

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672

6729 SENATE TRANSPORTATION

133

1 ferries. The authority shall repair and maintain these facilities.
2 Construction and purchasing under this section are governed by AS 36.-
3 30 (State Procurement Code).

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

7 Sec. 19.70.130. REGULATIONS. The authority may adopt regula-
8 tions governing the use of ferry terminal facilities by the public.

9 Sec. 19.70.140. EXISTING FACILITIES NOT AFFECTED. A ferry
10 terminal facility in existence and serving the public on January 1,
11 1959, is not affected by AS 19.70.110 - 19.70.140.

12 ARTICLE 5. GENERAL PROVISIONS.

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

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

22 Sec. 19.70.170. BUDGET AND APPROPRIATIONS. The authority shall
23 submit its annual budget to the legislature through the governor as
24 provided for state agencies by the Executive Budget Act (AS 37.07).
25 The authority shall expend money appropriated by the legislature as
26 authorized by the legislature.

27 Sec. 19.70.180. NAMING OF VESSEL OR FACILITY. (a) A vessel or
28 facility of the marine highway system constructed or acquired by the
29 authority must be named by law.

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

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

5 Sec. 19.70.199. DEFINITIONS. In this chapter, unless the con-
6 text requires otherwise,

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

8 (2) "capital improvement" means a project for the construc-
9 tion, rehabilitation, rebuilding, enlarging, or improving of all or
10 part of the marine highway system, including, without limitation,
11 boats, vessels, wharves, docks, approaches, landings, offices, and
12 appurtenances as determined by the authority to be necessary or desir-
13 able for efficient operation of the marine highway system and to best
14 serve the public;

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

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

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

21 Sec. 35.27.025. APPLICATION TO ALASKA MARINE HIGHWAY AUTHORITY.
22 This chapter applies to the Alaska Marine Highway Authority. Compli-
23 ance with this chapter is the sole responsibility of the authority
24 with respect to the public buildings and facilities of the authority.

25 * Sec. 4. AS 35.27.030(1) is amended to read:

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

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

29 (i) schools, office buildings, and court

1 buildings;

2 (ii) other buildings which the commissioner deter-

3 mines are designed for substantial public use;

4 (iii) boats and vessels of the marine highway

5 system;

6 (iv) transportation facilities which accommodate

7 traveling passengers;

8 (B) excludes other transportation facilities;

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

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

11 * Sec. 6. AS 39.25.110 is amended by adding a new paragraph to read:

12 (28) Alaska Marine Highway Authority and its officers and

13 employees.

14 * Sec. 7. AS 39.50.200(b) is amended by adding a new paragraph to read:

15 (50) Alaska Marine Highway Authority (AS 19.70.010).

16 * Sec. 8. AS 44.42.020(a)(1) is amended to read:

17 (1) plan, design, construct, and maintain all state modes

18 of transportation and transportation facilities and all docks, floats,

19 breakwaters, buildings, and similar facilities, except that the de-

20 partment is not responsible for planning, design, construction, or

21 maintenance of transportation modes or facilities under the jurisdic-

22 tion of the Alaska Marine Highway Authority;

23 * Sec. 9. AS 44.42.020(a)(7) is amended to read:

24 (7) manage, operate, and maintain state transportation

25 facilities and all docks, floats, breakwaters, and buildings, includ-

26 ing all state highways, vessels, railroads, pipelines, airports, and

27 aviation facilities, except that the department is not responsible for

28 management, operation, or maintenance of transportation facilities,

29 vessels, or equipment under the jurisdiction of the Alaska Marine

1 Highway Authority:

2 * Sec. 10. AS 19.60 and AS 19.65 are repealed.

Offered: 1/8/90

In the House -- Labor & Commerce, and Finance

In the Senate -- State Affairs, Labor & Commerce, and Finance

EXECUTIVE ORDER NO. 77

Under the authority of art. III, sec. 23, of the Alaska Constitution, and in accordance with AS 24.08.210, I order the following:

* Section 1. FINDINGS. As governor, I find that it would be in the best interest of efficient administration to reassign the labor relations functions of the Department of Administration personnel board, the Department of Labor, and the railroad labor relations agency into one state agency, the Alaska Labor Relations Agency, in the Department of Labor. This reassignment is necessary in order to increase the efficient and effective management of labor relations, without changing the substantive rights and responsibilities of parties subject to the present agencies' jurisdiction. Such a reassignment will enhance the opportunities for impartial and independent labor relations decision-making in the state.

* Sec. 2. AS 23.05 is amended by adding new sections to read:

ARTICLE 5. LABOR RELATIONS AGENCY.

Sec. 23.05.360. ALASKA LABOR RELATIONS AGENCY. (a) There is established within the Department of Labor the Alaska Labor Relations Agency. The agency is comprised of three members appointed by the governor and confirmed by the legislature. The term of office of a member is three years. Members serve staggered terms in accordance with AS 39.05.055. A vacancy in an unexpired term shall be filled by appointment by the governor for the remainder of the term. The agency must include a member with a background in management, a member with a background in labor, and a member from the general public. All members must have relevant experience in labor relations matters.

(b) Not more than two members of the agency may be members of the same political party.

(c) Members of the agency may be removed by the governor only for cause.

Need this clause in Prime Hwy Authority

1 (d) Members of the agency receive no compensation for their
2 services, but are entitled to per diem and travel expenses authorized
3 for boards and commissions.

4 Sec. 23.05.370. POWERS, DUTIES, AND FUNCTIONS OF ALASKA LABOR
5 RELATIONS AGENCY. (a) The agency shall

6 (1) establish its own rules of procedure;

7 (2) elect a chairperson from the membership;

8 (3) exercise general supervision and direct the activities
9 of staff assigned to it by the department;

10 (4) prepare and submit to the governor and the legislature
11 an annual report on labor relations problems it has encountered during
12 the previous year, including recommendations for legislative action;

13 (5) serve as the labor relations agency under the Public
14 Employment Relations Act (AS 23.4C.070 - 23.40.260) and carry out the
15 functions specified in that Act; and

16 (6) serve as the railroad labor relations agency for the
17 Alaska Railroad under the Alaska Railroad Corporation Act (AS 42.40)
18 and carry out the functions specified in that Act.

19 (b) Two members constitute a quorum for the transaction of
20 business and two affirmative votes are required for final action on
21 matters acted upon by the agency.

22 Sec. 23.05.380. REGULATIONS. The agency shall adopt regulations
23 under the Administrative Procedure Act (AS 44.62) to carry out labor
24 relations functions under AS 23.05.360 - 23.05.390, AS 23.40.070 -
25 23.40.260, and AS 42.40.730 - 42.40.890.

26 Sec. 23.05.390. DEFINITION. In AS 23.05.360 - 23.05.390,
27 "agency" means the Alaska Labor Relations Agency established in
28 AS 23.05.360.

29 * Sec. 3. AS 23.40.250(3) is amended to read:

1 (3) "labor relations agency" means the Alaska Labor Re-
2 lations Agency established in AS 23.05.360 [STATE PERSONNEL BOARD WITH
3 REGARD TO THE STATE AND EMPLOYEES OF THE STATE, AND MEANS THE DEPARTMENT
4 OF LABOR WITH REGARD TO ALL OTHER PUBLIC EMPLOYEES AND ALL OTHER
5 PUBLIC EMPLOYERS];

6 * Sec. 4. AS 42.40.730 is repealed and reenacted to read:

7 Sec. 42.40.730. RAILROAD LABOR RELATIONS AGENCY. (a) The
8 Alaska Labor Relations Agency, established in AS 23.05.360, is the
9 sole railroad labor relations agency.

10 (b) The Alaska Labor Relations Agency shall carry out the pro-
11 visions of AS 42.40.730 - 42.40.890.

12 * Sec. 5. AS 42.40.890 is amended by adding a new paragraph to read:

13 (3) "railroad labor relations agency" means the Alaska
14 Labor Relations Agency established in AS 23.05.360.

15 * Sec. 6. INITIAL APPOINTMENTS. Notwithstanding the provisions of
16 AS 23.05.360(a), as enacted in sec. 2 of this Order, the governor shall
17 appoint the initial members to the Alaska Labor Relations Agency
18 (AS 23.05.360) by June 1, 1990, with staggered terms of one, two, and three
19 years, beginning July 1, 1990.

20 * Sec. 7. TRANSITION. (a) Regulations adopted by the labor relations
21 agency under AS 23.40.170, by the Department of Labor under AS 23.40.170,
22 and by the railroad labor relations agency under AS 42.40.820, and in
23 effect before July 1, 1990, remain in effect until regulations adopted by
24 the Alaska Labor Relations Agency under AS 23.05.380 take effect. The
25 Alaska Labor Relations Agency shall administer those other agencies' regu-
26 lations until its own take effect.

27 (b) All hearings, investigations, and other proceedings pending under
28 a law amended by this Order, or in connection with functions transferred by
29 this Order, may be continued and completed notwithstanding the transfer or

1 amendment provided for in this Order. All contracts, rights, liabilities,
2 and obligations created by or under a law amended by this Order, and in
3 effect on July 1, 1990, remain in effect notwithstanding this Order's
4 taking effect. However, all hearings, investigations, and other
5 proceedings pending before an agency identified in sec. 1 of this Order,
6 other than the agency created by this Order, shall be concluded no later
7 than December 31, 1990.

8 (c) The agencies identified in sec. 1 of this Order, other than the
9 agency created by this Order, shall complete, no later than December 31,
10 1990, adjudication of cases pending before them on July 1, 1990.

11 * Sec. 8. AS 23.40.230 is repealed.

12 * Sec. 9. Sections 1, 5, 7, and 8 of this Order take effect July 1,
13 1990.

14 * Sec. 10. Section 6 of this Order takes effect immediately under
15 AS 01.10.070(c).

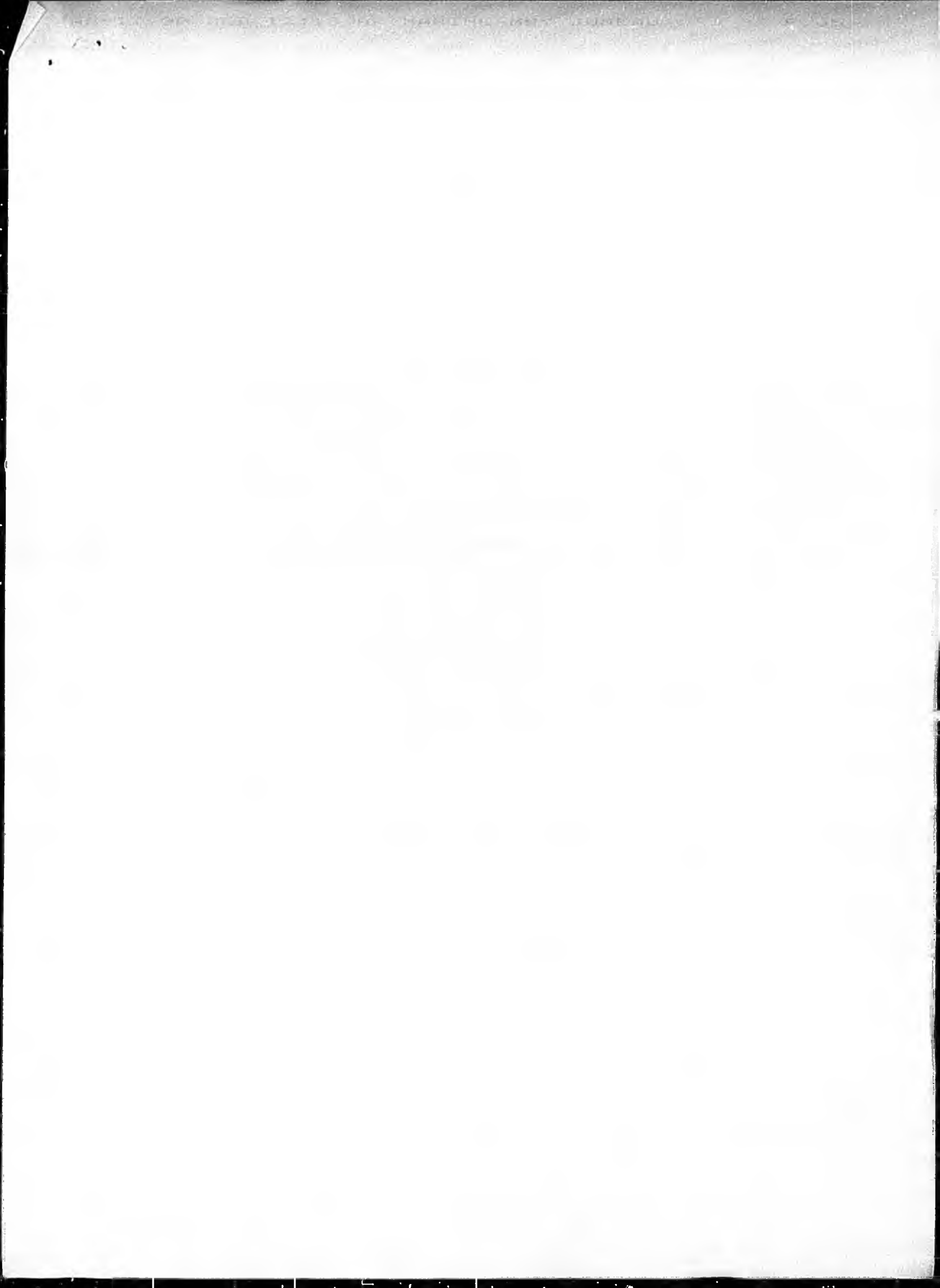
THE FOLLOWING DOCUMENT MAY NOT FILM
LEGIBLY BECAUSE OF THE POOR QUALITY OF THE
ORIGINAL

