

12074 SENATE TRANSPORTATION

PRESENTATION

3-14-2006

I. INTRODUCTION

- A. NAME / POSITION
- B. THANKS FOR THE OPPORTUNITY TO APPEAR
- C. PACKET PROVIDED:
 - 1. Purpose Of The Bill
 - 2. Sectional Analysis
 - 3. Bill Text - Cs
 - 4. As 19.75 With Bill Inserted
- D. AVAILABLE TO THE COMMITTEE:
 - 1. JIM CANTOR, CHIEF ASSISTANT ATTORNEY GENERAL FOR THE STATEWIDE TRANSPORTATION SECTION.
 - 2. TOM BOUTIN DEPUTY DIRECTOR DEPARTMENT OF REVENUE.
 - 3. JOHN MANLY, DOT

II. PRESENTATION

- A. BILL AS AMENDED BY THE CS = REFLECTS SUGGESTIONS AND COMMENTS FROM STATE BOND COUNSEL AND THE ATTY. GENERAL'S OFFICE.
- B. WHY: PAGE 2.
 - 1. LEGISLATURE CHARGED KNIK ARM BRIDGE AND TOLL AUTHORITY (KABATA) TO
 - a. Enhance the transportation system in Upper Cook Inlet
 - b. Support the economic growth and development of the State.
 - 2. THANKS TO ALASKA'S CONGRESSIONAL DELEGATION, ESPECIALLY REP. DON YOUNG FEDERAL FUNDS HAVE BEEN MADE AVAILABLE FOR DESIGN AND CONSTRUCTION OF THE BRIDGE AND ITS ACCESS APPROACHES.
 - 3. ALL HAVE ALWAYS UNDERSTOOD THAT, REGARDLESS OF THE AMOUNT OF FEDERAL FUNDS AVAILABLE, THEY ARE NOT ENOUGH TO FUND THE PROJECT.
 - 4. AS KABATA HAS INVESTIGATED AND PLANNED THE PROJECT OVER THE LAST TWO YEARS, IT HAS CONSULTED WITH EXPERTS IN BOTH THE PUBLIC AND PRIVATE SECTORS ABOUT FINANCING OPTIONS.
 - a. Toll authorities
 - b. Other State DOTs
 - c. FHWA TIFIA (Transportation Infrastructure Finance and Innovation Act)
 - d. Private sector public-private partnership consultants and experts
 - 5. THE CURRENT STATUTE IS GOOD. THE AMENDMENTS ARE DESIGNED TO DO TWO THINGS:
 - a. ALL THE FINANCING EXPERTS, BOTH PUBLIC AND PRIVATE, ADVISED THAT KABATA'S STATUTORY AUTHORITY BE CLARIFIED AND MADE MORE SPECIFIC TO PROVIDE SUFFICIENT CONFIDENCE BY THE PUBLIC AND PRIVATE SECTORS THAT KABATA'S AUTHORITY WAS CLEAR.
 - b. SECOND, THE CURRENT ACT TELLS KABATA TO COME BACK TO THE LEGISLATURE FOR A DOLLAR AUTHORIZATION FOR ITS REVENUE BONDS.
 - 6. REVIEW PAGE 2.

III. ANSWER QUESTIONS OR REVIEW SPECIFIC CHANGES

Deborah Grundmann

From: william a greene [williamagreene@alaska.net]
Sent: Tuesday, April 04, 2006 9:44 AM
To: Ben Mulligan; Deborah Grundmann
Cc: Springer, Henry; Wuerch, George; Jordan, Darryl; Paulson, Dale; Kevin Hemenway; Fauber, Betty
Subject: RE: hb 471
Attachments: COURT PROCEDURES.doc; AK STATS GRANTING POWER.doc

Ben: Could you please send me the text of Amendment #2. This amendment is quite troubling and KABATA requests it be removed. This Amendment could cause considerable problems if a Commissioner wants to derail the project for whatever reason, including political, particularly if there is a new administration. Below are the reasons why this amendment is not needed.

- (1) The State Constitution [§18, Art. I] and implementing statutes [AS 09.55.270 - .460] extensively regulate when and how eminent domain may be exercised with considerable Court oversight and protection of property owner rights. (See first attachment). A court must determine whether the use is a "public use" and whether there is a "necessity" to take it. The process is highly structured for Court oversight.
- (2) The entities that may utilize eminent domain are:
 1. The State;
 2. A municipality;
 3. Electric or telephone cooperative; (e.g. Chugach Electric)
 4. Alaska Housing Finance Corporation (for many purposes);
 5. A regional electric authority;
 6. Ak DOT&PF (for many purposes);
 7. KABATA;
 8. Port Authorities;
 9. Dept. of Natural Resources for historic property preservation;
 10. Alaska Natural Gas Development Authority;
 11. A public utility; (all utilities regulated by RCA including privately owned utilities);
 12. Alaska Railroad; NOTE: Statute requires authority for eminent domain to be delegated to the ARR CEO, but use of eminent domain is subject to Governor's approval;
 13. Public utility Joint Action Agency under the Alaska Energy Authority Rural and Statewide Energy Program.

