legislature after September 1, 1977, will be reserved for the following purposes: the design, construction, mounting and administration of works of art in a school, office building, court building, vessel of the marine highway system, or other building or facility which is subject to substantial public use.

(d) A building or facility with an estimated construction cost of less than $250,000 is exempt from the requirements of this chapter unless inclusion of works of art in the design and construction of the building or facility is specifically authorized by the department.

(e) The artist who executes these works of art shall be selected by the architect for the department with the approval of the department, after consultation with the Alaska State Council on the Arts and the principal user of the public buildings or facilities.

(f) The artist who executes these works of art in the public schools shall be selected by the superintendent of a school district in which a public school is to be built with the approval of the school board. Should the department find in the best interest of the state that the selection of the artist who executes these works of art by the superintendent may result in a cost overrun to the state or delay of construction, the department shall make the selection of the artist in consultation with the superintendent.

(g) The architect, superintendent, department, and the Alaska State Council on the Arts shall encourage the use of state cultural resources in these art works and the selection of Alaska resident artists for the commission of these art works. (§ 1 ch 54 SLA 1975; am §§ 1, 2 ch 96 SLA 1977; am §§ 1 — 4 ch 176 SLA 1980)

Cross reference. — For the responsibilities of the Alaska State Council on the Arts in the management of the Art in Public Places Fund, see AS 44.27.060.

Effect of amendments. — The 1977 amendment substituted "or, in the case of a rural school facility, at least one-half of one percent of the construction cost" for "of the overall construction cost" in subsection (c) and added subsections (f) and (g).

The 1980 amendment rewrote subsections (a) and (d), substituted "buildings" for "public works" in subsection (b), and in subsection (c), substituted "September 1, 1977" for "the enactment date of this chapter," "a school, office building, court building, vessel of the marine highway system, or other" for "the public," deleted "public" preceding "facility" near the end of the subsection, and added "which is subject to substantial public use" at the end of the subsection.

Sec. 35.27.030. Definitions. In this chapter

(1) "department" means the Department of Transportation and Public Facilities;

(2) "building" or "facility" means a permanent improvement constructed by the department; the term

(A) includes, but is not limited to,

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

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

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

(iv) transportation facilities which accommodate traveling passengers;

(B) excludes other transportation facilities.

(3) "construction cost" is that cost expended for the actual construction of the facility, exclusive of the costs of land acquisition, site investigation, design services, administrative costs, equipment purchases and any other costs not specifically incurred within the construction contract or contracts awarded for the construction of the facility.

(4) "commissioner" means the commissioner of transportation and public facilities. (§ 1 ch 54 SLA 1975; am §§ 3, 4 ch 96 SLA 1977; am Executive Order No. 39, § 11 (1977); am §§ 5, 6 ch 176 SLA 1980)

Effect of amendments. — The first 1977 amendment inserted "schools, office buildings, court buildings and other facilities which are designed for substantial public use" in paragraph (2) and added paragraph (3).

The second 1977 amendment substituted "Department of Transportation and Public Facilities" for "Department of Public Works" in paragraph (1).

The 1980 amendment rewrote paragraph (2), and added paragraph (4).

Chapter 30. Consistency with Local Government Plans and Ordinances.

Cross reference. — As to construction procedures, see AS 35.15.010 et seq.

Sec. 35.30.010. Review and approval by local planning authorities. (a) Except as provided in (b) of this section, before commencing construction of a public project,

(1) if the project is located in a municipality, the department shall submit the plans for the project to the planning commission of the municipality for review and approval;

(2) if the project is located within two miles of a village, the department shall submit the plans to the village council for review and comment.

(b) Prior approval by a municipal planning commission may not be required before the commencement of construction of a highway or local service road if

(1) the Department of Transportation and Public Facilities and the municipality have entered into agreement for the planning of the project under AS 19.20.060 or 19.20.070 and the plans for the project are completed in accordance with the terms of that agreement;

(2) the municipality has adopted a municipal master highway plan under AS 19.20.080 and the highway or local service road is consistent with the plan adopted; or

(3) the Department of Transportation and Public Facilities has entered into agreement with the municipality for the planning of transportation corridor under AS 19.10.280 and the plans for the project are completed in accordance with the provisions of that agreement.