W. F. Barker

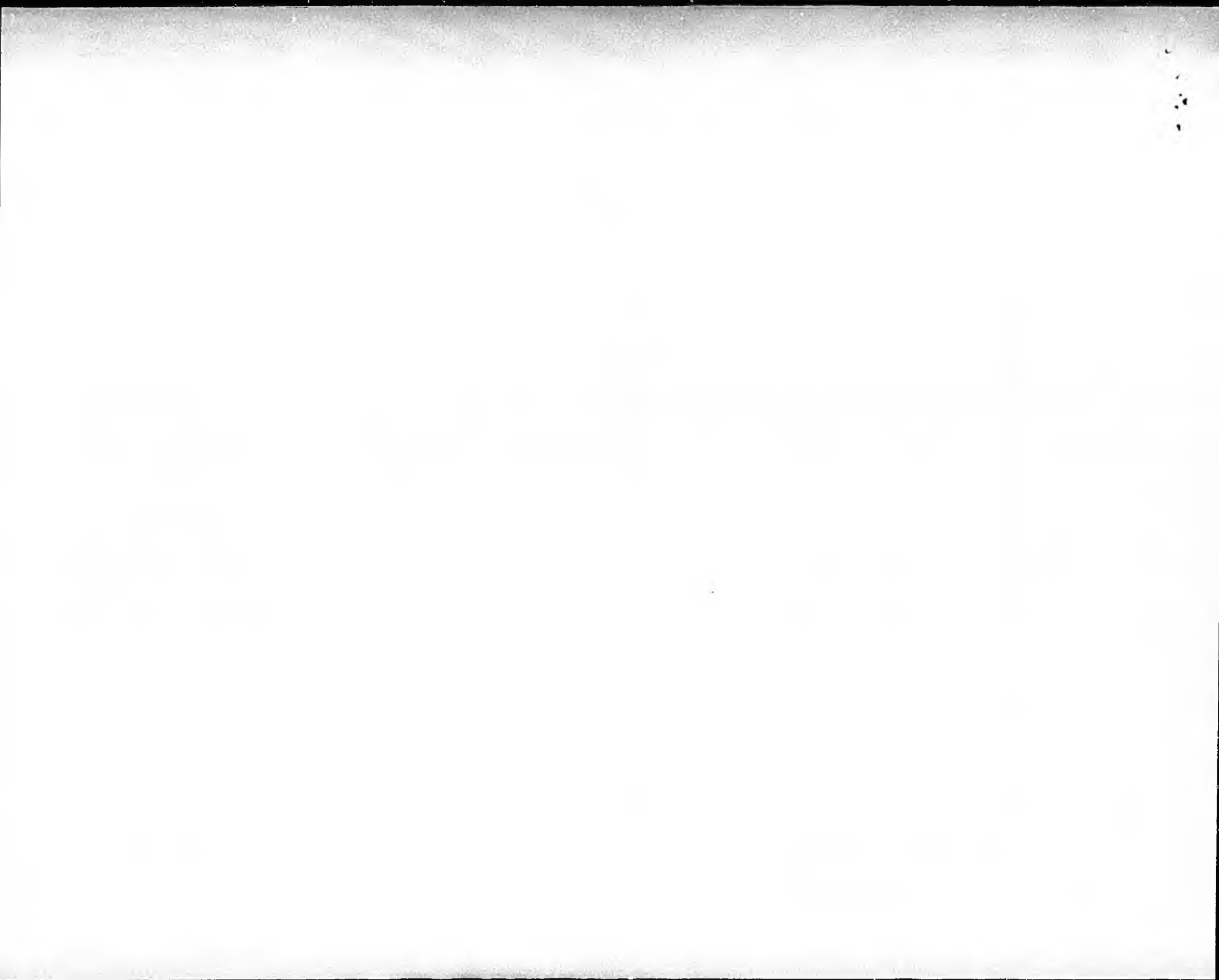
1/17/20

10











*Department of Transportation
and Public Facilities*

POSITION PAPER

BILL NO: CSSB 310

APPROVED: 

TITLE: An Act Relating to the
Alaska Marine Highway
System Commission

DATE: March 15, 1990

The Committee Substitute for Senate Bill 310 proposes to create an Alaska Marine Highway System Commission. The department recognizes that this legislation has been put forward in a good faith effort to present changes to the Alaska Marine Highway structure which are intended to benefit and strengthen the overall system.

We agree that citizen input is a useful tool for good management of the system and in 1988 created a Marine Highway Advisory Board to facilitate this input. The Advisory Board serves as a bridge between the public and management and has been a successful addition since its implementation. Although the department has no objection to placing the Advisory Board or a similar structure in statute, we are unclear about the reason to mandate this by law.

The primary difficulty with this legislation concerns the proposed Section 1 AS19.65.150 (1) and Section 3 AS44.42.040 (b)(1) which give the commission the authority to hire or fire the Marine Highways System director. The department feels that the actual appointment, dismissal or suspension of the system director is a responsibility of the Executive Branch to be exercised by the Governor and Commissioner. If these sections were amended to provide for advisory action on the part of the commission, the department would remove its objection to this legislation.

For Further Information call Catherine McH: gh at 465-3900

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to the AK Marine Highway System Commission
Sponsor: Transportation Committee
Requestor: _____

Agency Affected: DOT&PF/AMHS
BRU: Marine Management
Components: Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Assuming the Alaska Marine Highway System Commission supplants the current advisory board, no additional funds will be required as a result of the passage of this legislation.

Prepared by: John Halterman
Division: Alaska Marine Highway System

Phone: 465-3950
Date: 3/14/90

Approved by Commissioner: Mark A. Nizy
Agency: _____

Date: 3/15/90

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: CS SB 310 (Trsp)
PUBLISH DATE: 2/10/90

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act . . . establishing the
Alaska Marine Highway Authority
Sponsor: Transportation Committee
Requestor: _____

Agency Affected: DOT&PF/AMHS
BRU: Marine Management
Components: Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	55.8	55.8	55.8	55.8	55.8	55.8
TRAVEL	22.4	34.0	35.7	37.5	39.4	41.4
CONTRACTUAL	149.2	40.1	42.1	44.2	46.4	48.8
SUPPLIES	2.5	2.5	2.7	2.8	2.9	3.0
EQUIPMENT	10.5	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	249.4	132.5	136.3	140.3	144.5	149.0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	249.4	132.5	136.3	140.3	144.5	149.0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	249.4	132.5	136.3	140.3	144.5	149.0

POSITIONS:

FULL-TIME	1	1	1	1	1	1
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary)

See Attached

Prepared by: John Halterman
Division: Alaska Marine Highway System
Approved by Commissioner: *[Signature]*
Agency: _____

Phone: 465-3950
Date: 01/17/90
Date: 1/17/90

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

CONTINUATION OF FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 310

SB 310

FISCAL NOTE ANALYSIS

No funds for the increased operation of vessels are being requested in this fiscal note. Such an increase would require additional funds whether the System is managed as an Authority or under the present organization within the Department of Transportation and Public Facilities.

The current organization with a minimum of additional positions would be required for independent operation as the "Alaska Marine Highway Authority." The new positions required are identified on the attached Request for New Position forms.

It is assumed the Authority would continue to utilize the State Accounting System and other State computer resources, including those needed to support our Reservations Management System. The requirements will remain the same under the current organization or an Authority.

Additionally, it is assumed the Authority would retain access to the federal funding for capital projects available to DOT&PF at least at historical levels/proportions.

The following assumptions were made:

1. The legislation would take effect July 1, 1990.
2. There would continue to be an annual appropriation for full operating costs of the Authority each year to maintain the currently budgeted level of vessel operating schedules.
3. An inflation factor of five percent has been included for future years beyond FY 91 for all costs other than personal services, which are calculated by PACS at FY 90 rates.
4. The position of System Director would be converted to Executive Director and administrative support would be provided to the Board of Directors by the existing staff and the additional positions requested. No transfers of positions would be made from the Department of Transportation and Public Facilities.

CONTINUATION OF FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 310

5. The Authority would continue to use:
 - A. State-owned office buildings.
 - B. The State mail system.
 - C. The State equipment fleet.
 - D. The statewide purchasing contracts (i.e. fuel).
 - E. "Shared" communications lines.
 - F. Insurance, bonding, etc., as now supplied.
 - G. Legal services from the Attorney General's Office.
 - H. Snow removal at terminals as currently provided by DOT&PF regions.
6. The Directors of the Authority would meet six times a year, replacing the current AMHS Advisory Board. No travel funding is included in this fiscal note on the assumption that currently funded travel and contractual costs for the Advisory Board will be retained within the existing operating budget. However, additional funds are requested for the directors' compensation.
7. Data processing support will no longer be provided by the Information Systems Division of DOT&PF.
8. The maintenance positions and equipment transfers as requested in the AMHS FY 91 budget proposal will be approved.

DETAIL OF FY 89 COSTS

MARINE ADMINISTRATION BRU

<u>Personal Services</u> - 1 PFT Position		\$ 55.8
Analyst/Programmer IV	\$ 55.8	
<u>Contractual Services</u>		\$148.2
Professional Services		\$120.0
Annual audit by CPA	20.0	
Initial legal services	100.0	

CONTINUATION OF FISCAL NOTE ANALYSIS
 For Bill/Resolution No. SB 310

Contractual Services (Continued)

Communication		2.0
Local telephone service for new position	.5	
Network connect fees for new terminal	1.5	
Advertising, Printing and Binding		15.0
Printing, photography, etc. (Annual and other reports)	5.0	
Initial printing of stationery	10.0	
Rental for Land, Buildings and Space		1.2
Room rental for Directors' meetings	1.2	
Other Expenditures and Services		10.0
Mail clerk services (to be RSA'd to DOT&PF)	10.0	
<u>Supplies and Materials</u>		2.5
Office & Library Supplies	.5	
Routine supplies for new position		
Data Processing Supplies	2.0	
<u>Travel</u>		32.4
Directors' Honoraria	32.4	
(6 directors x 6 meetings x 3 days each @ \$300/day)		
<u>Equipment</u>		10.5
Office equipment for new position	.5	
Data processing equipment for new position	10.0	
Marine Administration BRU TOTAL		<u>5249.4</u>

CONTINUATION OF FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 310

FY 92 COSTS

FY 92 costs and beyond include an annual inflationary increase of 5% for line items other than personal services after deletion of the following one-time costs in the Marine Administration BRU:

<u>Contractual Services</u>		\$110.0
Initial Legal Fees	\$100.0	
Initial Printing Costs	10.0	
<u>Equipment</u>		10.5

POSITION TITLE Analyst/Programmer IV			NO. OF POSITIONS 1	RANGE/STEP 19/A	PARG. UNIT G
TIME STATUS PFT	STAFF MONTHS 12.0		LOCATION Juneau	ELECTION DISTRICT 04	
TYPE OF EXPENDITURE			JUSTIFICATION: Creation of an Authority would require data processing support services which are currently provided by the Department of Transportation and Public Facilities. This position will be responsible systems maintenance and enhancement of the reservations system (RMS II) and other information systems specific to the Alaska Marine Highway Authority. Equipment costs include office equipment and necessary computer equipment (terminal, microcomputer, printer, etc.).		
1	2	AMOUNT 3			
Salary	40,032				
Benefits	15,743				
Premium Pay					
Other					
TOTAL PERSONAL SERVICES		55.8			
Travel					
Contractual		2.0			
Commodities		2.5			
Equipment		10.5			
Other					
TOTAL COST		70.8			
FUNDING SOURCE FOR TOTAL COST					
Federal Receipts	1002				
G.F. Match	1003				
General Funds	1004	70.8			
I-A Receipts	1006				
CIP Receipts	1061				
Other					

REQUEST FOR
NEW POSITION

AGENCY Dept. of Transportation and P.F.
Alaska Marine Highway System

IRU Marine Administration

COMPONENT Administration

FY 91

Page 6 of 6

Revised Date

JUN 11 1990 MED 10:13 AM MARINE HWY JUNEAU P. 07

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 1-10-90
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER

SA
FIN

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035

5/1/89

DATE TURNED INTO OFFICE _____

Mr. President:

TRSP

Committee considered SB 310

ferries and ferry terminatls and establishing the Alaska Marine Highway Authority

and recommended:

[] replace with CS SB310 Trsp same title

[] attached amendment(s) and new title

[] _____ letter of intent adopted

[] do pass

[] do not pass

[] no recommendation

individual recommendations

[] further referral to _____

FISCAL NOTE(S) attached [] zero

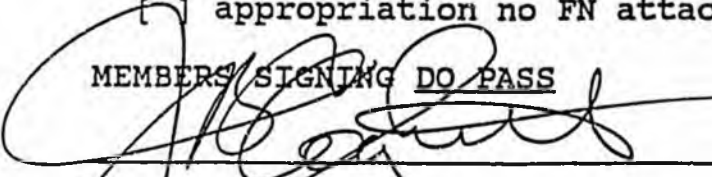
[] appropriation no FN attached

[] fiscal impact

[] Gov. FN introduced w/ bill

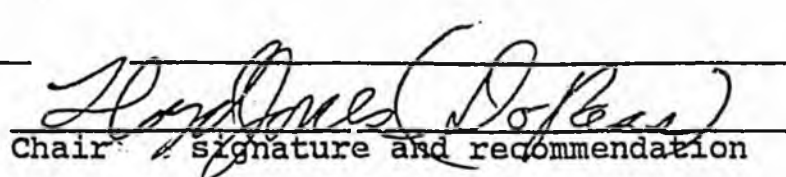
MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS



Pat Sawyer no rec

Paul Grish


Chair signature and recommendation

[] Committee backup attached

1 IN THE SENATE BY THE TRANSPORTATION COMMITTEE

2 SENATE BILL NO. 310

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

9 * Section 1. PURPOSE. The purpose of this Act is to establish an
10 authority for the operation, management, planning, and construction of
11 facilities for the marine highway system with a legal existence independent
12 of and separate from the state government. The authority shall be the
13 exclusive state agency directly associated with the operation, management,
14 planning, and construction of facilities for the marine highway system.