None of the entities require prior approval by any executive office of the State except the ARR (requires Governor approval) and that is likely because the exercise of eminent domain is delegated to its CEO.
- (3) Of particular significance is AS 34.60.120 which has an extensive list of preconditions to exercising eminent domain for any project funded by federal monies. (See pages 5-6 of second attachment.)
- (4) KABATA's power of eminent domain is limited to that "necessary for the . . . bridge and appurtenant facilities . . ." [AS 19.75.111(a)(16)]
- (5) The use of the power of eminent domain is strictly circumscribed and limited by the above and Alaska Statutes give the Courts considerable oversight authority and responsibility. Amendment #2 just does not add any real measure of protection while at the same time adds another and unnecessary layer of bureaucratic regulation.

PLEASE PASS ON TO REP. STOLTZE, SEN. HUGGINS AND SEN. GREEN.

Sec. 09.55.270 Prerequisites.

Before property can be taken, it shall appear that

- (1) the use to which it is to be applied is a use authorized by law;
- (2) the taking is necessary to the use;
- (3) if already appropriated to a public use, the public use to which it is to be applied is a more necessary public use.

(§ 13.04 ch 101 SLA 1962)

Sec. 09.55.275 Replat approval.

An agency of the state or municipality acquiring property in fee that results in a boundary change located within a municipality exercising the powers conferred by AS 29.35.180 or 29.35.160(c) shall conform to this section by obtaining preliminary approval of a replat showing clearly the location of the proposed public street or other acquisition of property. The platting authority may establish applicable review procedures and standards for a replat made for the purpose of a right-of-way acquisition or condemnation. Neither the adequacy of the municipal replat process or standards, if any, nor the failure of a municipality to follow its own replat process and standards shall deprive the state of the authority to exercise its power of **eminent domain**. Final approval of replat shall also be obtained. However, if a state agency clearly demonstrates an overriding state interest, a waiver of the municipal approval requirements in this section may be granted by the governor.

Sec. 09.55.280 Entry upon land.

In all cases where land is required for public use, the state, the public entity, or persons having the authority to condemn, or its agents in charge of the use may enter upon the land and make examination, surveys, and maps and locate the boundaries; but it shall be located in the manner that will be most compatible with the greatest public good and the least private injury, and subject to the provisions of AS 09.55.300. The entry shall constitute no cause of action in favor of the owners of the land except for injuries resulting from negligence, wantonness, or malice.

Sec. 09.55.290 Jurisdiction.

Eminent domain proceedings may be commenced in the superior court.

Sec. 09.55.300 Powers of court.

(a) The court has power

(1) to regulate and determine the place and manner of making the connections and crossings or of enjoying the common uses mentioned in AS 09.55.260(5), and of the occupying of canyons, passes, and defiles for railroad purposes, as permitted and regulated by law;

(2) to limit the amount of property sought to be condemned if, in its opinion, the quantity sought to be condemned is not necessary.

(b) If the court determines that the property is to be taken for a public use, and if all parties to the action do not object, the court shall appoint a master to determine the amount to be paid by the plaintiffs to each owner or other person interested in the property as compensation and damages by reason of the appropriation of the property. If all parties to the action object to the appointment of a master the court shall proceed with a jury trial, unless the jury is waived by all parties to the action.

Sec. 09.55.310 Hearing.

(a) The jury or master shall hear the allegations and evidence of persons interested and shall ascertain and assess the following:

(1) the value of the property sought to be condemned, and all improvements on it pertaining to the realty, and of each separate estate or interest in it; if it consists of different parcels, the value of each parcel and each estate or interest in each

parcel shall be separately assessed;

(2) if the property sought to be condemned constitutes only a part of a larger parcel, the damages that will accrue to the portion not sought to be condemned by reason of its severance from the portion sought to be condemned, and the construction of the improvements in the manner proposed by the plaintiff;

(3) separately, how much the portion not sought to be condemned and each estate or interest in it will be benefited, if at all, by the construction of the improvements proposed by the plaintiff; and, if the benefit is equal to the damages assessed under (2) of this section, the owner of the parcel shall be allowed no damages except the value of the portion taken; but if the benefits are less than the damages so assessed, the former shall be deducted from the latter and the remainder shall be the only damages allowed in addition to the value;

(4) if the property sought to be condemned is for a railroad, the cost of good and sufficient fences along the line of the railroad, and the cost of cattle guards where fences may cross the line of the railroad.

(b) As far as practicable, compensation shall be assessed for each source of damages separately.

Sec. 09.55.320 Right to jury trial as to damages and value of property.

An interested party may appeal the master's award of damages and valuation of the property, in which case there shall be a trial by jury on the question of the amount of damages and the value of the property, unless the jury is waived by the consent of all parties to the appeal.