(c) If final disapproval by resolution of the governing body of the affected municipality or village is not received within 90 days from the

Sec. 19.45.015. Highway construction near airports. (a) No person may construct, reconstruct, relocate, or extend a federal-aid highway within two miles of an airport, airstrip, or private air facility without first obtaining the written approval of the commissioner, as provided by regulation.

(b) The commissioner shall not approve the construction, reconstruction, relocation, or extension of a highway under this section if the construction would constitute a hazard to the traveling public or if the construction would otherwise not be in the public interest.

(c) The commissioner shall promulgate rules and regulations, to effectuate the purpose of this section, which are consistent with standards established by participating federal agencies. (§ 2 ch 90 SLA 1966; am Executive Order No. 39, § 11 (1977); AS 19.20.090)

Revisor's notes. — This section derives from AS 19.20.090 and was renumbered by the revisor of statutes pursuant to AS 01.05.031.

Pursuant to AS 01.05.031, the revisor of statutes has deleted "of transportation and public facilities" following "commissioner" throughout the section.

Effect of amendments. — The 1977 amendment substituted references to the commissioner of transportation and public facilities for references to the commissioner of highways throughout the section.

Chapter 60. Ferry Terminal Facilities.

Sec. 19.60.010. Acquisition and maintenance of ferry terminal facilities. The department shall construct, purchase or lease ferry terminal facilities at locations it selects for the loading and unloading of passengers and vehicles under their own power, on and off ferries. The department shall repair and maintain these facilities. (§ 3 ch 189 SLA 1959)

Opinions of attorney general. — For discussion of police jurisdiction on the Alaska State Ferry System, see 1964 Op. Att'y Gen., No. 5.

Collateral references. — 35 Am. Jur. 2d, Ferries, §§ 1-5, 24-30.

36A C.J.S., Ferries, §§ 3-21.

Carrier's certificate of convenience and necessity, franchise, or permit as subject to transfer or encumbrance. 15 ALR2d 883.

Duty and liability as regards motor vehicles and occupants thereof. 69 ALR2d 1008.

Sec. 19.60.020. Connection of facilities to highways. The department may connect ferry terminal facilities with local highway systems. (§ 3 ch 189 SLA 1959)

Sec. 19.60.030. Regulations. The department may adopt rules and regulations governing the use of ferry terminal facilities by the public which it considers necessary and proper in the public interest. (§ 3 ch 189 SLA 1959)

Sec. 19.60.040. Private enterprise not affected. Any person may construct a ferry terminal facility upon obtaining the approval of the department as to its location. A ferry terminal facility constructed by a person other than the department is subject to reasonable rules and regulations governing its use which the department considers necessary and proper in the public interest. (§ 3 ch 189 SLA 1959)

Sec. 19.60.050. Approval of department required for construction. A ferry terminal facility shall not be constructed without the approval of the department. (§ 3 ch 189 SLA 1959)

Sec. 19.60.060. Existing facilities not affected. A ferry terminal facility in existence and serving the public on January 1, 1959, is not affected by this chapter. (§ 3 ch 189 SLA 1959)

Sec. 19.60.070. Definitions. As used this chapter 19.60.070

(1) "department" means the Department of Transportation and Public Facilities;

(2) "ferry" means a vessel used in the common carriage of passengers and self-propelled vehicles in intrastate commerce. (§ 2 ch 189 SLA 1959; am Executive Order No. 39, § 11 (1977))

Revisor's notes. — The definition of "highway" found in AS 19.45.001 includes a "ferry system, whether operated solely inside the state or to connect with a Canadian highway, and any such related facility."

Effect of amendments. — The 1977 amendment substituted a reference to the Department of Transportation and Public Facilities for a reference to the Department of Public Works in paragraph (1).

Chapter 65. Alaska Marine Highway System.

Section

Sec. 19.65.010. Duty station or port change for employees of the Alaska marine highway system. No employee of the Alaska marine highway system may be relieved at a duty station or port which is outside the state. Appropriate state duty stations or ports for relief changes shall be designated by the Department of Public Works. (§ 1 ch 3 SLA 1977)

NOTES TO DECISIONS

Constitutionality. — Although this section is nondiscriminatory on its face, it clearly has the effect of discriminating in favor of ferry employees who reside in Alaska, and given the absence of some valid independent reason for the discrimination, this section is unconstitutional under the privileges and immunities clause (U.S. Const., art. 4, § 2). District No. 1 v. Ward, 505 F. Supp. 98 (W.D. Wash. 1981).