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

16 CHAPTER 70. ALASKA MARINE HIGHWAY AUTHORITY.

17 ARTICLE 1. CREATION AND ORGANIZATION.

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

25 Sec. 19.70.020. DIRECTORS. (a) The authority consists of seven
26 directors. One director is the commissioner of transportation and
27 public facilities and six directors are appointed by the governor.
28 The six appointed members must be state residents except as provided
29 in (1) of this subsection. One appointed member shall be a

1 representative of the tourist industry who meets one of the require-
2 ments under (1) - (4) of this subsection, and one shall be a represen-
3 tative of the commercial carriers who meets one of the requirements
4 under (1) - (4) of this subsection. Appointed members shall include

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

7 (2) a member of a maritime union;

8 (3) two residents of Southeast Alaska;

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

10 and

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

12 (b) The appointed directors serve at the pleasure of the gover-
13 nor for four-year terms. Each director shall hold office for the term
14 of the director's appointment and until a successor is appointed and
15 qualified. A director is qualified for reappointment. A vacancy in a
16 directorship occurring other than by expiration of term shall be
17 filled in the same manner as the original appointment but only for the
18 unexpired term.

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

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

Amended
3

1 expenses authorized by law for state boards and commissions under
2 AS 39.20.180.

3 Sec. 19.70.030. OFFICERS AND QUORUM. The directors shall elect
4 one of their number as chair. The directors shall elect a secretary
5 and a treasurer who need not be directors, and the same person may be
6 elected to serve both as secretary and treasurer. The powers of the
7 authority are vested in the directors, and four voting directors of
8 the authority constitute a quorum. Except as provided in AS 19.70.-
9 050(7), action may be taken and motions and resolutions adopted by the
10 authority at a meeting by the affirmative vote of at least four direc-
11 tors. A vacancy in the directorship of the authority does not impair
12 the right of a quorum to exercise all the powers and perform all the
13 duties of the authority.

14 Sec. 19.70.040. STAFF. The authority shall employ a chief
15 executive officer who serves at the pleasure of the authority. The
16 chief executive officer may, with the approval of the authority,
17 select and employ additional staff as necessary, including additional
18 administrative officers. All officers and employees of the authority
19 are in the exempt service under AS 39.25.110. In addition to its
20 staff of employees, the authority may contract for and engage the ser-
21 vices of consultants and professional, technical, and financial advi-
22 sors the authority considers necessary for the purpose of developing
23 information, conducting hearings, studies, investigations, or other
24 proceedings, or otherwise exercising its powers.

25 ARTICLE 2. POWERS AND DUTIES.

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

- 28 (1) sue and be sued;
29 (2) adopt and alter an official seal;

1 (3) adopt and enforce bylaws and regulations for the con-
2 duct of its business and for the use of its services and facilities;

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

5 (5) establish terms and conditions of employment by the
6 authority and conduct labor negotiations with employees;

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

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

12 (8) acquire, hold, use, lease, or rent real property and
13 dispose of real property under AS 19.70.100;

14 (9) operate, maintain, improve, and extend a system of
15 ferries connecting with the public roads and highways of the state and
16 including the boats, vessels, wharves, docks, approaches, landings,
17 and appurtenances the authority determines to be necessary or desir-
18 able for safe and efficient operation of the ferry system so as to
19 best serve the public;

20 (10) do all acts and things necessary, convenient, or desir-
21 able to carry out the powers expressly granted or necessarily implied
22 in this chapter;

23 (11) establish rates and tariffs, after public hearings;

24 (12) modify routes, after public hearings.

25 Sec. 19.70.055. DUTIES OF AUTHORITY. The authority shall

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

29 (2) schedule vessel sailings to maximize the frequency of

1 service to all ports;

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

6 (4) require a non-refundable deposit for reservations;

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

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

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

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

15 Sec. 19.70.060. USE OF NAME AUTHORIZED. The authority is auth-
16 orized to operate its ferry system under the name "Alaska Marine
17 Highway System".

18 Sec. 19.70.070. COMPREHENSIVE LONG-RANGE PLAN. The authority,
19 with the cooperation of the Department of Transportation and Public
20 Facilities, shall prepare a comprehensive long-range plan for the
21 development and improvement of the marine highway system and shall
22 revise and update the plan at least every five years. The comprehen-
23 sive long-range plan and revisions and updates of the plan are subject
24 to legislative approval by law.

25 ARTICLE 3. ACQUISITION OF PROPERTY.

26 Sec. 19.70.080. ACQUISITION OF LAND AND EASEMENTS. The authori-
27 ty, as part of the cost of constructing, maintaining, or improving the
28 marine highway system, may acquire by purchase, gift, or exchange land
29 in fee simple or easements that it considers necessary and reasonable

1 for either temporary or permanent public use. By the same means, the
2 authority may obtain material, including clay, gravel, sand, or rock,
3 or the land necessary to obtain the material, including access to it.
4 The authority may acquire the land or materials notwithstanding the
5 fact that title to it is vested in the state or a department, agency,
6 commission, or institution of the state.

7 Sec. 19.70.090. AUTHORITY TO PURCHASE PROPERTY FOR THE PURPOSE
8 OF EXCHANGE. When a majority of the directors of the authority de-
9 clares that it is in the best public interest of the state, the au-
10 thority may acquire by purchase, gift, or exchange privately or pub-
11 licly owned land or an interest in land for the purpose of exchanging
12 the land for privately or publicly owned land that the authority is
13 authorized by law to acquire.

14 Sec. 19.70.100. DISPOSAL OF LAND OR RIGHTS IN LAND. (a) The
15 authority may vacate land or rights in land acquired for use in the
16 marine highway system by executing and filing a deed in the approp-
17 riate recording district. Upon vacating, title reverts to the per-
18 sons, heirs, successors, or assigns in whom it was vested at the time
19 of the taking.

20 (b) The authority may transfer land not considered necessary for
21 use in the marine highway system to the Department of Natural Re-
22 sources for disposal. The proceeds of disposal by the Department of
23 Natural Resources shall be credited to the funds from which the pur-
24 chase was originally made.

25 ARTICLE 4. FERRY TERMINAL FACILITIES.

26 Sec. 19.70.110. ACQUISITION AND MAINTENANCE OF FERRY TERMINAL
27 FACILITIES. The authority may construct, purchase, or lease ferry
28 terminal facilities at locations it selects for the loading and un-
29 loading of passengers and vehicles under their own power, on and off

1 ferries. The authority shall repair and maintain these facilities.
2 Construction and purchasing under this section are governed by AS 36.-
3 30 (State Procurement Code).

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

7 Sec. 19.70.130. REGULATIONS. The authority may adopt regula-
8 tions governing the use of ferry terminal facilities by the public.

9 Sec. 19.70.140. EXISTING FACILITIES NOT AFFECTED. A ferry
10 terminal facility in existence and serving the public on January 1,
11 1959, is not affected by AS 19.70.110 - 19.70.140.

12 ARTICLE 5. GENERAL PROVISIONS.

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

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

22 Sec. 19.70.170. BUDGET AND APPROPRIATIONS. The authority shall
23 submit its annual budget to the legislature through the governor as
24 provided for state agencies by the Executive Budget Act (AS 37.07).
25 The authority shall expend money appropriated by the legislature as
26 authorized by the legislature.

27 Sec. 19.70.180. NAMING OF VESSEL OR FACILITY. (a) A vessel or
28 facility of the marine highway system constructed or acquired by the
29 authority must be named by law.

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

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

5 Sec. 19.70.199. DEFINITIONS. In this chapter, unless the con-
6 text requires otherwise,

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

8 (2) "capital improvement" means a project for the construc-
9 tion, rehabilitation, rebuilding, enlarging, or improving of all or
10 part of the marine highway system, including, without limitation,
11 boats, vessels, wharves, docks, approaches, landings, offices, and
12 appurtenances as determined by the authority to be necessary or desir-
13 able for efficient operation of the marine highway system and to best
14 serve the public;

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

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

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

21 Sec. 35.27.025. APPLICATION TO ALASKA MARINE HIGHWAY AUTHORITY.
22 This chapter applies to the Alaska Marine Highway Authority. Compli-
23 ance with this chapter is the sole responsibility of the authority
24 with respect to the public buildings and facilities of the authority.

25 * Sec. 4. AS 35.27.030(1) is amended to read:

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

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

29 (i) schools, office buildings, and court

1 buildings;

2 (ii) other buildings which the commissioner deter-
3 mines are designed for substantial public use;

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

6 (iv) transportation facilities which accommodate
7 traveling passengers;

8 (B) excludes other transportation facilities;

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

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

11 * Sec. 6. AS 39.25.110 is amended by adding a new paragraph to read:

12 (28) Alaska Marine Highway Authority and its officers and
13 employees.

14 * Sec. 7. AS 39.50.200(b) is amended by adding a new paragraph to read:

15 (50) Alaska Marine Highway Authority (AS 19.70.010).

16 * Sec. 8. AS 44.42.020(a)(1) is amended to read:

17 (1) plan, design, construct, and maintain all state modes
18 of transportation and transportation facilities and all docks, floats,
19 breakwaters, buildings, and similar facilities, except that the de-
20 partment is not responsible for planning, design, construction, or
21 maintenance of transportation modes or facilities under the jurisdic-
22 tion of the Alaska Marine Highway Authority;

23 * Sec. 9. AS 44.42.020(a)(7) is amended to read:

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

1 Highway Authority:

2 * Sec. 10. AS 19.60 and AS 19.65 are repealed.

BY SEN. DUNCAN

1 IN THE SENATE

2

SENATE BILL NO. 473

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the Alaska Marine Highway System

7

Commission."

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

9

* Section 1. AS 19.65 is amended by adding new sections to read:

10

ARTICLE 2. ALASKA MARINE HIGHWAY SYSTEM COMMISSION.

11

Sec. 19.65.100. DECLARATION OF POLICY. The state ferry system,

12

operated by the Department of Transportation and Public Facilities, is

13

a moving highway commonly known as the Alaska Marine Highway System.

14

It is the purpose of AS 19.65.100 - 19.65.150 to

15

(1) ensure that the state marine highway system is operated

16

in the public interest;

17

(2) provide continuity of management of the marine highway

18

system to promote efficiency in operating the system;

19

(3) ensure that marine transportation services will be

20

provided equitably, economically, and efficiently to all users;

21

(4) provide users of the marine highway system and citizens

22

of the state with a marine highway system operated and managed as a

23

public service for their benefit under a fair and reasonable tariff

24

schedule;

25

(5) make certain that the marine highway system is properly

26

developed and operated in coordination with other transportation modes

27

and services; and

28

(6) provide the traveling public complete and dependable

29

marine transportation services.

1 Sec. 19.65.110. ALASKA MARINE HIGHWAY SYSTEM COMMISSION. The
2 Alaska Marine Highway System Commission is created within the Depart-
3 ment of Transportation and Public Facilities.

4 Sec. 19.65.120. MEMBERSHIP AND VACANCIES. (a) The commission
5 consists of five members appointed by the governor. At least three
6 members must be from communities-in-the-state served by the marine
7 highway system.

8 (b) Members serve at the pleasure of the governor for five-year
9 terms.

10 (c) Members must be residents of the state and shall comply with
11 the requirements of AS 39.50 (conflict of interest).

12 (d) A member holds office for the term of the appointment and
13 until a successor has been appointed and qualified. A member may be
14 reappointed.

15 (e) A vacancy in a membership occurring other than by expiration
16 of term shall be filled in the same manner as the original appointment
17 but only for the unexpired term.

18 (f) Each member, before serving on the commission, shall take
19 and subscribe to an oath to faithfully perform the duties of the
20 office. A record of the oath shall be filed with the Office of the
21 Governor.