Sec. 09.55.330 Compensation and damages.

For the purpose of assessing compensation and damages, the right to them accrues at the date of issuance of the summons, and its actual value at that date is the measure of compensation of the property to be actually taken, and the basis of damages to property not actually taken but injuriously affected in the cases where the damages are allowed. If an order is made letting the plaintiff into possession, as provided in AS 09.55.380, the compensation and damages awarded shall draw lawful interest from the date of the order. Improvements put upon the property after the date of the service of summons may not be included in the assessment of compensation or damages.

Sec. 09.55.340 Defective title.

If the title attempted to be acquired is found to be defective from any cause, the plaintiff may again institute proceedings to acquire the same as provided in AS 09.55.240 -- 09.55.460.

Sec. 09.55.350 Time for paying compensation or damages and bond to build railroad fences and cattle guards.

The plaintiff shall, within 30 days after final judgment, pay the sum of money assessed. If the use is for railroad purposes, the plaintiff may, at the time of or before the payment, elect to build the fences and cattle guards. If the plaintiff so elects, the plaintiff shall execute to the defendant a bond, with one or more sureties to be approved by the court, in double the assessed cost of the same to build such fences and cattle guards within eight months from the time the railroad is built on the land taken. If the bond is given, the plaintiff need not pay the cost of the fences and cattle guards. In an action on the bond, the plaintiff may recover reasonable attorney fees.

Sec. 09.55.360 Payment or deposit and execution.

Payment may be made to the defendants entitled to payment, or the money may be deposited in court for the defendants and be distributed to those entitled to it. If the money is not so paid or deposited, the defendants may have execution as in civil cases. If the money cannot be obtained on execution, the court, upon a showing to that effect, shall set aside and annul the entire proceedings and restore possession of the property to the defendants if possession has been taken by the plaintiff.

Sec. 09.55.370 Final order of condemnation.

When payments have been made and the bond given, if the plaintiff elects to give one as required by AS 09.55.350, the

court shall make a final order of condemnation, which shall describe the property condemned and the purposes of the condemnation. A copy of the order shall be recorded in the office of the recording district where the land is located, at which time the property described in the order vests in the plaintiff for the purposes specified in the order.

Sec. 09.55.380 Order authorizing plaintiff to continue in or take possession.

Upon application of the plaintiff at any time after the jury's verdict has been returned or the master's report has been filed in the court, the court may make an order that, upon payment into court of the amount of damages assessed in the report or by the jury, the plaintiff, if already in possession of the property sought to be condemned, may continue in possession and, if not in possession, the court may authorize the plaintiff to take possession of the property and use and possess it until the final conclusion of the proceedings, and that all actions and proceedings against the plaintiff on that account be stayed until that time. However, where an appeal is taken by the defendant, the court may also require the plaintiff to give a bond or undertaking with sufficient sureties before continuing or taking possession. The bond or undertaking shall be approved by the court and shall be in the sum the court may direct, and conditioned to pay defendant any additional damages and costs given by the judgment over and above the amount assessed, and the damages which defendant sustains if the property is not taken for public uses. For the purposes of this section the amount assessed as damages in the report or by the jury is considered as just compensation for the property appropriated until reassessed or changed in further proceedings. However, the plaintiff, by payment into court of the amount assessed or by giving security as above provided, is not precluded from an appeal, but may appeal in the manner and with the effect as if no money had been deposited or security given. If the plaintiff deposits the amount of the assessment and continues in possession or takes possession of the property and there is no dispute as to the ownership of the property, the defendant may at any time demand and receive from the court the money deposited, and the demand or receipt does not bar or preclude the defendant from the right of appeal. However, if the amount of the assessment is reduced on appeal by either party, the defendant who has received the amount of the assessment deposited is liable to the plaintiff for the difference between the amount received by the defendant and the amount finally assessed with legal interest from the time the defendant received the money deposited, and it may be recovered by action.

Sec. 09.55.390 Acquisition of easements and additional powers of the court to require surrender of possession to plaintiff.

The right to take possession under this section is in addition to any other right to take possession provided in AS 09.55.240 -- 09.55.460. In proceedings for the acquisition of easements for the transmission and distribution of electric energy, communications, water, steam, and gas, the court may, upon motion and after a hearing, fix the time during which and the terms upon which the parties in possession are required to surrender possession to the plaintiff. If the court finds that urgent public necessity requires, it may grant the plaintiff possession at any time after the action has been commenced. Notice of the hearing shall be as provided in the Alaska Rules of Civil Procedure, except that, where service by publication is required, notice may be given at any time following the date of the last publication by registered mail addressed to the defendant and to parties in possession at their last known addresses as shown on the latest tax roll of the political subdivision in which the premises are located or as indicated by other evidence that shall be satisfactory to the court.