Where the enforcement of this section so disadvantages Washington residents as to substantially burden their accepting or retaining employment, no reason was given for changing the previous custom by which ferry employees were permitted to change shifts in Seattle, and no important state interest to be served by the statute was advanced, this section was found to impose an unreasonable burden on interstate commerce and must fall under the commerce clause (U.S. Const., art. 1, § 8). District No. 1 v. Ward, 505 F. Supp. 98 (W.D. Wash. 1981).

Enforcement of section enjoined. — Federal district court permanently enjoined state officials from enforcing this section to the extent that such enforcement would bar employees of the Alaska marine highway from changing duty stations at regular ferry ports in the State of Washington. District No. 1 v. Ward, 505 F. Supp. 98 (W.D. Wash. 1981).

Collateral references. — 35 Am. Jur. 2d Ferries, §§ 10-16, 51-53.

36A C.J.S. Ferries, §§ 1(2), 22-25.

Sec. 19.65.020. Naming of vessel or facility. (a) A vessel or facility of the Alaska marine highway system constructed or acquired by the Department of Transportation and Public Facilities under AS 19.60 — 19.65 may be given a name only by law.

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

(c) A vessel used principally on the inland waterways of the state shall bear the name of a historical vessel which used the rivers of the state. (§ 2 ch 4 SLA 1981)

(b) "Industrial or commercial traffic" means

(1) travel necessary and related to resource exploration and development or to support of those activities, if the individual engaged in those activities has all necessary permits;

(2) travel necessary and related to access by local residents to their property; or

(3) motor carriers engaged in commerce which are common carriers or contract carriers regulated by the Alaska Transportation Commission under AS 42.10. (§ 3 ch 177 SLA 1980; am § 51 ch 59 SLA 1982)

Effect of amendments. — The 1982 amendment substituted "traffic" for "travel" in the introductory language of subsection (b), and deleted "or" at the end of paragraph (1) of that same subsection.

NOTES TO DECISIONS

Negligence action against state precluded. — Owner of semi-tractor was precluded by an indemnity and hold-harmless provision required by regulation from bringing suit against the state for its alleged negligence in maintaining the Dalton Highway. Kuhn v. State, Sup. Ct. Op. No. 2710 (File Nos. 6833, 7080), P.2d (1983).

Sec. 19.40.110. Public use of a portion of the highway.

NOTES TO DECISIONS

Quoted in Kuhn v. State, Sup. Ct. Op. No. 2710 (File Nos. 6833, 7080), P.2d (1983).

Chapter 45. Miscellaneous Provisions.

Sec. 19.45.001. Definitions.

NOTES TO DECISIONS

Maintenance. — Maintenance as defined in paragraph (9) refers to some type of active work undertaken to preserve the utility facility. Johnson v. State, Sup. Ct. Op. No. 2434 (F Nos. 4866, 4871, 4894), 636 P.2d 47 (1981).

Chapter 60. Ferry Terminal Facilities.

Section

Sec. 19.60.070. Definitions. As used in this chapter

(1) "department" means the Department of Transportation and Public Facilities;

(2) "ferry" means a vessel used in the common carriage of passengers and self-propelled vehicles in intrastate commerce. (§ 2 ch 189 SLA 1959; am Executive Order No. 39, § 11 (1977))

Editor's notes. — This section is set out above to correct an error in the main pamphlet.

Chapter 65. Alaska Marine Highway System.

Section
10. [Repealed]

Sec. 19.65.010. Duty station or port change or employees of the Alaska marine highway system. [Repealed by § 52 ch 59 SLA 1982.]

Collateral references. — 39 Am. Jur. 2d, Highways, Streets, and Bridges, § 1 et seq.
39A C.J.S., Highways, § 1 et seq.