22 Sec. 19.65.130. COMPENSATION. The members of the commission
23 serve without compensation, but are entitled to per diem and travel
24 expenses authorized for state boards and commissions under AS 39.20.-
25 180.

26 Sec. 19.65.140. OFFICERS, MEETINGS, AND QUORUM. (a) The mem-
27 bers shall annually elect one of their number as chair.

28 (b) The commission shall meet at a time and place determined by
29 the chair, and at other times and places the chair, or a majority of

1 the commission members, considers necessary.

2 (c) The powers of the commission are vested in the members and
3 three members of the commission constitute a quorum. The commission
4 may take action by the affirmative vote of at least three members. A
5 vacancy in the membership of the commission does not impair the right
6 of a quorum to exercise all the powers and perform all the duties of
7 the commission.

8 Sec. 19.65.150. DUTIES. The commission shall

9 (1) recruit, select, appoint, dismiss, or suspend the
10 director of the division of marine transportation;

11 (2) advise and make recommendations to the director of the
12 marine highway system on policies regarding the operation of the
13 marine highway system, including

14 (A) schedules and tariffs;

15 (B) management, planning, and construction of facili-
16 ties;

17 (C) replacement, refurbishing, and overhaul of ves-
18 sels;

19 (D) reviews of short-term and long-term operating and
20 capital costs;

21 (3) submit to the governor and the legislature before the
22 10th day of each regular legislative session a comprehensive report
23 describing the operations and expenditures of the commission and
24 including a summary of recommendations made by the commission under
25 (2) of this section during the preceding year;

26 (4) adopt rules of procedure; and

27 (5) hold meetings to provide an opportunity for the public
28 to comment on the operation of the marine highway system, including
29 proposed tariff increases or scheduling changes.

1 * Sec. 2. AS 39.50.200(b) is amended by adding a new paragraph to read:
2 (50) Alaska Marine Highway System Commission (AS 19.65.100 -
3 19.65.150).

4 * Sec. 3. AS 44.42.040 is amended by adding a new subsection to read:

5 (b) The Alaska Marine Highway System Commission shall

6 (1) appoint the director of the division of marine trans-
7 portation;

8 (2) advise and make recommendations to the director of the
9 marine highway system concerning the operations of the marine highway
10 system;

11 (3) establish policy for the division of marine transporta-
12 tion.

13 * Sec. 4. Initial appointments to the Alaska Marine Highway System
14 Commission shall be made under AS 39.05.055.

Charlie

6-1110H
Utermohle
2/15/90

Original sponsor(s): Transportation Committee

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 310 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Marine Highway System
7 Commission."

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

9 * Section 1. AS 19.65 is amended by adding new sections to read:

10 ARTICLE 2. ALASKA MARINE HIGHWAY SYSTEM COMMISSION.

11 Sec. 19.65.100. DECLARATION OF POLICY. The state ferry system,
12 operated by the Department of Transportation and Public Facilities, is
13 a moving highway commonly known as the Alaska Marine Highway System.
14 It is the purpose of AS 19.65.100 - 19.65.150 to

15 (1) ensure that the state marine highway system is operated
16 in the public interest;

17 (2) provide continuity of management of the marine highway
18 system to promote efficiency in operating the system;

19 (3) ensure that marine transportation services will be
20 provided equitably, economically, and efficiently to all users;

21 (4) provide users of the marine highway system and citizens
22 of the state with a marine highway system operated and managed as a
23 public service for their benefit under a fair and reasonable tariff
24 schedule;

25 (5) make certain that the marine highway system is properly
26 developed and operated in coordination with other transportation modes
27 and services; and

28 (6) provide the traveling public complete and dependable
29 marine transportation services.

1 Sec. 19.65.110. ALASKA MARINE HIGHWAY SYSTEM COMMISSION. The
2 Alaska Marine Highway System Commission is created within the Depart-
3 ment of Transportation and Public Facilities.

4 Sec. 19.65.120. MEMBERSHIP AND VACANCIES. (a) The commission
5 consists of seven members. One member is the commissioner of trans-
6 portation and public facilities and six members are appointed by the
7 governor. The six appointed members must be state residents except as
8 provided in (1) of this subsection. One appointed member shall be a
9 representative of the tourist industry who meets one of the require-
10 ments under (1) - (4) of this subsection, and one shall be a represen-
11 tative of the commercial carriers who meets one of the requirements
12 under (1) - (4) of this subsection. Appointed members shall include

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

15 ✓(2) a member of a maritime union; *Wilson*

16 (3) two residents of Southeast Alaska;

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

18 and

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

20 (b) Members serve at the pleasure of the governor for five-year
21 terms. ~~Can members all be appointed at once?~~

22 (c) Members shall comply with the requirements of AS 39 50
23 (conflict of interest).

24 (d) A member holds office for the term of the appointment and
25 until a successor has been appointed and qualified. A member may be
26 reappointed.

27 (e) A vacancy in a membership occurring other than by expiration
28 of term shall be filled in the same manner as the original appointment
29 but only for the unexpired term.

1 (f) Each member, before serving on the commission, shall take
2 and subscribe to an oath to faithfully perform the duties of the
3 office. A record of the oath shall be filed with the Office of the
4 Governor.

5 Sec. 19.65.130. COMPENSATION. The members of the commission
6 serve without compensation, but are entitled to per diem and travel
7 expenses authorized for state boards and commissions under AS 39.20.-
8 180.

9 Sec. 19.65.140. OFFICERS, MEETINGS, AND QUORUM. (a) The mem-
10 bers shall annually elect one of their number as chair.

11 (b) The commission shall meet at a time and place determined by
12 the chair, and at other times and places the chair, or a majority of
13 the commission members, considers necessary.

14 (c) The powers of the commission are vested in the members and
15 four members of the commission constitute a quorum. The commission
16 may take action by the affirmative vote of at least four members. A
17 vacancy in the membership of the commission does not impair the right
18 of a quorum to exercise all the powers and perform all the duties of
19 the commission.

20 Sec. 19.65.150. DUTIES. The commission shall

21 (1) recruit, select, appoint, dismiss, or suspend the
22 director of the division of marine transportation; ~~Can be use of commission?~~

23 (2) Advise and make recommendations to the director of the
24 marine highway system regarding the operation of the marine highway
25 system, including *A diff. than p.4 line 23*

26 (A) schedules and tariffs;

27 (B) management, planning, and construction of facili-
28 ties;

29 (C) replacement, refurbishing, and overhaul of

vessels;

(D) reviews of short-term and long-term operating and capital costs;

(3) establish policy for the division of marine transportation; *★ Clear*

(4) submit to the governor and the legislature before the 10th day of each regular legislative session a comprehensive report describing the operations and expenditures of the commission and including a summary of recommendations made by the commission under (2) of this section during the preceding year;

(5) adopt rules of procedure; and

(6) hold meetings to provide an opportunity for the public to comment on the ^{annual} operation ^{plan} of the marine highway system, including proposed tariff increases or scheduling changes. but not limited to

* Sec. 2. AS 39.50.200(b) is amended by adding a new paragraph to read:

(50) Alaska Marine Highway System Commission (AS 19.65.100 - 19.65.150).

* Sec. 3. AS 44.42.040 is amended by adding a new subsection to read:

(b) The Alaska Marine Highway System Commission shall

(1) appoint the director of the division of marine transportation;

(2) advise and make recommendations to the director of the marine highway system concerning the operations of the marine highway system; *do the same*
A diff. than p 3 line 24

(3) establish policy for the division of marine transportation. *★ clear?*

* Sec. 4. INITIAL APPOINTMENT OF MEMBERS OF THE ALASKA MARINE HIGHWAY SYSTEM COMMISSION. Notwithstanding AS 19.65.120(b), enacted by sec. 1 of this Act, the terms of the initially appointed members of the Alaska Marine

1 Highway System Commission shall be staggered as set out in AS 39.05.055(4).

2 * Pete - don't think should restrict # of meetings

3
4 * How much power does Director of Div. MHS have
5 if Comm. of DOT/PA is against? ~~is~~ Freeze mt # w?

6
7 * Does legislature approve Gen app. to this type of Commission

8
9 ~~* Advise + recommend on labor neg.?~~

10
11 * SB 310 p 5 L 19-25 Long-range plan

12
13 * " p. 7, 8 L 28-9, 15 name vessels

14
15 * Working good - SB 473 p 2 L 5-8

16
17
18 ask Utermole on Leg. Confirmation
19 not this board

20
21 constitutional issue

22
23 courtesy

New

6-1110H
Utermohl
2/21/90

Original sponsor(s): Transportation Committee

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 310 ()
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Marine Highway System
7 Commission."

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

9 * Section 1. AS 19.65 is amended by adding new sections to read:

10 ARTICLE 2. ALASKA MARINE HIGHWAY SYSTEM COMMISSION.

11 Sec. 19.65.100. DECLARATION OF POLICY. The state ferry system,
12 operated by the Department of Transportation and Public Facilities, is
13 a moving highway commonly known as the Alaska Marine Highway System.
14 It is the purpose of AS 19.65.100 - 19.65.160 to

15 (1) ensure that the state marine highway system is operated
16 in the public interest;

17 (2) provide continuity of management of the marine highway
18 system to promote efficiency in operating the system;

19 (3) ensure that marine transportation services will be
20 provided equitably, economically, and efficiently to all users;

21 (4) provide users of the marine highway system and citizens
22 of the state with a marine highway system operated and managed as a
23 public service for their benefit under a fair and reasonable tariff
24 schedule;

25 (5) make certain that the marine highway system is properly
26 developed and operated in coordination with other transportation modes
27 and services; and

28 (6) provide the traveling public complete and dependable
29 marine transportation services.

1 Sec. 19.65.110. ALASKA MARINE HIGHWAY SYSTEM COMMISSION. The
2 Alaska Marine Highway System Commission is created within the Depart-
3 ment of Transportation and Public Facilities.

4 Sec. 19.65.120. MEMBERSHIP AND VACANCIES. (a) The commission
5 consists of seven members. One member is the commissioner of trans-
6 portation and public facilities and six members are appointed by the
7 governor. The six appointed members must be state residents except as
8 provided in (1) of this subsection. One appointed member shall be a
9 representative of the tourist industry who meets one of the require-
10 ments under (1) - (4) of this subsection, and one shall be a represen-
11 tative of the commercial carriers who meets one of the requirements
12 under (1) - (4) of this subsection. Appointed members shall include

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

15 (2) a member of a maritime union;

16 (3) two residents of Southeast Alaska;

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

18 and

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

20 (b) Members serve at the pleasure of the governor for five-year
21 terms.

22 (c) Members shall comply with the requirements of AS 39.50
23 (conflict of interest).

24 (d) A member holds office for the term of the appointment and
25 until a successor has been appointed and qualified. A member may be
26 reappointed.

27 (e) A vacancy in a membership occurring other than by expiration
28 of term shall be filled in the same manner as the original appointment
29 but only for the unexpired term.

1 (f) Each member, before serving on the commission, shall take
2 and subscribe to an oath to faithfully perform the duties of the
3 office. A record of the oath shall be filed with the Office of the
4 Governor.

5 Sec. 19.65.130. COMPENSATION. The members of the commission
6 serve without compensation, but are entitled to per diem and travel
7 expenses authorized for state boards and commissions under AS 39.20.-
8 180.

9 Sec. 19.65.140. OFFICERS, MEETINGS, AND QUORUM. (a) The mem-
10 bers shall annually elect one of their number as chair.

11 (b) The commission shall meet at a time and place determined by
12 the chair, and at other times and places the chair, or a majority of
13 the commission members, considers necessary.

14 (c) The powers of the commission are vested in the members and
15 four members of the commission constitute a quorum. The commission
16 may take action by the affirmative vote of at least four members. A
17 vacancy in the membership of the commission does not impair the right
18 of a quorum to exercise all the powers and perform all the duties of
19 the commission.

20 Sec. 19.65.150. DUTIES. The commission shall

21 (1) recruit, select, appoint, dismiss, or suspend the
22 director of the division of marine transportation;

23 (2) advise and make recommendations to the director of the
24 marine highway system regarding the operation of the marine highway
25 system, including

26 (A) schedules and tariffs;

27 (B) management, planning, and construction of facili-
28 ties;

29 (C) replacement, refurbishing, and overhaul of

1 - vessels;

2 (D) reviews of short-term and long-term operating and
3 capital costs;

4 (3) establish policy for the division of marine transporta-
5 tion;

6 (4) submit to the governor and the legislature before the
7 10th day of each regular legislative session a comprehensive report
8 describing the operations and expenditures of the commission and
9 including a summary of recommendations made by the commission under
10 (2) of this section during the preceding year;

11 (5) adopt rules of procedure; and

12 (6) hold meetings to provide a timely opportunity for the
13 public to comment on the annual operations plan of the marine highway
14 system, including proposed tariff increases or scheduling changes.

15 Sec. 19.65.160. COMPREHENSIVE LONG-RANGE PLAN. The commission,
16 with the cooperation of the Department of Transportation and Public
17 Facilities, shall prepare a comprehensive long-range plan for the
18 development and improvement of the marine highway system and shall
19 revise and update the plan at least every five years. The comprehen-
20 sive long-range plan and revisions and updates of the plan are subject
21 to legislative approval by law.