Sec. 09.55.400 Deposit into court of estimated compensation and damages; costs and fees.

The order given under AS 09.55.390 requiring the parties in possession to surrender possession to the plaintiff shall require that the plaintiff deposit with the clerk of the court an amount of money determined by the court fairly to represent the estimated compensation and the estimated damages to the defendant and for the speedy occupation, including reasonable relocation costs if required. In addition the court shall include in its order a further requirement that the plaintiff execute and file with the clerk of the court a bond, approved as to form and as to sufficiency of the sureties by the court, in an amount equal to the amount of money required to be deposited, conditioned upon payment to the defendant of additional damages and costs found to be due to the defendant in the action. Costs or attorney fees may not be assessed against the defendant in an action brought under AS 09.55.390.

Sec. 09.55.410 Withdrawal of funds by party in interest.

The money deposited in the court or a part of it may be withdrawn by a party in interest in the manner provided in AS 09.55.440, and the court shall have the power to direct the payment of delinquent taxes and special assessments out of the amount determined to be just compensation and to make orders with respect to encumbrances, liens, rents, insurance, and other charges as are just and equitable.

Sec. 09.55.420 Declaration of taking by state or municipality.

(a) Where a proceeding is instituted under AS 09.55.240 -- 09.55.460 by the state, it may file a declaration of taking with the complaint or at any time after the filing of the complaint, but before judgment. Where a proceeding is instituted under AS 09.55.240 -- 09.55.460 by a municipality in the exercise of **eminent domain** for street or highway, off-street automobile parking facilities, school, sewer, water, telephone, electric, other utility, and slum clearance purposes or use granted to cities of the first class, the governing body of the municipality may exercise the power through the filing of a declaration of taking with the complaint or at any time after the filing of the complaint, but before judgment. The declaration of taking procedure may not be used with relation to the property of rural electrification or telephone cooperatives or nonprofit associations receiving financial assistance from the federal government under the Rural Electrification Act; provided that no declaration of taking for off-street parking purposes may be used unless there has been public notice by publication in a newspaper of general circulation in the area for not less than once a week for four consecutive weeks followed by a full and complete public hearing held before the governing body of the first class city or municipality.

(b) *[Repealed, § 15 ch 59 SLA 1982.]*

Sec. 09.55.430 Contents of declaration of taking.

The declaration of taking must contain

- (1) a statement of the authority under which the property or an interest in it is taken;
- (2) a statement of the public use for which the property or an interest in it is taken;
- (3) a description of the property sufficient for the identification of it;
- (4) a statement of the estate or interest in the property;
- (5) a map or plat showing the location of the property;
- (6) a statement of the amount of money estimated by the plaintiff to be just compensation for the property or the interest in it;
- (7) a statement that the property is taken by necessity for a project located in a manner that is most compatible with the greatest public good and the least private injury.

Sec. 09.55.440 Vesting of title and compensation.

(a) Upon the filing of the declaration of taking and the deposit with the court of the amount of the estimated compensation stated in the declaration, title to the estate as specified in the declaration vests in the plaintiff, and that property is condemned and taken for the use of the plaintiff, and the right to just compensation for it vests in the persons entitled to it. The compensation shall be ascertained and awarded in the proceeding and established by judgment. The judgment must include interest at the rate of 10.5 percent a year on the amount finally awarded that exceeds the amount paid into court under the declaration of taking. The interest runs from the date title vests to the date of payment of the judgment.

(b) Upon motion of a party in interest and notice to all parties, the court may order that the money deposited or a part of it be paid immediately to the person or persons entitled to it for or on account of the just compensation to be awarded in the proceedings. If the compensation finally awarded exceeds the amount of money deposited, the deposit shall be offset against the award. If the compensation finally awarded is less than the amount of money deposited, the court shall enter judgment in favor of the plaintiff and against the proper parties for the amount of the excess.

Sec. 09.55.450 Right of entry and possession.

(a) Upon the filing of the declaration of taking and the deposit of the estimated compensation, the court may, upon motion, fix the time during which and the terms upon which the parties in possession are required to surrender possession to the petitioner. However, the right of entry shall not be granted the plaintiff until after the running of the time for the defendant to file an objection to the declaration of taking or until after the hearing on any objection to the declaration of taking if the objection is made in the time allowed by law. Where the party in possession withdraws any part of the award and remains in possession, the court may fix a reasonable rental for the premises to be paid by that party to the plaintiff during such possession.

(b) The court may direct the payment of delinquent taxes and special assessments out of the amount determined to be just compensation, and make orders with respect to encumbrances, liens, rents, insurance, and other charges as are just and equitable.

(c) The right to take possession and title in advance of final judgment where a declaration of taking is filed is in addition to any other rights to take possession provided in AS 09.55.240 -- 09.55.460.

Sec. 09.55.460 Effect of appeal.

(a) An appeal or a bond or undertaking given does not operate to prevent or delay the vesting of title to real property or the right to possession of it.