Sec. 44.42.010. Commissioner of transportation and public facilities. The principal executive officer of the Department of Transportation and Public Facilities is the commissioner of transportation and public facilities. (E.O. No. 39, § 2 (1977))

Sec. 44.42.020. Powers and duties. (a) The department shall

(1) plan, design, construct and maintain all state modes of transportation and transportation facilities and all docks, floats, breakwaters, buildings and similar facilities;

(2) study existing transportation modes and facilities in the state to determine how they might be improved or whether they should continue to be maintained;

(3) study alternative means of improving transportation in the state with regard to the economic costs of each alternative and its environmental and social effects;

(4) develop a comprehensive, long-range intermodal transportation plan for the state;

(5) study alternatives to existing modes of transportation in urban areas and develop plans to improve urban transportation;

(6) cooperate and coordinate with and enter into agreements with federal, state and local government agencies and private organizations and persons in exercising its powers and duties;

(7) manage, operate, and maintain state transportation facilities and all docks, floats breakwaters and buildings, including all state highways, vessels, railroads, pipelines, airports, and aviation facilities;

(8) study alternative means of transportation in the state, considering the economic, social, and environmental impacts of each alternative;

(9) coordinate and develop state and regional transportation systems, considering deletions, additions, and the absence of alterations;

(10) develop facility program plans for transportation and state buildings, docks and breakwaters required to implement the duties set out in this section, including but not limited to (A) functional performance criteria; and (B) schedules for completion;

(11) supervise and maintain all state automotive and mechanical equipment, aircraft, and vessels, except vessels and aircraft used by the Department of Fish and Game or the Department of Public Safety;

(12) supervise aeronautics inside the state, under AS 02.10;

(13) complete and maintain a current inventory of public facilities, including a projection of the serviceability of the facilities and projections of replacements and additions to facilities needed to provide the level of services programmed by the various user agencies, for municipalities with populations of less than 12,000 and for unincorporated communities, and perform those duties on a cooperative basis with larger municipalities;

(14) adopt energy performance standards for public facilities of the state, the construction of which begins after July 1, 1980; the standards shall be based on thermal and lighting energy standards established by the American Society of Heating, Refrigeration and Air Conditioning Engineers as adapted for application in high latitude, cold climate environs;

(15) provide planning assistance, including but not limited to energy audits and related technical services, to school districts and regional educational attendance areas to develop and implement

(A) standards for the design, construction and operation of rural educational facilities; and

(B) energy conservation measures for rural educational facilities.

(b) The department may

(1) engage in experimental projects relating to available or future modes of transportation and any means of improving existing transportation facilities and service;

(2) exercise the power of eminent domain, including the declaration of taking as provided in AS 09.55. (E.O. No. 39, § 2 (1977); am § 13 ch 168 SLA 1978; am § 12 ch 83 SLA 1980; am E.O. No. 50, § 10 (1981))

Cross references. — For the responsibility and authority of the supreme court over state court facilities, see AS 22.05.025.

Effect of amendments. — The 1980 amendment added paragraphs (14) and (15) to subsection (a).

The 1981 amendment, in subsection (a), deleted "communication facilities" following "transportation facilities" in paragraph (1), deleted "and communication facilities" following "modes and facilities" in paragraph (2), deleted "and communication" following "improving transportation" in paragraph (3), deleted "communication facilities" following "transportation facilities" in paragraph (7), deleted "and communication facilities" following "plans for transportation" in paragraph (10), deleted "and" at the end of paragraph (11), deleted "and communications" following "aeronautics" and substituted a semicolon for a period near the end of paragraphs (12) and (13). The amendment also deleted "and communication" following "facilities and service" in paragraph (1) of subsection (b).

Sec. 44.42.030. Regulations. The department may adopt regulations under the Administrative Procedure Act (AS 44.62) to implement, interpret, or make more specific its powers and duties. (E.O. No. 39, § 2 (1977))

Sec. 44.42.040. Departmental organization. The commissioner shall establish regions within the state. The functions of the department within each region shall be performed, to the maximum extent feasible, through a regional office. Each regional office shall be directed by a regional transportation and public facilities director appointed by the commissioner. (E.O. No. 39, § 2 (1977))

Sec. 44.42.050. State transportation plan. (a) The commissioner shall develop annually a comprehensive, intermodal, long-range transportation plan for the state. In developing and revising the state plan, the commissioner shall consider means and costs of improving existing modes and facilities, state and federal subsidies, and the costs and benefits of new transportation modes and facilities. The commissioner shall also consider the recommendation of the Alaska Transportation Planning Council. The plan shall be submitted to the governor for review and approval and submitted by the governor to the legislature.

(b) In developing and revising the plan, the commissioner shall seek public review and evaluation by any reasonable means and may

(1) consult and cooperate with officials and representatives of the federal government, other governments, interstate commissions and authorities, local agencies and authorities, interested corporations and other organizations concerning problems affecting transportation in the state; and

(2) request from an agency or other unit of the state government or of a political subdivision of it, or from a public authority, the assistance and data that may be necessary to enable the commissioner to carry out responsibilities under this section; every such entity shall provide the assistance and data requested.