22 * Sec. 2. AS 39.50.200(b) is amended by adding a new paragraph to read:

23 (50) Alaska Marine Highway System Commission (AS 19.65.100 -
24 19.65.160).

25 * Sec. 3. AS 44.42.040 is amended by adding a new subsection to read:

26 (b) The Alaska Marine Highway System Commission shall

27 (1) appoint the director of the division of marine trans-
28 portation;

29 (2) advise and make recommendations to the director of the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

marine highway system regarding the operation of the marine highway system;

(3) establish policy for the division of marine transportation.

* Sec. 4. INITIAL APPOINTMENT OF MEMBERS OF THE ALASKA MARINE HIGHWAY SYSTEM COMMISSION. Notwithstanding AS 19.65.120(b), enacted by sec. 1 of this Act, the terms of the initially appointed members of the Alaska Marine Highway System Commission shall be staggered as set out in AS 39.05.055(4).



SIGN-IN SHEET

SPONSOR: Sen. Jones

SUBJECT: SB310 - Creating a Marine Highway Authority

START/END TIME: _____

DATE: Dec 5, 1989

BILL # _____

OBSERVE _____

TESTIFY _____

PLEASE PRINT

	NAME/REPRESENTING	ADDRESS	PHONE #	TESTIFY	OBSERVE	BILL #
1	Richard Foster	Nome	443 2290		X	
2	W.M. Hopkins #4	12810 SNOWBERRY LN. KTN, AK	247-1525	X		
3	WYNN HEKINS	— " —	— " —		X	
4	Ron Whalen	P.O. Box 9201 - Ketchikan			X	
5	HARVEY WILLIAMSON	OLYMPIA WA	(206) 206-8898	X		
6	JOE Ambrose (KTN)	Box 7700 KTN (KTN)	5755	X		
7	DAN BRUBICHT	8 MILE NORTH TONGAS	C17 943E			
8	Steve Phillips	14010 N Tongass	247-8491	X		
9	Glenda Steele	6043 Roosevelt Dr	225-2720		X	
10	SOAN TROVILLARD	6059 So Tongass Hwy	225-4388		X	
11	ROBERT J HINDS	P.O. Box 30 PETERSBURG	272 3247		X	
12	GEORGE STOEHR	P.O. Box 7811 Ketchikan	—		X	
13	Pat Eberhardt	P.O. Box 8242 Ketchikan	225-5397		X	
14	Rebecca A Beshers	PO Box 9381 KTN	225-1324		X	
15	BERNIE E. BESHERS	P.O. Box 9381 KTN	225-1724		X	
16	Mike Wilson	Juneau	784-0333	X		
17	Mark Hutson	Ketchikan	225-6260		X	
18	Belinda Chass	Ketchikan Daily News	225-3157		X	



SIGN-IN SHEET

SPONSOR: Sen Jones

SUBJECT: SB310 - Creating a Marine Highway Authority

START/END TIME: _____ DATE: Dec 5, 1989

PLEASE PRINT

NAME/REPRESENTING

ADDRESS

PHONE #

TESTIFY

OBSERVE

BILL #

	NAME/REPRESENTING	ADDRESS	PHONE #	TESTIFY	OBSERVE	BILL #
1	Art Johnson	P.O. Box 9092 Ketch.	225-9273		✓	
2	Gene Map	P O Box 5677	225-8911		✓	
3	Darrell Hargrave	3343 Denali	225-3095		✓	
4	John RITTERBACH	PO 9420	225-9459		✓	
5	RACHT GREGORY	Box 7011	225-5435		✓	
6	HUGH B. HARTLEY	1719 TONGASS AVIE	225-8985		✓	
7	Bill Holman	Box 6835 KTN	225-2277			
8	MIKE CROSBY	P.O. Box 7352 KTN	225-2515		✓	
9	Ron Wendt	Office of The Governor 2030 Seal Level Drive KTN	225-4856		✓	
10	LAWRENCE A. HILLEY	Box 7483 KTN	225-5775		✓	
11	CLIFF CHATHAM	860 BROWN DEER PI KTN AK ⁹⁹⁹⁰¹	225-6375		✓	
12	Greg Poppen	KRBD	225-9655		✓	
13	Mark Hutson	IBU PO Box 8454	225 6767		✓	
14						
15						
16						
17						
18						

ALASKA STATE LEGISLATURE

Sen. Lloyd Jones, Chairman
Sen. Bettye Fahrenkamp, Vice Chairman
Sen. John B. "Jack" Coghill
Sen. Paul Fischer
Sen. Pat Pourchot



P.O. Box V
Juneau, AK 99811

907-465-4921

Senate Transportation Committee

Agenda

December 5, 1989

7 p.m. - 9 p.m.

Public Hearing

8 p.m. - 9 p.m.

Ketchikan Legislative Information Office

- I. Call to Order
- II. Chair's General Comments
- III. Members General Comments
- IV. SB 310 - Establishing a Marine Highway Authority
 - A. Introduction of Guests
 - B. Guests Comments
 1. Mr. Patrick Morris, Corporate Secretary
British Columbia Ferry Corporation
 2. Representative Richard Foster, Chair
House Transportation Committee
 3. Representative Bill Hudson, Member
House Transportation Committee and Former
Director of the Marine Highway System
 4. Jim Ayers, Director
Alaska Marine Highway System
 5. Mike Wilson, Business Agent
Inland Boatmen's Union of the Pacific
 6. Captain Dave Boyle, Business Agent
International Organization of Masters, Mates & Pilots
 - C. Committee Discussion & Questions
 - D. Public Testimony
- V. Old Business
- VI. New Business
- VII. Adjournment

STATE OF ALASKA
THE LEGISLATURE

NOV 29 1989

POUCHY STATE CAPITOL
BUREAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

November 29, 1989

SUBJECT: Revenue of the Alaska International Airports System (Work Order No. 6-1724)

TO: Senator Lloyd Jones, Chair
Senate Transportation Committee

FROM: George Utermohle *GU*
Legislative Counsel

Glenda Carino, of your staff, has asked how the Alaska International Airports System is able to retain the revenue that it generates.

The Alaska International Airports System is authorized under AS 37.15.510.

Sec. 37.15.510. STATE IMPROVEMENTS TO AIRPORTS. The state is authorized to acquire, equip, construct, and install additions and improvements to and extensions of the airports, facilities for the landing, parking, loading, storing, repairing, safety, and utility of aircraft at the airports and passenger, freight, and terminal facilities, including safety equipment and devices at the airports, found to be necessary by the commissioner of transportation and public facilities.

The Alaska International Airports System consists of the "international airports owned and operated by the state and located at or near the cities of Anchorage and Fairbanks." (AS 37.15.550(1))

The Alaska International Airports System is funded from an enterprise fund, the International Airports Revenue Fund, which receives revenue generated by the state-owned international airports at Anchorage and Fairbanks. The International Airports Revenue Fund is established in AS 37.15.430(a) which provides:

(a) There is established an enterprise fund known as the "International Airports Revenue Fund," into which

shall be paid all revenue, fees, charges, and rentals derived by the state from the ownership, lease, use, and operation of the airports and all of the facilities and improvements of them and facilities and improvements used in connection with them. The revenue, charges, fees, and rentals may not include the proceeds of any state tax or license. The money in the revenue fund may only be used for the purpose of

(1) paying or securing the payment of the principal of and interest on the bonds and of and on any other revenue bonds issued by authorization of the legislature to provide money to acquire, equip, construct, and install additions and improvements to, and extensions of and facilities for, the airports, and to be payable out of the revenue fund;

(2) paying the normal and necessary costs of maintaining and operating the airports and all of the improvements and facilities of them;

(3) paying the costs of renewals, replacements, and extraordinary repairs to the airports and all of the improvements and facilities of them;

(4) redeeming before their fixed maturities any and all revenue bonds issued for the purposes of the airports;

(5) providing money to acquire, construct and install necessary additions and improvements to and extensions of and facilities for the airports and all of their facilities; and

(6) providing money to pay any and all other costs relating to the ownership, use, and operation of the airports.

The International Airports Revenue Fund is a dedicated fund for the construction, maintenance, and operation of the airports.

Dedicated funds are disfavored under the Alaska Constitution. All dedicated funds, except those specifically allowed by the constitution, those established by the Territory of Alaska and still in effect, and those required as a condition of receiving federal funds, are prohibited by

Article IX, sec. 7 of the state constitution which states:

DEDICATED FUNDS. The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 of this article or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska.

The International Airports Revenue Fund, unlike the Permanent Fund, has not been expressly exempted from the prohibition against dedicated funds. However, the state constitution does allow the state to issue revenue bonds that are secured by the revenue of the facility for which the bonds are issued. (Article IX, sec. 11) Revenue bonds "to acquire, equip, construct, and install the additions, improvements, extensions, and facilities" at the state-owned international airports are authorized under AS 37.15.410. Repayment of the revenue bonds is secured by the gross revenue derived from the airports and any other revenue that the legislature may provide. (Id.) The amount necessary to pay principle, interest, and the redemption premium of the revenue bonds is appropriated annually from the International Airports Revenue Fund. (AS 37.15.420) Thus airport revenues may be dedicated for the purpose of repaying the airport revenue bonds.

The other purposes for which the International Airports Revenue Fund was created, operation and maintenance of the airports, are not included under the authority to dedicate airport revenue to repay revenue bonds. In order to dedicate airport revenue for the operation and maintenance of the airports, the dedication must be allowed under another exemption from the prohibition against dedicated funds.

The International Airports Revenue Fund did not exist at the time the Alaska Constitution was ratified. The fund was created in 1961. (Ch. 88, SLA 1961) Thus the fund is not protected under the grandfather provision of the constitution.

The third express exception under which the dedication of airport revenues could be permitted applies to dedicated funds required as a condition of participation in federal programs. In order to participate in the federal airport

development project grants program, public owned airports, such as the state-owned international airports at Anchorage and Fairbanks, must assure the U.S. Secretary of Transportation that all revenues generated by the airports will be expended for the capital or operating costs of the airports. 49 U.S.C. 2210(a)(12) states in relevant part:

(a) As a condition precedent to approval of an airport development project contained in a project grant application submitted under this chapter, the Secretary [of Transportation] shall receive assurances, in writing, satisfactory to the Secretary, that--

(12) all revenues generated by the airport, if it is a public airport, . . . will be expended for the capital or operating costs of the airport, the local airport system, or other local facilities which are owned or operated by the owner or operator of the airport and directly and substantially related to the actual air transportation of passengers or property;

. . .

I have spoken to the staff of the Department of Transportation and Public Facilities regarding state participation in federal airport development programs. I was informed that the state does receive federal airport funds and gives assurance to the federal government that airport revenues are dedicated to airport capital and operating expenses. Thus the dedication of international airports revenues for operation and maintenance of the airports is permitted by the state constitution, because the dedication is required for participation in a federal program. (1989 Inf. Op. Atty. Gen. (January 19; 661-89-0294)) Also, the requirements of the federal program provides a second basis under which airport revenues may be dedicated to repay revenue bonds, because the dedication of airport revenue to pay the costs of constructing, improving, and equipping the airports fulfills a federal requirement that airport revenues be used to pay capital costs of the airports.

In addition to the express exceptions to the prohibition against dedicated funds, there is a possibility that there are implied exceptions to the prohibition under which certain types of dedicated funds would be permitted. The existence of the implied exceptions is suggested by the discussions of the delegates to the Alaska Constitutional Convention and by documents prepared for the delegates. The state supreme

Senator Lloyd Jones
Page 5
November 29, 1989

court has not addressed this issue, but the Attorney General has suggested that implied exceptions exist for such funds as pension contributions, proceeds from bond issues, sinking fund receipts, revolving fund receipts, contributions from local governments for state-local cooperative programs, and tax receipts that the state may collect on behalf of local governments. (1982 Attorney General Op. 13, pp. 5-6)

In regard to the International Airports Revenue Fund, the Attorney General has stated that the implied exception theory would allow the dedication of revenue from facilities constructed with bond proceeds to not only repay the revenue bonds but also to operate and maintain those facilities. The Attorney General concludes that the continued operation and maintenance of facilities built with revenue bonds is an integral part of maintaining a revenue source to pay off the bonds. Under this theory the dedication of revenue to operate and maintain the airports is essential to ensure that the airports will continue to generate revenue to repay the bonds. Thus the dedication of revenue for operation and maintenance of the airports is implied under the authority to dedicate airport revenue to repay the revenue bonds. (Id. at 24-25) In reaching this conclusion the Attorney General is exploring the farthest frontiers of the prohibition against dedicated funds; landmarks to guide the course of the legal analysis are absent. At the present time, the existence of the implied exceptions is only speculative. Given the rigorous analysis that the supreme court has applied in the past, it is likely that any implied exceptions that are found to exist will be construed very narrowly. (See, State v. Alex, 646 P.2d 203 (Alaska 1982)) A dedicated fund, to pay for the maintenance and operation of the airports as well as to repay the revenue bonds for the airports may conceivably be justified under an implied exception theory, but at the present time the courts have not recognized such a theory.

If I may be of further assistance, please advise.