(b) The plaintiff may not be divested of a title or possession acquired except where the court finds that the property was not taken by necessity for a public use or purpose in a manner compatible with the greatest public good and the least private injury. In the event of that finding, the court shall enter the judgment necessary to (1) compensate the persons entitled to it for the period during which the property was in the possession of the plaintiff, (2) recover for the plaintiff any award paid to any person, and (3) order the plaintiff to restore the property to the condition in which it existed at the time of the filing of the declaration of taking unless such restoration is impossible, in which case the court shall award damages to the proper persons as compensation for any diminution in the value of the property caused by the plaintiff's wrongful possession.

CONSTITUTION

Article I. Declaration of Rights

Section 18 Eminent Domain.

Private property shall not be taken or damaged for public use without just compensation.

Article VIII. Natural Resources

Section 18 Private Ways of Necessity.

Proceedings in **eminent domain** may be undertaken for private ways of necessity to permit essential access for extraction or utilization of resources. Just compensation shall be made for property taken or for resultant damages to other property rights.

ALASKA STATUTES

Title 9. Code of Civil Procedure.

Chapter 55. Special Actions and Proceedings.

Article 4. Eminent Domain.

Sec. 09.55.240 Uses for which authorized; rights-of-way.

(a) The right of **eminent domain** may be exercised for the following public uses:

- (1) all public uses authorized by the government of the United States;
- (2) public buildings and grounds for the use of the state and all other public uses authorized by the legislature of the state;
- (3) public buildings and grounds for the use of an organized or unorganized borough, city, town, village, school district, or other municipal division, whether incorporated or unincorporated; canals, aqueducts, flumes, ditches, or pipes conducting water, heat, or gas for the use of the inhabitants of an organized or unorganized borough, city, town, or other municipal division, whether incorporated or unincorporated; raising the banks of streams, removing obstructions from them and widening, deepening, or straightening their channels; roads, streets, and alleys, and all other public uses for the benefit of an organized or unorganized borough, city, town, or other municipal division whether incorporated or unincorporated, or its inhabitants, which may be authorized by the legislature;
- (4) wharves, docks, piers, chutes, booms, ferries, bridges of all kinds, private roads, plant and turnpike roads, railroads, canals, ditches, flumes, aqueducts, and pipes for public transportation, supplying mines and farming neighborhoods with water, and draining and reclaiming land, and for floating logs and lumber on streams not navigable, and sites for reservoirs necessary for collecting and storing water;
- (5) roads, tunnels, ditches, flumes, pipes, and dumping places for working mines; also outlets, natural or otherwise, for the flow, deposit, or conduct of tailings or refuse matter from mines; also an occupancy in common by the owners or possessors of different mines of any place for the flow, deposit, or conduct of tailings or refuse matter from their several mines, and sites for reservoirs necessary for collecting and storing water;
- (6) private roads leading from highways to residences, mines, or farms;
- (7) telephone lines;
- (8) telegraph lines;
- (9) sewerage of an organized or unorganized borough, city, town, village, or other municipal division, whether incorporated or unincorporated, or a subdivision of it, or of a settlement consisting of not less than 10 families, or of public buildings belonging to the state or to a college or university;
- (10) tramway lines;
- (11) electric power lines;

(12) for the location of pipelines for gathering, transmitting, transporting, storing, or delivering natural or artificial gas or oil or any liquid or gaseous hydrocarbons, including, but not limited to, pumping stations, terminals, storage tanks, or reservoirs, and related installations.

(b) The use of water for mining, power, and municipal purposes and the use of pole and power lines for telephone and telegraph wires, for aerial trams, and for the transmission of electric light and electric power, by whomever utilized, are each declared to be beneficial to the public and to be a public use within the provisions of AS 09.55.240 -- 09.55.460. Rights-of-way across private property when they are necessary for the operation of the mine or other project in connection with which it is intended to be used may be condemned in the manner as for any other condemnation. The right-of-way may extend only to a right-of-way along, upon, and across the surface of the land to be condemned and to a strip of the land of sufficient width to permit the construction on the land of a ditch, flume, pipeline, canal, or other means of conveying water as is adequate for the purposes intended, for the setting of poles or the construction of towers upon which to string wires for telephone and telegraph lines and lines for the transmission of electric light or power for the operation of aerial trams, and to permit maintaining the lines and keeping them in repair.

Sec. 09.55.260 Private property subject to be taken.