(c) Copies of the plan, as revised, shall be kept on file as a public document in the office of the commissioner and at each regional office of the department.

(d) The plan shall include a description of projects planned for design and construction for the following two years. The description is in addition to the long-range plan required by (a) of this section and by AS 19.10.140. The description shall include an itemization of the estimated cost for each project and the total cost of all projects. The commissioner shall propose and forward to the governor for review and approval and inclusion, as approved, in the capital budget a construction program which includes the projects to be undertaken during the following two years, including recommended project priorities. Funds for transportation construction projects and necessary contingencies shall be itemized as allocations within the bill for the General Appropriations Act. (E.O. No. 39, § 2 (1977))

Sec. 44.42.055. State public facilities plan. (a) The commissioner shall develop and annually revise a statewide comprehensive facility procurement plan for public facilities of the state and its municipalities.

(b) In developing and annually revising the facility procurement plan, the commissioner shall

COMMITTEE SUBSTITUTE HOUSE BILL 68 (FINANCE) A.M.

SPONSORED BY REPRESENTATIVE BETTE CATO

13TH LEGISLATURE

Offered: 4/11/83
Referred: Rules

Original sponsors: Cato, Grussendorf
and Flood

IN THE HOUSE BY THE FINANCE COMMITTEE

CS FOR HOUSE BILL NO. 68 (Finance) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to ferries and ferry terminals and establishing the Alaska Marine Highway Authority."

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

* Section 1. PURPOSE. The purpose of this Act is to establish an authority for the operation, management, and planning and construction of facilities for the marine highway system that is independent of the state government. The authority shall be the exclusive state agency directly associated with the operation, management, planning and construction of facilities for the marine highway system.

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

CHAPTER 70. ALASKA MARINE HIGHWAY AUTHORITY.

ARTICLE 1. CREATION AND ORGANIZATION.

Sec. 19.70.010. ALASKA MARINE HIGHWAY AUTHORITY. The Alaska Marine Highway Authority is established. The authority is a public corporation of the state. The corporation is an instrumentality of the state in the Department of Transportation and Public Facilities but has a legal existence independent of and separate from the state and has continuing succession until its existence is terminated by law.

Sec. 19.70.020. DIRECTORS. (a) The authority consists of seven directors appointed by the governor as follows: a representative of commercial carriers, a representative of the maritime industry, a representative of the tourism industry, and four members of the public representing regions served by the marine highway as follows: (1) one member from region one (extending from Dixon Entrance to Skagway); (2) one member from region two (Kodiak Island); (3) one member from region three (Prince William Sound); and (4) one member from region four (Interior Alaska). The appointment of each director is subject to confirmation by the legislature.

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

(c) The directors must be residents of the state and qualified voters and shall comply with the requirements of AS 39.50 (conflict of interest). Each director before entering upon the director's duties shall take and subscribe to an oath to perform the duties of office faithfully, impartially, and justly to the best of the director's ability. A record of the oath shall be filed with the Office of the Governor.

(d) The directors of the authority serve without compensation, but are entitled to travel and per diem expenses as provided in AS 39.20.180.

Sec. 19.70.030. OFFICERS AND QUORUM. The directors shall elect one of their number as chairman. The directors shall elect a secretary and a treasurer who need not be directors, and the same person may be elected to serve both as secretary and treasurer. The powers of the authority are vested in the directors, and four voting directors of the authority constitute a quorum. Action may be taken and motions and resolutions adopted by the authority at any meeting by the affirmative vote of at least four directors. A vacancy in the directorship of the authority does not impair the right of a quorum to exercise all the powers and perform all the duties of the authority.

Sec. 19.70.040. STAFF. The authority shall employ an executive director who serves at the pleasure of the authority as its chief administrative officer. The executive director may with the approval of the authority select and employ additional staff as necessary. Employees of the authority other than legal counsel and the executive director are in the classified service under AS 39.25. In addition to its staff of regular employees, the authority may contract for and engage the services of consultants, and professional, technical and financial advisors the authority considers necessary for the purpose of developing information, conducting hearings, studies, investigations or other proceedings, or otherwise exercising its powers.

ARTICLE 2. POWERS AND DUTIES.