GU:mi
wkmi5/019

DRAFT

FOR IMMEDIATE RELEASE
JANUARY 19, 1990
CONTACT: PETE CARRAN
465-4766

**ALASKA MARINE HIGHWAY COMMISSION
PROPOSED IN BILL BY SENATOR DUNCAN**

LEGISLATION AIMED AT PLACING MANAGEMENT OF THE ALASKA MARINE HIGHWAY SYSTEM ON A MORE EVEN KEEL WAS INTRODUCED TODAY BY SENATOR JIM DUNCAN OF JUNEAU.

SENATE BILL _____ CALLS FOR THE ESTABLISHMENT OF A FIVE MEMBER ALASKA MARINE HIGHWAY SYSTEM COMMISSION APPOINTED BY THE GOVERNOR WHICH IN TURNS APPOINTS THE SYSTEM DIRECTOR.

"THIS APPROACH WILL PROVIDE CONTINUITY OF MANAGEMENT IN ORDER TO PROMOTE EFFICIENCY IN THE OPERATION OF THE SYSTEM," SENATOR DUNCAN SAYS. "CURRENTLY, SYSTEM MANAGEMENT CHANGES WITH EACH CHANGE IN THE STATE ADMINISTRATION. THIS MEASURE IS INTENDED TO PROVIDE AN OVERLAPPING OF SYSTEM MANAGEMENT FROM ONE ADMINISTRATION TO THE NEXT. THIS IS A NECESSARY STEP IN ORDER TO HELP ENSURE SOUND SYSTEM MANAGEMENT."

SENATOR DUNCAN FEELS THE MANAGEMENT APPROACH PROPOSED IN HIS BILL IS BETTER EQUIPPED TO DEAL WITH THE IMPORTANT ISSUES NOW FACING THE SYSTEM. "THERE'S A NEED FOR LONG TERM PLANNING, MAINTAINING AN ADEQUATE LEVEL OF FUNDING, IMPROVING SERVICE INCLUDING ESTABLISHING A FAST FERRY PROGRAM, AND DEVELOPING A PLAN FOR REPLACEMENT OF THE FLEET. STRONG AND LONG TERM MANAGEMENT IS NEEDED TO DEAL WITH THESE ISSUES."

UNDER TERMS OF THE MEASURE, COMMISSION MEMBERS SERVE STAGGERED FIVE YEAR TERMS. AT LEAST THREE MEMBERS MUST BE FROM COMMUNITIES SERVED BY THE MARINE HIGHWAY SYSTEM.

IN ADDITION TO APPOINTING A SYSTEM DIRECTOR, THE COMMISSION IS RESPONSIBLE FOR ADVISING AND MAKING RECOMMENDATIONS ON SCHEDULES AND TARIFFS; MANAGEMENT, PLANNING AND CONSTRUCTION OF FACILITIES; REPLACEMENT, REFURBISHING, AND OVERHAUL OF VESSELS; AND OPERATING AND CAPITAL COSTS. THE MEASURE ALSO DIRECTS THE COMMISSION TO CONDUCT PUBLIC MEETINGS ON THE OPERATION OF THE SYSTEM INCLUDING PROPOSED TARIFF INCREASES OR SCHEDULING CHANGES AND TO PROVIDE AN ANNUAL REPORT TO THE GOVERNOR AND LEGISLATURE.

JOSEPH R. HENRI
ATTORNEY AT LAW
ANCHORAGE, ALASKA 99510-0357
(9921 NEAR POINT DRIVE)
P. O. BOX 10 - 0357
TELEPHONE 307-338-0880

MAR 26 1990

20 March 1990

Senator Lloyd Jones. Chairman
Senate Transportation Committee
P.O. Box V
Juneau, Alaska 99811

Representative Richard Foster, Chairman
House Transportation Committee
P.O. Box V
Juneau, Alaska 99811

Gentlemen:

Re: CSSB 310

The Alaska Marine Highway Advisory Board very much appreciated being able to spend time with the transportation committee members in the Capitol the morning of 16 March. It was very useful for us to be able to have the free exchange you gave us and to interact with Commissioner Hickey, and Director Jim Ayers as well.

We promised Senator Jones that we would consider our position on SB 310, after conferring with Commissioner Hickey. In spite of the fact that we serve at the pleasure of the commissioner, we received no pressure from him as to our view, and I believe that what I am about to report was freely arrived at by the Board.

The Advisory Board supports the Position Paper of the Department of Transportation which was sent to you by date of 15 March. In other words, we think it would be good to put the concept of an advisory board into statute, but we think that the board (or Commission) should not interpose itself into the line of command between the commissioner and director. As long as the Marine Highway System is a part of the Department of Transportation, it seems to us that the director should be hired by the commissioner, report to the commissioner, and not be able to play off his security by virtue of being hired by the Marine Highway Commission against the clear command channels now existing in the Department of Transportation.

Our Board certainly shares your deep concern for a better functioning system, for a measure of continuity, etc. A statutory and on-going advisory board would be of some assistance along these lines. Public ownership by the State of Alaska has a number of drawbacks as well as some obvious advantages. The effort to make the Marine Highway System as good as it can be is never-ending. No formula will yield complete satisfaction. We do think quite a bit of progress is being made. The authority to receive and expend receipts will be a major advance.

Again, thank you very much for letting us meet with you and give you our views.

Sincerely yours,

AMH ADVISORY BOARD

Joseph R. Henri
Joseph R. Henri, Chairman

JRH/df

cc: Commissioner Mark Hickey
Director Jim Ayers
AMH Advisory Board Members

ALASKA STATE LEGISLATURE

Sen. Lloyd Jones, Chainnan
Sen. Bettye Fahrenkamp, Vice Chairman
Sen. John B. "Jack" Coghill
Sen. Paul Fischer
Sen. Pat Pourchor



P.O. Box V
Juneau, AK 99811

907-465-4921

Senate Transport
nittee

January 17, 1990

MEMORANDUM

To: Senate Transportation Committee Members

From: Senator Lloyd Jones, Chair
Senate Transportation Committee

Subj: SB 310 - Establishing a Marine Highway Authority

Since Senate 310 was introduced in last May, much discussion has taken place on the pro's and con's of the idea of establishing a Marine Highway Authority. A hearing was held in Ketchikan on December 5 on the issue, and we heard valuable testimony.

Both sides of the argument agree that something has to be done to improve the long term and day-to-day management of the system. I feel that with your help and input, we can prepare a bill that will address all facets of the problem by the establishment of a Marine Highway Authority.

With this in mind, I have prepared several amendments that may help fine-tune the bill. Also, informational material is included in this packet from interested parties.

Though we have some work to do on the bill, I feel that the only way to bring continuity of management in the Marine Highway System is through an authority entity. I appreciate your continued support for the concept of SB 310 as a catalyst for positive change.

STATE OF ALASKA
THE LEGISLATURE

ALASKA STATE CAPITOL
600 W. BRIDGES
NOME, ALASKA 99560

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 1, 1989

SUBJECT: SB 310; An Act relating to
ferries and ferry terminals and establishing
the Alaska Marine Highway Authority

TO: Senator Lloyd Jones, Chairman
Senate Transportation Committee

FROM: George Utermohle *GU*
Legislative Counsel

This memorandum contains a sectional summary of SB310, as requested by Terry Otness of your staff.

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

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

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

CHAPTER 19. ALASKA MARINE HIGHWAY AUTHORITY.

ARTICLE 1 CREATION AND ORGANIZATION.

Sec. 19.70.010 establishes the Alaska Marine Highway Authority as a public corporation of the state within the Department of Transportation and Public Facilities.

Sec. 19.70.020 relates to the directors of the authority. There are seven directors of the authority: the commissioner of transportation and public facilities and six other persons appointed by the governor. The qualifications for the directors are set out.

The directors appointed by the governor serve at the pleasure of the governor for four year terms.

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

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

Sec. 19.70.030 provides for the election of officers by the directors of the authority and sets the quorum for meetings of the directors.

Sec. 19.70.040 authorizes the authority to employ executive and administrative officers who serve at the pleasure of the authority. All executive and administrative officers and other employees of the authority are in the exempt service. The authority may also employ consultants and advisors.

ARTICLE 2. POWERS AND DUTIES.

Sec. 19.70.050 sets out the powers of the authority.

Sec. 19.70.055 sets out the duties of the authority.

Sec. 19.70.060 authorizes the authority to operate a ferry system under the name "Alaska Marine Highway System".

Sec. 19.70.070 requires the authority to prepare a long-range plan for development and improvement of the ferry system, in cooperation with the Department of Transportation and Public Facilities, at least every five years.

ARTICLE 3. ACQUISITION OF PROPERTY.

Sec. 19.70.080 provides that the authority may acquire land and material necessary for the construction, maintenance, or improvement of the marine highway system.

Sec. 19.70.090 provides that the authority may acquire land for the purpose of exchanging the land for other land that the authority needs to acquire.

Sec. 19.70.100 provides that the authority may vacate land or rights in land held by the authority. The authority may also transfer its surplus lands to the Department of Natural Resources for disposal. The proceeds of the disposal shall

Senator Lloyd Jones

Page 3

May , 1989

be returned to the source of funds from which the original purchase of the land was made.

ARTICLE 4. FERRY TERMINAL FACILITIES.

Sec. 19.70.110 authorizes the authority to construct, purchase, or lease ferry terminal facilities and to maintain these facilities.

Sec. 19.70.120 authorizes the authority to connect ferry terminal facilities with local highway systems.

Sec. 19.70.130 authorizes the authority to adopt regulations regarding the use of ferry terminal facilities by the public.

Sec. 19.70.140 exempts ferry terminal facilities that were in existence on January 1, 1959 from AS 19.70.110 - 19.70.140.

ARTICLE 5. GENERAL PROVISIONS.

Sec. 19.70.150 provides that the authority shall annually submit a report to the governor and legislature regarding its operations, income, and expenditures for the preceding fiscal year.

Sec. 19.70.160 provides that the authority shall have its financial records audited annually and that the legislative auditor may prescribe the form and content of the financial records of the authority.

Sec. 19.70.170 provides that the authority is subject to the Executive Budget Act, like other state agencies, and that the expenditures of the authority are subject to appropriation by the legislature.

Sec. 19.70.180 provides that the vessels of the authority shall be named by law.

Sec. 19.70.199 sets out the definitions of "authority", "capital improvement", and "ferry".

Sec. 19.70.200 provides that this chapter may be cited as the Alaska Marine Highway Authority Act.

Senator Lloyd Jones
Page 4
May 1, 1989

Sections 3 - 5 of the bill amend AS 35.27 to provide that the Alaska Marine Highway Authority is solely responsible for implementation of the "art in public places" program for vessels and facilities of the authority.

Section 6 of the bill amends AS 39.05.110 to provide that the officers and employees of the Alaska Marine Highway Authority are in the exempt service.

Section 7 of the bill amends AS 39.50.200(b) to provide that directors of the authority are subject to the conflict of interest law (AS 39.50).

Sections 8 and 9 of the bill amend AS 44.42.020 in order to transfer the authority of the Department of Transportation and Public Facilities over the planning, design, construction, maintenance, management, and operation of the facilities, vessels, and equipment of the marine highway system to the Alaska Marine Highway Authority.

Section 10 of the bill repeals AS 19.60 (Ferry Terminal Facilities) and AS 19.65 (Alaska Marine Highway System), which have been replaced by AS 19.70 as contained in sec. 2 of this bill.

CU:kb
wkk4/067

SOUTHEAST CONFERENCE

P.O. Box 22286

Juneau, Alaska 99802

SOUTHEAST CONFERENCE RESOLUTION #89-05

RELATING TO THE MANAGEMENT AND LEVEL OF SERVICE OF THE ALASKA MARINE HIGHWAY SYSTEM

WHEREAS, the Alaska Marine Highway System was established prior to the onset of the State's "Oil Boom" wealth and fully funded to provide a level of service which was meeting the expectations of the traveling public and citizens of Alaska; and

WHEREAS, the Alaska Marine Highway System is critical to coastal Alaskans for basic transportation, economic development, and regional interaction; and

WHEREAS, revenues generated by the Alaska Marine Highway System have steadily increased over the past five years; and

WHEREAS, State funding of the Marine Highway System has decreased over the past five years; and

WHEREAS, decreased funding has resulted in steadily declining levels of service to coastal Alaska; and

WHEREAS, current levels of service are unacceptable and severely limit the transportation needs, economic development, and social well-being of Alaskan coastal communities.

NOW THEREFORE BE IT RESOLVED by the Southeast Conference that the levels of service of the Alaska Marine Highway System need to be increased to meet the basic needs of coastal Alaskans by

A. Providing for a supplemental appropriation commitment for the current operating budget to allow scheduling revisions and marketing efforts before January 1, 1990

B. Increasing future funding of the Alaska Marine Highway System to an adequate level comprised of a basic State appropriation plus program receipts to provide incentives for improved and efficient service delivery

BE IT FURTHER RESOLVED that the Southeast Conference urges the creation of a vessel replacement fund which will accumulate over a period of years and which will cover the capital costs to rebuild or construct new equipment and facilities for the Marine Highway System

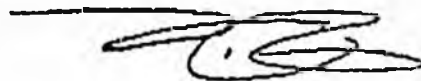
BE IT FURTHER RESOLVED that the Southeast Conference urges the current administration of the Alaska Marine Highway System to expediently complete and adopt the Comprehensive Master Plan for the Alaska Marine Highway System, which has been in draft form for at least three years.