The private property which may be taken under AS 09.55.240 -- 09.55.460 includes

- (1) all real property belonging to any person;
- (2) land belonging to the state or to an organized or unorganized borough, city, town, village, or other municipal division, whether incorporated or unincorporated, not appropriated to a public use;
- (3) property appropriated to public use, but the property shall not be taken unless for a more necessary purpose than that to which it has already been appropriated;
- (4) franchises for a public utility, but those franchises shall not be taken unless for a more necessary public use;
- (5) all rights-of-way for any of the purposes mentioned in AS 09.55.240, and the structures and improvements on the rights-of-way, and the land held and used in connection with them shall be subject to be connected with, crossed, or intersected by another right-of-way or improvements or structures on them; they shall also be subject to a limited use, in common with the owner, when necessary; but the uses, crossings, intersections, and connections shall be made in the manner most compatible with the greatest public benefit and least private injury;
- (6) all classes of private property not enumerated may be taken for public use when the taking is authorized by law.

Sec. 09.55.420 Declaration of taking by state or municipality.

- (a) Where a proceeding is instituted under AS 09.55.240 -- 09.55.460 by the state, it may file a declaration of taking with the complaint or at any time after the filing of the complaint, but before judgment. * * *

Sec. 10.25.010 Powers of electric or telephone cooperative; prohibited action.

- (a) Except as provided in (b) of this section, an electric or telephone cooperative may

* * *

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* * *

- (8) exercise the power of eminent domain;

Article 7. Alaska Aerospace Development Corporation.

Sec. 14.40.866 Powers and duties of the corporation.

- (a) In furtherance of its corporate purposes, in addition to its other powers the corporation may

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* * *

- (6) in its own name acquire property, lease, rent, convey, or acquire real and personal property, except that a project site or part of a project site may not be acquired by eminent domain;

Sec. 18.55.100 Powers of corporation. [Alaska Housing Finance Corporation]

(a) To the extent not already provided by AS 18.56, the corporation has all powers necessary to carry out the purposes of AS 18.55.010 -- 18.55.290, including the power to

(6) in its own name, own, exchange, transfer, lease, rent, convey, or acquire by eminent domain under AS 09.55.240 - 09.55.460, or otherwise, real and personal property; provided that no project site or part of a project site may be acquired by eminent domain until the corporation has secured, through negotiation, options for the purchase of at least 50 percent of the properties included in the site, except in disaster areas;

Sec. 18.55.380 Corporation may use powers under other laws. [Alaska Housing Finance Corporation]

The corporation may invoke a power given to it under any statute, including the powers of eminent domain and those relating to the issuance of bonds and obligations with respect to a project undertaken or loan made or to be made under the authorization provided in AS 18.55.300 -- 18.55.470.

(§ 8 ch 13 SLA 1949; am § 3 ch 127 SLA 1949; am § 36 ch 4 FSSLA 1992)

A. S. 18.55.380, AK ST § 18.55.380

Current through all 2005 Legislation, Annotations current through Opinions

Decided as of June 24, 2005.

Sec. 18.55.520 Powers of the corporation. [Alaska Housing Finance Corporation]

In addition to all powers previously vested in or granted to the corporation by any other law, the corporation has all the powers necessary or convenient to carry out and effectuate the purposes and provisions of AS 18.55.480 -- 18.55.960, including the following powers:

(3) within its area of operation,

(A) to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, eminent domain, or otherwise,

Sec. 18.55.550 Eminent domain. [Alaska Housing Finance Corporation]

(a) The corporation may

(1) acquire by eminent domain real property that it considers necessary within the boundaries of the redevelopment project or for its purposes under AS 18.55.480 -- 18.55.960 after the adoption by it of a resolution declaring that the acquisition of the real property described in the resolution is necessary for those purposes; and

(2) exercise the power of eminent domain in the manner provided in AS 09.55.240 -- 09.55.460 or in the manner provided by other statutory provisions for the exercise of the power of eminent domain.

(b) Property already devoted to a public use may be acquired in the same manner, provided that real property belonging to the municipality or the state may not be acquired without its consent.

Sec. 18.57.040 Powers of the authority.

A regional electrical authority has the general power to

(15) exercise the powers of eminent domain in accordance with AS 09.55.250 -- 09.55.460;

Article 1. Department of Transportation and Public Facilities.Sec. 19.05.040 Powers of department.

The department may

- (1) acquire property;
- (2) exercise the power of eminent domain;
- (3) take immediate possession of real property, or any interest in real property under a declaration of taking or by other lawful means;
- (4) acquire rights-of-way for present or future use;

Title 19. Highways and Ferries.Chapter 05. Administration.Article 2. Acquisition of Property.Sec. 19.05.080 Acquisition of land, easements, and materials by purchase or eminent domain.

The department on behalf of the state and as part of the cost of constructing or maintaining a highway may purchase in the open market, acquire, take over, or condemn under the right and power of eminent domain land in fee simple or easements that it considers necessary for present public use, either temporary or permanent, or that it considers necessary and reasonable for the public use.

Sec. 19.05.090 Declaration of taking.

A declaration of taking in the form of an order signed by the commissioner, or by a designee of the commissioner within the department, declaring that the real property, or interest in it, or an easement, is necessary for the public use of the state vests title in the state. However, a declaration of taking is not effective until eminent domain proceedings have been instituted in the proper court. * * *

Sec. 19.05.110 Authority to condemn property for purpose of exchange for public land.