Sec. 19.70.050. POWERS OF AUTHORITY. In addition to other powers granted in this chapter, the authority may

(1) sue and be sued;

(2) adopt and alter an official seal;

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

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

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

(6) acquire, hold, use, lease, rent, construct and dispose of real and personal property for its purposes;

(7) operate, maintain, improve, and extend a system of ferries connecting with the public roads and highways of the state and

including the boats, vessels, wharves, docks, approaches, landings and appurtenances the authority determines to be necessary or desirable for safe and efficient operation of the ferry system so as to best serve the public;

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

(9) establish rates and tariffs, after public hearings;

(10) modify routes, after public hearings.

Sec. 19.70.055. DUTIES OF AUTHORITY. The authority shall

(1) assist the residents, businesses, and communities of the state in obtaining the best and most frequent possible marine passenger and freight service;

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

(3) encourage and integrate with other public and private carriers to the greatest extent possible to provide ferry service within the state and between Alaskan ports and ports outside the state in order to provide maximum service within the state;

(4) require pre-payment for reservations;

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

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

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

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

Sec. 19.70.060. "ALASKA MARINE HIGHWAY SYSTEM": NAME

AUTHORIZED. The authority is authorized to operate its ferry system under the name "Alaska marine highway system".

Sec. 19.70.070. COMPREHENSIVE LONG-RANGE PLAN. The authority, with the cooperation of the Department of Transportation and Public Facilities, shall prepare a comprehensive long-range plan for the development and improvement of the marine highway system and revise and update the plan, subject to legislative approval, at least every five years.

ARTICLE 3. ACQUISITION OF PROPERTY.

Sec. 19.70.080. ACQUISITION OF LAND AND EASEMENTS. The authority, as part of the cost of constructing, maintaining, or improving a ferry system, may acquire by purchase, gift, or exchange land in fee simple or easements that it considers necessary for present public use, either temporary or permanent, or that it considers necessary and reasonable for the public use. By the same means, the authority may obtain material, including clay, gravel, sand, or rock, or the land necessary to obtain the material, including access to it. The authority may so acquire the land or materials notwithstanding the fact that title to it is vested in the state or a department, agency, commission, or institution of the state.

Sec. 19.70.090. AUTHORITY TO PURCHASE PROPERTY FOR THE PURPOSE OF EXCHANGE. When a majority of the directors of the authority declares that it is in the best public interest of the state to do so, the authority may acquire by purchase, gift, or exchange privately or publicly owned land or an interest in it for the purpose of exchanging it for privately or publicly owned land that the authority is authorized by law to acquire.

Sec. 19.70.100. VACATING OF LAND OR RIGHTS IN LAND. The authority may vacate land, or part of it, or rights in land acquired for use in the marine highway system by executing and filing a deed in the appropriate recording district. Upon vacating, title reverts to the persons, heirs, successors, or assigns in whom it was vested at the time of the taking. The authority may transfer land no longer considered necessary for use in the marine highway system to the Department of Natural Resources for disposal. The proceeds of disposal by the Department of Natural Resources shall be credited to the funds from which the purchase was originally made.

ARTICLE 4. FERRY TERMINAL FACILITIES.

Sec. 19.70.110. ACQUISITION AND MAINTENANCE OF FERRY TERMINAL FACILITIES. The authority may construct, purchase, or lease ferry terminal facilities at locations it selects for the loading and unloading of passengers and vehicles under their own power, on and off ferries. The authority shall repair and maintain these facilities.

Sec. 19.70.120. CONNECTION OF FACILITIES TO HIGHWAYS. The authority may connect ferry terminal facilities with local highway systems.

Sec. 19[illegible]. REGULATIONS. The authority may adopt rules and regulations governing the use of ferry terminal facilities by the public that it considers necessary and proper in the public interest.

Sec. 19.70.140. EXISTING FACILITIES NOT AFFECTED. A ferry terminal facility in existence and serving the public on January 1, 1959, is not affected by AS 19.70.110 - 19.70.170.

ARTICLE 5. GENERAL PROVISIONS.

Sec. 19.70.150. ANNUAL REPORT. By January 15 of each year, the authority shall submit to the governor and the legislature a comprehensive report describing the operations, income, and expenditures for the preceding fiscal year.

Sec. 19.70.160. ANNUAL AUDIT. The authority shall have its financial records audited annually by a certified public accountant. The legislative auditor may prescribe the form and content of the financial records of the authority and shall have access to those records at any time.