Southeast Conference Resolution #89-05, P.2

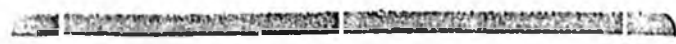
BE IT FURTHER RESOLVED that the Southeast Conference urges the formation of a public entity for management of the Alaska Marine Highway System outside of the auspices of the general Department of Transportation administration to ensure that the Alaska Marine Highway System provides adequate levels of service. Said public entity shall include a structure of directorship that provides for continuity of management.

BE IT FURTHER RESOLVED that the Southeast Conference urges the Alaska Marine Highway Advisory Board to provide recommendations and comments to legislators regarding SB 310 providing for an independent Alaska Marine Highway Authority.

Adopted by the Southeast Conference this 22nd day of September, 1989.



William B. Privett, President



MEMORANDUM

State of Alaska

Department of Transportation & Public Facilities

to: The Honorable Steve Cowper
Governor

DATE: August 9, 1989

FILE NO:

TELEPHONE NO: 465-3900

from: Mark S. Hickey *M.S.H.*
Commissioner

SUBJECT: Alaska Marine Highway
System Authority -
Issue Analysis

The purpose of this memorandum is to discuss the advisability of creating a public authority or corporation to run the Alaska Marine Highway System (AMHS), and to explore the key issues involved with undertaking such an endeavor. In recent times, a number of key state policy-makers have suggested that this type of structure should be established or seriously studied as a way to address problems or shortcomings apparently due to the current structure.

What is missing so far from the debate regarding establishment of an AMHS authority is enunciation of a clear, widely held explanation or statement of the long-term mission of the System. As part of that effort, there needs to be some clarification of what exactly have been the problems and what exactly is desired in fundamental changes in how the System functions. Once there is some consensus on these points, it is then possible to examine the current organization and alternatives to design appropriate adjustments to achieve that mission.

The failure of a clear, widely held view being enunciated by authority supporters about what role the AMHS needs to fulfill and why it should pursue that role is easily my largest reservation about the advisability of pursuing creation of an authority at this time. As they say in transportation, I'm afraid the cart may be in front of the horse.

Background

The AMHS was created in 1963 as a fleet of four ferries to serve Alaskans in Southeast in lieu of "hard links" or roads connecting isolated Alaskan communities with other communities and the connected road systems through Canada. Since then the System has evolved into a fleet of nine ferries, now also serving most of Southcentral Alaska and the Aleutian Chain, and providing a direct "Lower 48" connection through the Puget Sound. There has been a tremendous increase in the number of communities, passengers and vehicles served since its beginning. In addition to its primary role of providing Alaskans with basic transportation services, an ever increasing part of the System's business is to support tourism.

Since FY 85, the AMHS total annual operating budget has remained essentially unchanged in current dollars, with a slight decrease in FY 90 due to the health benefit reduction by the legislature. During this same period of time, passenger ridership has grown 8.1% and vehicle usage is up 12.5%. Revenues have also grown, along with considerable improvement in the ratio or percentage of total expenditures funded by generated revenues. For example, FY 89 revenues covered over 56% of total costs, which is a new high. Costs have also risen during this time, partly due to increased usage and the effects of inflation on certain items. Inability under the labor contracts to control effectively leave usage levels during this period probably added to service level impacts.

Vessel age has increased during this period, while the level of annual capital appropriations for general system repairs has dropped. Starting in FY 88, most vessel overhauls have been performed at the Ketchikan Shipyard Repair Facility, creating an increased level of expense. The net result of these considerations is that a greater portion of the annual operating budget has had to be used for major vessel maintenance and overhaul costs, thereby further reducing the amount of funds to support direct service.

The implication of these factors is that during a time of ever increasing demand for service by Alaskans and non-Alaskans alike, the AMHS has experienced ever increasing real reductions in its purchasing power or funds to provide direct service. In most cases, this has usually meant a loss in frequency and/or convenience, versus a complete elimination of service to a particular community. It should also be noted that there appears to be widely held views that service levels have dropped more than the facts would support. Unfortunately, years like FY 89, during which funding could not support maintenance service levels and overhaul problems curtailed certain winter services, have further exacerbated these views.

Management Emphasis

In April 1984, former Governor Sheffield's AMHS Task Force concluded that among other issues the System "is handicapped by the lack of current, specific and accurate information." They called the record keeping systems "archaic" and in need of immediate replacement. They also found a need to redefine the goals of the system, and that there was a definite "lack of continuity of purpose" and a need for a comprehensive plan to provide for future operations.

Interestingly, the Task Force also addressed the basic question of organization and suggested consideration of a public authority or corporation, or continuation of the present arrangement under DOT&PF with a policy-making commission at its head. The main issue they seemed concerned about was ensuring continuity in top department and AMHS management. Without endorsing this concept, I must concur that the entire DOT&PF organization has suffered greatly due to its overall lack of continuity in top management since its inception.

Within three months of assuming responsibility over the AMHS in December 1986, it became quite evident that there existed an absolute void of useable information about almost all aspects of its operations. Further, I found little evidence of any real consideration for accountability or sound management practices guiding day-to-day actions. Nor did I discover any real effort by the past administration to address these matters as identified by their Task Force, with the possible exception of the reservations system.

As a result, we set out on a process to first put in place a streamlined management team of competent professionals in all key posts, followed by the next step of establishing the necessary management practices to generate useable information and control day-to-day actions. The final step in the plan was to generate a comprehensive system plan using the information created through the prior steps. In practice, it has taken longer to implement the first two steps than originally thought, thereby delaying our attention on the comprehensive plan.

On the other hand, real successes have been achieved in the last two and a half years, including the development of a reasonably accurate vessel-by-vessel cost data base for FY 88 and 89. We now possess considerable more ability to predict accurately the relevant fiscal implication of various proposals (e.g., labor provisions) or actions necessary to implement budget reductions.

Authority Impetus/Popular Myths

The combination of our inability to articulate the comprehensive system plan, and the real and perceived impacts resulting from the growing budget dilemma (including the resulting impact on legislative perceptions about the System's efficiency), has served as the primary impetus for many to support the establishment of a public authority as a way to address existing problems.

Whether an authority structure will allow better resolution of these issues is debatable, depending in part on exactly how the authority is structured, and whether the right type of board members and top managers are selected. Anyone who argues that one organization approach is a guarantee for success, while another means certain failure is providing too simplistic an analysis.

Many proponents have argued that an authority will automatically result in certain benefits that will probably not materialize. For example, one argument is that an authority will help remove the AMHS from "politics." Although an authority may change the politics, it will not remove the System from politics when it needs in excess of \$30 million a year in general funds to operate, and the legislature must act annually to appropriate all funds. Even if a constitutional amendment is passed to establish a dedicated fund to keep and manage its revenues, annual appropriations will still be needed. There are also future capital decisions needed eventually regarding vessel age and replacement that will significantly involve the legislature.

Another argument is that an authority will allow the AMHS to keep its own revenues and ultimately become a self-sustaining entity. Putting aside the dedicated fund problem, I disagree that it is possible to make the AMHS a self-sustaining entity unless its mission is significantly changed, and a completely different type of vessel is used allowing for a significant reduction in operating costs. Although I believe it's a worthwhile goal to have the AMHS act in a more businesslike manner and achieve greater self-sufficiency within reason, I don't think it's realistic or appropriate to seek a total self-sufficient operation. The AMHS is fundamentally a basic transportation system similar to our land highway system. Highways do not fully pay for their own existence, nor can or should the AMHS particularly given the high operating costs inherent in its operation.

Real benefits will accrue if the AMHS is allowed to spend the revenue it generates. This would create more of a direct relationship with performance, and work as an incentive. Some consideration could be added through a formula whereby a percentage of new revenues goes to help reduce the general fund contribution. The real question is whether it's necessary to establish an authority to create this relationship. This proposal can be pursued under the current organization, and is a concept that we tried to develop with some success last session. We intend to present for your consideration a proposal for the FY 91 budget that would give the AMHS the benefit of any increase in revenue performance over prior years.

One other argument often mentioned in support of an authority is that as part of DOT&PF, the AMHS doesn't have an advocate working solely on its behalf. While I'd agree that the DOT&PF Commissioner institutionally has other considerations and duties that on occasion may moderate AMHS advocacy, the department does act as a System advocate. In fact, last session we did better on behalf of the AMHS than any other part of the department. On the other hand, there is some validity to the argument that under an authority there would be an advocate in the legislature with more of a single purpose. Whether an administration will want to allow that much freedom in the budget process might work to moderate the "advantages" gained by the organization structure.

Taking the AMHS out of the Department will also have the effect of allowing the DOT&PF Commissioner freedom to argue more strongly for the other modes with less regard for AMHS needs. It's worth observing that we continue to spend almost as much money to run the AMHS as we do to maintain every state highway and airport except for AIAS. There are AMHS non-advocates in the legislature that might desire more independence in order to argue more easily that less funds are needed for the System, but that instead more support should be given to other modes. One outcome from establishing an authority is that the "subsidy" issue may be viewed as more of a regional issue in the legislative budget debate.

A final, related argument that I question is that setting up the AMHS as an authority will better allow increases in funding, particularly to meet growing service demands. To the extent an authority ensures greater accountability and tighter management, there may be some truth to this argument. However, the organizational structure will be much less a determinant on this issue than OPEC and oil industry developments. Whether more money goes to support ferries is fundamentally a direct function of the decision-making process to allocate the scarce and ever dwindling general fund resource.

Railroad Comparison

Many authority proponents argue that what is needed for the AMHS is the same approach as was used in setting up the Alaska Railroad Corporation (ARRC). They argue that it worked for the ARRC, therefore it should work for the AMHS. This argument fails to recognize there are fundamental differences between these two organizations and their respective missions. The ARRC is basically a freight transportation and real estate development company that provides limited essential or basic surface transportation services to rural areas (e.g., Whittier; Hurricane-Talkeetna), while the AMHS is fundamentally a basic transportation system serving as the primary means of surface transportation for most users. The ARRC has a clear capacity to operate in a self-sustaining manner even in spite of its limited passenger service responsibilities; the AMHS has no realistic prospect to operate on a self-sustaining basis, at least under its current mission.

There are also more subtle differences between the two organizations that could greatly affect the chances for successful implementation of an AMHS authority. The ARRC was never part of state government or our political system; the AMHS is firmly ingrained in all aspects, whether its labor relations, risk management, legal services, or annual budget approval. As a practical matter, I question just how autonomous an organization can be created for the AMHS. At some point there is a real risk of effectively establishing just another line agency masquerading as an authority, which should be weighed against the chaos and negative aspects of making the change.

As an aside, I think there are legitimate policy concerns with pursuing too much autonomy for an organization that spends in excess of \$30 million annually in general funds.

Another difference to consider is that the ARRC had to confront restructuring of its basic organization due to the federal government's decision to pursue divestiture; there is no similar impetus to force the change for the AMHS. While it's hard to predict the implication of this point, I believe at a minimum it may force more accommodations during the legislative process to achieve the desired result, once again potentially diluting the end result. This could be particularly the case with many of the employee issues.

The actual experience of considering and then pursuing establishment of the ARRC is useful as a possible model. Four separate legislative sessions were spent crafting the legislation establishing the ARRC. A thorough and thoughtful analysis and debate occurred exploring the issue of the Railroad's basic mission, followed by a full assessment of all organizational options. Attached is one document generated during that effort. While it should be acknowledged that passage of federal legislation was needed in the case of the Railroad, I believe the analogy is relevant and, as a primary player on that issue, must observe that it will be next to impossible to achieve a good piece of authorizing legislation in only one legislative session.

Possible Benefits

Having played devil's advocate, let me turn to an analysis of some possible benefits that could be achieved through establishment of an AMHS authority. The major, potential benefit that I see is an authority could greatly aid in providing continuity in top management at the System. This has clearly been a problem, as identified in the 1984 Task Force Report. While there are other ways to achieve this goal, an authority clearly allows for greater management continuity. In this aspect, it can be argued that it minimizes the potential for playing politics; although that depends on the board and sitting governor too. Additionally, if you have a problem management team, it might prove more difficult to pursue a prompt change.

Another benefit would be more control over the labor relations functions, particularly with the vessel employees. This benefit will only materialize if there's a willingness to give the authority real control over this function. One reason for using the authority structure is to set an organization apart from the rest of state government, thereby reflecting a somewhat unique mission requiring special considerations. If one goal is more accountability and businesslike performance, then I believe it's critical to give the organization the tools necessary to achieve that goal.

Given the large percentage of the System's costs attributable to labor, I would argue it's imperative to give direct responsibility over labor relations to the authority if it's going to have a reasonable chance to succeed.

I think you can also craft an argument that the AMHS may improve its basic management performance quicker because under an authority structure there should be more public and legislative scrutiny and visibility. This is very difficult to predict, and may not materialize if there's a long "honeymoon" period. Frankly, given the current demands for AMHS service increases and general revenue trends, I doubt there will be much patience in waiting to see performance improvement.