When property that is devoted to or held for another public use for which the power of eminent domain may be exercised is taken for highway purposes, the department may, with the consent of the person or agency in charge of the other public use, condemn real property to be exchanged with such person or agency for the real property so taken. * * *

Sec. 19.20.040 Acquisition of property and property rights.

For the purposes of AS 19.05 -- AS 19.25 the department and a municipality may acquire private or public property and property rights including rights of access, air, view, and light, for controlled-access facilities and service roads by gift, devise, purchase, or condemnation in the same manner as they may now or hereafter be authorized by law to acquire property or property rights in connection with highways in their respective jurisdictions. * * *

CHAPTER 75. KNIK ARM BRIDGE AND TOLL AUTHORITY.Article 2. Powers and Duties.Sec. 19.75.111 Powers and duties of the authority.

(a) In furtherance of its purposes, the authority may

* * *

* * *

* * *

(16) exercise powers of eminent domain or file a declaration of taking as necessary for the Knik Arm bridge and appurtenant facilities under AS 09.55.240 -- 09.55.460 to acquire land or an interest in land;

Title 29. Municipal Government.
Chapter 35. Municipal Powers and Duties.
Article 1. General Powers.

Sec. 29.35.030 Eminent domain.

- (a) A municipality may, only within its boundaries, exercise the powers of eminent domain and declaration of taking in the performance of a power or function of the municipality under the procedures set out in AS 09.55.250 -- 09.55.460.

Sec. 29.35.050 Garbage and solid waste services.

- (a) Notwithstanding AS 29.35.200 -- 29.35.220, a municipality may by ordinance

*** A Municipality may exercise the right of eminent domain to acquire the certificate, equipment, and facilities of the carrier, or that portion of the certificate that would be affected.

Title 29. Municipal Government.
Chapter 35. Municipal Powers and Duties.
Article 9. Port Authorities.

Sec. 29.35.620 Powers.

If provided in the enabling ordinance, an authority may

- (14) exercise the powers of eminent domain and declaration of taking within its physical boundaries under AS 29.35.030 to acquire land or materials for authority purposes; ***

Title 34. Property.
Chapter 60. Relocation Assistance and Real Property Acquisition Practices.

Sec. 34.60.120 Uniform real property acquisition policy.

A state agency or other entity acquiring real property for any project or program in which federal or federal-aid funds are used shall to the greatest extent practicable comply with the following policies:

- (1) Every reasonable effort shall be made to expeditiously acquire real property by negotiation.
- (2) Real property shall be appraised before the initiation of negotiations, and the owner or a designated representative shall be given an opportunity to accompany the appraiser during the inspection of the property.
- (3) Before the initiation of negotiations for real property, an amount shall be established that is reasonably believed to be just compensation for the real property and that amount shall be offered for the property. In no event may the amount be less than the approved appraisal of the fair market value of the property. A decrease or increase in the fair market value of real property before the date of valuation caused by the public improvement for which the property is acquired or by the likelihood that the property would be acquired for the improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property. The owner of the real property to be acquired shall be provided with a written statement of, and a summary of the basis for, the amount established as just compensation.
- (4) An owner may not be required to surrender possession of real property before the state agency concerned pays the agreed purchase price or deposits with the court in accordance with applicable law, for the benefit of the owner, an amount not less than the approved appraisal of the fair market value of the property, or the amount of the award of compensation in the condemnation proceeding for the property.
- (5) The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, a person lawfully occupying real property is not required to move from a dwelling, assuming a replacement dwelling will be available, or to move the person's business or farm operation, without at least 90 days' written notice of the date by which the move is required.

(6) If an owner or tenant is permitted to occupy the real property acquired on a rental basis for a short term or for a period subject to termination by the state agency on short notice, the amount of rent required may not exceed the fair rental value of the property to a short-term occupier.

(7) In no event may the time of condemnation be advanced or negotiations of condemnation and the deposit of funds in court for the use of the owner be deferred, nor any other coercive action be taken in order to compel an agreement on the price to be paid for the property.

(8) If an interest in real property is to be acquired by exercise of the power of eminent domain, formal condemnation proceedings shall be instituted. The acquiring state agency may not intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of the real property.

(9) If the acquisition of only part of the property would leave its owner with an uneconomic remnant, an offer to acquire the entire property shall be made.

Sec. 35.05.040 Powers of department. [AkDOT&PF]

The department may

- (1) acquire property;
- (2) exercise the power of eminent domain;
- (3) take immediate possession of real property, or any interest in it under a declaration of taking or by other lawful means;

Sec. 35.20.010 Acquisition of land, rights-of-way, and materials by purchase or eminent domain.