Sec. 19.70.170. BUDGET AND APPROPRIATIONS. The authority shall submit its annual budget to the legislature through the governor as provided for state agencies by the Executive Budget Act (AS 37.07). It may expend money directly appropriated by the legislature only as authorized by the legislature.

Sec. 19.70.180. NAMING OF VESSEL OR FACILITY. (a) A vessel or facility of the Alaska marine highway system constructed or acquired by the authority under this chapter or AS 19.60 may be given a name only by law.

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

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

Sec. 19.70.199. DEFINITIONS. In this chapter, unless the context requires otherwise,

(1) "authority" means the Alaska Marine Highway Authority established by this chapter;

(2) "capital improvement" means a project for the construction, rehabilitation, rebuilding, enlarging, or improving of all or any part of the marine highway system, including, without limitation, boats, vessels, wharves, docks, approaches, landings, offices, and appurtenances as determined by the authority to be necessary or desirable for efficient operation of the marine highway system and to best serve the public;

(3) "ferry" means a vessel used in the common carriage of

passengers and self-propelled vehicles in commerce.

Sec. 19.70.200. SHORT TITLE. This chapter may be cited as the Alaska Marine Highway Authority Act.

* Sec. 3. AS 35.27 is amended by adding a new section to read:

Sec. 35.27.025. APPLICATION TO ALASKA MARINE HIGHWAY AUTHORITY. The requirements of this chapter apply to the Alaska Marine Highway Authority. Compliance with this chapter is the sole responsibility of the authority with respect to the public buildings and facilities of the authority.

* Sec. 4. AS 35.27.030(2) is amended to read:

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

(A) includes, but is not limited to,

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

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

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

(iv) transportation facilities which accommodate traveling passengers;

(B) excludes other transportation facilities; [.]

* Sec. 5. AS 35.27.030 is amended by adding a new paragraph to read:

(5) "authority" means the Alaska Marine Highway Authority.

* Sec. 6. AS 39.50.200(b) is amended by adding a new paragraph to read:

(46) Alaska Marine Highway Authority (AS 19.70.010).

* Sec. 7. AS 44.42.020(a)(1) is amended to read:

(1) plan, design, construct and maintain all state modes of transportation and transportation facilities and all docks, floats,

breakwaters, buildings and similar facilities, except that the department is not responsible for planning, design, construction, or maintenance of transportation modes or facilities under the jurisdiction of the Alaska Marine Highway Authority;

* Sec. 8. AS 44.42.020(a)(7) is amended to read:

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

* Sec. 9. AS 19.60.010 - 19.60.070, and AS 19.65 are repealed.

* Sec. 10. APPOINTMENT OF FIRST DIRECTORS OF ALASKA MARINE HIGHWAY AUTHORITY. The governor shall designate the terms of the directors of the Alaska Marine Highway Authority first appointed under AS 19.70.020. Of the seven directors first appointed

(1) two shall serve a term of two years;

(2) two shall serve a term of three years;

(3) three shall serve a term of four years.

LETTER OF INTENT

FOR

CS HB 68 (FINANCE)

Alaska State Legislature

House of Representatives

Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

LETTER OF INTENT
FOR
CS HB 68 (FINANCE)

It is the policy of the state to:

1) provide necessary and desirable freight and passenger transportation services to residents, businesses, and visitors in the state;

2) develop and implement plans consistent with the goal of developing a transportation network that effects the policies set out in this legislation; and

3) provide safe, economical, and efficient transportation to residents, businesses and visitors in the state.

The Legislature further declares that:

1) in the interest of the people of the state it is necessary to exercise the powers of the state to accomplish the policy as stated above by authorizing the creation of public authority with the powers, duties, and functions as provided in this Act to operate the Alaska Marine Highway System and to manage its facilities;

2) it is in the best interests of the state for the public authority to operate and manage, in a prudent manner, the Alaska Marine Highway System created in this Act;

3) it is in the best interests of the state to provide the best possible combination of types and levels of safe, efficient, and economical transportation that is necessary to meet the overall needs of the state, supported by state investments, when necessary;

4) it is in the best interests of the state to minimize state subsidy and for the authority to function as an enterprise entity in an attempt to become self-sustaining, to carry out the Authority's responsibilities; according to sound business management practices to provide the level of service that best satisfies the needs of the people of the state in a fiscally sound manner.