A final argument that holds value is that making the AMHS an authority will make the job of running DOT&PF that much easier. As a general matter, this would be true. The AMHS has clearly taken probably 20% of my time, which means I don't spend that time on other parts of the department. On the other hand, removing the AMHS from the department defeats one of the primary purposes for creating an integrated, multi-modal DOT&PF. Having management for all modes under one structure should mean more efficient service delivery, particularly in Southeast where the modes are intricately interlinked. It is debatable whether this has yet happened after twelve years, and certainly coordination of the planning effort can occur regardless.

This latter point is a consideration that deserves careful review and discussion. I think it's premature to declare DOT&PF a failed experiment. Given the role of transportation in a state like Alaska, I firmly believe it's imperative to have a well-structured and managed DOT&PF managing the state's transportation systems. Whether that means direct and full responsibility for all modes and systems is debatable. Clearly part of the department's problem has been the lack of top management continuity. On the other hand, I would submit that great strides have been made in the last four or five years irrespective of the continuity issue.

Key Authority Issues

If a decision is made to pursue establishment of an authority to run the AMHS, there are a number of key policy issues that must be addressed correctly if the new organization is to be successful. The following is a partial listing of the major items:

- (1) Findings and Purpose: There is a need to articulate clearly the basic purpose and mission expectations.

- (2) Employees/Labor Relations: Will the employees be employees of the state or the authority? Will the authority have direct control over the labor relation functions, particularly collective bargaining?
- (3) Board Composition: What criteria should govern board composition? Should an employee sit on the board? Should there be other government officials other than the DOT&PF Commissioner
- (4) Budgeting/Revenues: What mechanism will be used to allow expenditure of generated revenues? Should a dedicated fund be pursued? How should subsidy levels be set? What about authority to incur debt, or to carry forward funds for reserve purposes?
- (5) Land Ownership: How should this be handled insofar as terminal holdings are concerned? What restrictions, if any, should apply to appropriate land uses? Should any powers of eminent domain be granted?
- (6) Legal Services: Should the AG serve as legal counsel, or should that be left up to the authority similar to the ARRC?
- (7) Regulatory Oversight: What regulatory oversight, if any, should govern rate-setting and major service changes? What limitations should govern competition with private sector services?
- (8) Capital Fund Allocation: Most capital needs are provided for through federal-aid highway funds. How should this funding support be ensured? Should it continue to pass through the DOT&PF?
- (9) Transportation Planning/Coordination: What steps should be taken, if any, to ensure adequate transportation planning and coordination occurs with DOT&PF?
- (10) Procurement: What exceptions, if any, will apply to the authority's procurement requirements?
- (11) One-Time Costs: Initial estimates are that establishing an AMHS authority will result in one-time costs of approximately \$450,000, and that added, ongoing costs will run about \$300,000. How should these expenses be funded?

- (12) DOT&PF Services: DOT&PF currently performs a number of support services, many of which are funded as part of overall department operations (e.g., accounting support; computer services; right-of-way support). Who should perform these services? How should they be funded? The AMHS also provides some transportation support for other department functions. How should this be handled?

Findings/Recommendations

As is probably evident by the analysis, I have serious reservations about the advisability of pursuing legislation at this time to establish a public authority to run the AMHS. Nor am I convinced that an authority is necessary to accomplish the goal of efficiently operating the AMHS. Without more work leading to the development of a widely held consensus identifying the basic, long-term mission and explaining clearly what changes are desired and why, I think at a minimum it is premature to conclude that an authority is the way to go.

I also think it's unrealistic to expect passage of such a comprehensive restructuring in a single legislative session, at least if the desire is to obtain good legislation. It should also be understood that putting the AMHS through such a change will mean additional chaos in performance of basic management duties for at least one to two years. Just when we're beginning to demonstrate some headway in this area, I'd hate to lose ground to implement what may be an out-of-focus reaction to problems largely beyond the System's control.

At the same time, I realize there is a need to provide leadership for the legislature and the public to address both the real and perceived shortcomings with the status quo. Accordingly, I recommend adoption of the following course of action as a more realistic, yet responsive approach:

- (1) Announce an awareness by the administration of the problems due to current budgetary pressures, long standing AMHS deficiencies, and lack of a current, publicly-held, focused mission.
- (2) Acknowledge efforts and successes of current management team to tackle basic problems. Concurrently, acknowledge that you believe basic structural changes may be needed, but first more work is needed to address #1 above. Perhaps offer you sense of what that mission should be and how some of the current budget issues should be confronted.

- (3) Announce a special effort to analyze these issues, with particular emphasis on historical trends involving service changes and AMHS efficiency. Some amount of independent scrutiny should be built into this work. This effort should include polling of users (particularly Alaskans) to ascertain concerns, level of satisfaction and views about the long-term mission.
- (4) Depending on whether warranted based on the results under #3 above, commission the AMHS Advisory Board to perform the following tasks: (a) help articulate answers to #1 above; and (b) propose organizational adjustments if warranted, with special attention to the authority and any specific legislation that should be pursued. This results of this work could be given to the new administration for action during 1990.

I realize this won't be well received by some quarters advocating immediate action. Nevertheless, I believe it's the more responsible way to handle a fairly significant issue. One way to accommodate those who want more now would be to pursue revenue-based budgeting for FY 91 and commit to increments to restore the System's purchasing power to ensure a level of service closer to levels prior to FY 89. Both are responsible positions, and I intend to advocate something like this during the upcoming budget process.

If after reviewing this material, you decide we should pursue an authority structure now, then it's imperative we marshal the necessary resources promptly in order to competently and thoroughly address this matter. This includes ensuring drafting and passage of competent legislation, and funding the costs to carry out establishment of the authority.

Attachment

cc. Garrey Peska, Chief of Staff, Office of the Governor
Bob Evans, Legislative Liaison, Office of the Governor
Ron Clarke, Special Staff Assistant, Office of the Governor
W. Keith Gerken, Deputy Commissioner, Operations
George Davidson, System Director, Alaska Marine Highway System

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

November 27, 1989

SUBJECT: Collective bargaining for a Marine Highway Authority (Work Order No. 6-1723 and SB 310)

TO: Senator Lloyd Jones

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have requested an overview of state employee labor relations and, in particular, you have requested an explanation of how existing law would have to be changed to permit a Marine Highway Authority such as the one established in SB 310 to negotiate directly with its employees rather than negotiating through the labor relations division of the Department of Administration.

The Public Employment Relations Act (PERA) (AS 23.40.070 - 23.40.260) governs collective bargaining for most state employees, as well as for municipal employees. The definition of public employee includes employees whether or not they are in the classified service of the employer. (See definitions of "public employee" and of "public employer" in AS 23.40.250(6) and (7).) Under the definition of "public employer," an "authority established by law" is obligated to bargain collectively with its employees in accordance with PERA. Therefore, unless there are contrary provisions elsewhere in the law, a Marine Highway Authority established under a bill such as SB 310 would be obligated to bargain under PERA with those of its employees who had elected to organize into a bargaining unit.

In addition to PERA, there are specific provisions for collective bargaining by employees of the marine highway system. Under AS 23.40.040, the commissioner of transportation and public facilities or an authorized representative of the commissioner may bargain collectively with employees of the state ferry system. To transfer the power to conduct labor negotiations to the Marine Highway Authority, this section should be amended. PERA itself does not address who con-

Senator Lloyd Jones

Page 2

November 27, 1989

ducts negotiations for the governmental employer. Assignment of this responsibility to the division of labor relations in the Department of Administration is an internal decision of the executive branch.

The Alaska Railroad retains its own collective bargaining system for its employees. Under AS 42.40.720, PERA does not apply to the railroad. The employees bargain directly with the railroad corporation. Because the structure for conducting labor relations activities set out in PERA is inapplicable, the railroad statutes contain substitute provisions. If you wish the provisions of PERA concerning such issues as the formation of bargaining units, the conduct of negotiations, and unfair labor practices, to apply to the marine highway system labor relations, then the extensive provisions provided for railroad employment relations are unnecessary. If you wish to vary from the standard structure, then the desired variations should be set out in statute.

If I may be of further assistance, please advise.

TBC:lmb

L8/067

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 5, 1990

SUBJECT: Appointment of Director of Marine Transportation by the Alaska Marine Highway System Commission; CSSB 310 (State Affairs)

TO: Senator Lloyd Jones

FROM: George Utermohle *GU*
Legislative Counsel

You have asked whether a provision of CSSB 310 (State Affairs) which provides that the Alaska Marine Highway System Commission shall appoint the director of the Division of Marine Transportation is permitted under the Alaska Constitution.

The short answer is yes.

Under the constitution the executive power of the state is vested in the governor and each principal department is under the supervision of the governor. (Art. III, secs. 1 and 24) The bill does not infringe on these powers of the governor because the commission is appointed by the governor and serves at the pleasure of the governor. The governor retains sufficient power to ensure the governor's policies are implemented by the commission.

The legislature is empowered to allocate the functions, powers, and duties of state government among executive and administrative offices, departments, and agencies of state government. (Art. III, sec. 22) Under this authority the bill allocates the duty to appoint the director of marine transportation to the commission.

Under the constitution the heads of principal departments shall be a single executive, except as otherwise provided by law, appointed by the governor and confirmed by the legislature. (Art. III, sec. 25) This provision of the constitution is not applicable to the commission because it is not at the head of a principal department. The term

Senator Lloyd Jones
Page 2
May 5, 1990

"principal department" means the Department of Administration or Department of Transportation and Public Facilities but not a subordinate agency within a department. The commission would be a subordinate agency in the Department of Transportation and Public Facilities.

The constitution further provides that if a board or commission is at the head of a principal department or a regulatory or quasi-judicial agency, the members of the board or commission shall be appointed by the governor and confirmed by the legislature. (Art. III, sec. 26) It is unclear whether this requirement is applicable to all boards and commissions that have regulatory or quasi-judicial functions or just those boards and commissions that are at the head of a regulatory or quasi-judicial agency. However, in any case this provision does not apply to the proposed Alaska Marine Highway System Commission because the commission is not a regulatory or quasi-judicial body. The commission is an administrative and advisory body and not subject to this provision of the constitution.

If I may be of further assistance, please advise.

GU:mi
wkmi6/089

ALASKA RAILROAD CORPORATION



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

FACSIMILE COVER SHEET

TO: LARRY J HOULE 586-8315
c/o BARANOF HOTEL

FROM: LARRY D WOOD

General Counsel's Office
Alaska Railroad Corporation

DATE: JANUARY 15, 1990

NUMBER OF PAGES (including cover sheet): 73

If you have any questions/problems with transmittal, please call (907) 265-2461. Our fax number is (907) 265-2443.

4796L

JAN 16 1990

ALASKA RAILROAD CORPORATION



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

VIA FACSIMILE

January 15, 1990

Loren K. Stanton
Legislative Assistant
Office of Senator Lloyd Jones
c/o Larry J. Houle, Manager
ARRC Passenger Services
Baranof Hotel
Juneau, Alaska 99501

RE: Executive Order No. 77

Dear Mr. Stanton:

Thank you again for the opportunity to review Executive Order No. 77 which, as you know, establishes the Alaska Labor Relations Agency. The new agency will be responsible for the labor relations functions of the personnel board and the state and railroad labor relations agencies.

~~We understand that merger of these labor relations functions will ensure state funding for Railroad Labor Relation Agency ("RLRA") operations and, consequently, we support it.~~ With the exception of 1985, the Alaska Railroad Corporation ("ARRC") has been requested to fund RLRA to prevent its financial collapse, even though ARRC appears before that agency as an advocate. This conflict of interest has concerned ARRC and, I believe, RLRA and union representatives since the beginning of this unusual financial relationship. The administration's solution has been to combine state and railroad labor agencies so that, among other things, a clear source of funding can be identified.

Under the new agency organization, several substantive requirements will now apply to railroad labor agency functions: an annual report, a two-member quorum for transacting business and voting, three-year appointments, removal of members only for "cause," and limitations on political party affiliations. From a philosophical point of view, the last two requirements do raise concerns; however, both are part of the personnel board statutes and were undoubtedly included as a matter of necessity. AS 39.25.060. ~~RLRA members currently serve at the pleasure of the governor. While removal only for cause may promote independent thinking, members will be quite difficult to remove between terms. On~~

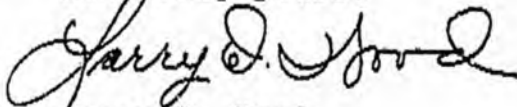
Page Two
Letter to Mr. Stanton

~~the other hand, I am not aware of any efforts to involuntarily remove RLRA members during the last five years.~~

~~In sum, although ARRC would prefer a separately established and funded labor relations agency to overlook labor affairs entirely from a railroad perspective, we understand that current economics requires a more efficient use of state funds. Despite our inability to fine-tune the agency's make-up and organization in light of the constraints of other state laws, we support this effort to create it.~~

Please call me at 265-2461 if I can provide any further information.

Sincerely yours,



Larry D. Wood
General Counsel

cc: F. G. Turpin, President and CEO
L. J. Houle, Manager, Passengers Services

WPLEGAL85