The department, [AkDOT&PF] on behalf of the state and as part of the cost of constructing or maintaining a public work, may purchase in the open market, acquire, take over, or condemn under the right and power of eminent domain land in fee simple or easements that it considers necessary for present public use, either temporary or permanent, or that it considers necessary and reasonable for the public use. By the same means, the department may obtain material including clay, gravel, sand, or rock, or the land necessary to obtain the material, and the necessary land or easements to provide access to it. The department may acquire the land or material notwithstanding the fact that the title to it is in the state or a department, agency, commission, or institution of the state. Acquisition of material in the open market under this section is governed by AS 36.30 (State Procurement Code).

Sec. 35.20.020 Declaration of taking. [AkDOT&PF]

A declaration of taking, in the form of an order signed by the commissioner of the department, declaring that the real property, or an interest in it, or any easement is necessary for the public use of the state is sufficient to vest title in the state. However, a declaration of taking is not effective until eminent domain proceedings have been instituted in the proper court, and a copy of the declaration of taking is recorded in the office of the recorder located in the recording district where the land is located. The department may pay or have paid, from the appropriate fund, into court the amount it considers represents a reasonable valuation for the land, easement, or materials taken.

Sec. 35.20.040 Authority to condemn or acquire publicly owned property for the purpose of exchange. [AkDOT&PF]

When property that is devoted to or held for another public use for which the power of eminent domain may be exercised is taken for purposes set out in this title, the department may, with the consent of the person or agency in charge of the other public use, condemn the real property to be exchanged for the real property so taken. This section does not limit the authorization of the department to acquire, other than by condemnation, property for those purposes in any other manner.

Sec. 38.35.130 Right-of-way easements or leases acquired from others. [AkDOT&PF]

- (a) The lessee may, if the commissioner delegates the function to it, condemn, by declaration of taking, under AS

09.55.420 -- 09.55.450, real property and acquire leases of or easements or rights-of-way on land in the state required for right-of-way purposes for a pipeline subject to the lease on behalf of and as agent for the state in which title to or interest in the land shall vest.

Title 41. Public Resources.
Chapter 35. Historic Preservation.
Article 1. Alaska Historic Preservation Act.

Sec. 41.35.060 Power to acquire historic, prehistoric, or archeological properties.

(a) The department, with the recommendation of the commission, may acquire real and personal properties that have statewide historic, prehistoric, or archeological significance by gift, purchase, devise, or bequest. The department shall preserve and administer property so acquired. The department may acquire property adjacent to the property having historic, prehistoric, or archeological significance when it is determined to be necessary for the proper use and administration of the significant property.

(b) If an historic, prehistoric, or archeological property which has been found by the department, upon the recommendation of the commission, to be important for state ownership is in danger of being sold or used so that its historic, prehistoric, or archeological value will be destroyed or seriously impaired, or is otherwise in danger of destruction or serious impairment, the department may establish the use of the property in a manner necessary to preserve its historic, prehistoric, or archeological character or value. If the owner of the property does not wish to follow the restrictions of the department, the department may acquire the property by eminent domain under AS 09.55.240 -- 09.55.460.

Title 41. Public Resources.
Chapter 41. Alaska Natural Gas Development Authority.
Article 2. Powers of the Authority.

Sec. 41.41.200 Powers of the authority.

In furtherance of its corporate purposes, in addition to its other powers, the authority may
* * * * *

(5) in its own name acquire property, lease, rent, convey, or acquire real and personal property; a project site or part of a project site may be acquired by eminent domain;

Title 42. Public Utilities and Carriers.
Chapter 05. Alaska Public Utilities Regulatory Act.
Article 8. Miscellaneous Provisions.

Sec. 42.05.631 Eminent domain.

A public utility may exercise the power of eminent domain for public utility uses. This section does not authorize the use of a declaration of taking.

Title 42. Public Utilities and Carriers.
Chapter 40. Alaska Railroad Corporation.
Article 2. Management.

Sec. 42.40.120 Delegation.

(a) The board shall by rule delegate to the chief executive officer powers and duties necessary or appropriate for the management of the daily affairs and operations of the corporation. The board may by rule require the exercise of a delegated power or duty to be subject to board approval.

(b) Within 60 days after its first meeting, the board shall delegate the following activities of the corporation to the chief executive officer or other executive officers designated by the board:

* * * * *

(15) exercising the power of eminent domain.

Title 42. Public Utilities and Carriers.
Chapter 40. Alaska Railroad Corporation.
Article 5. Corporation Property.

Sec. 42.40.385 Eminent domain.

(a) The corporation may exercise the power of eminent domain under AS 09.55.240 -- 09.55.460 to acquire land for railroad transportation purposes consistent with this chapter. Notwithstanding AS 09.55.250, the corporation may acquire a fee simple title whenever, in the judgment of the board, ownership of a fee simple title is necessary to carry out the purposes of this chapter.

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

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

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

Title 42. Public Utilities and Carriers.
Chapter 45. Rural and Statewide Energy Programs.
Article 6. Joint Action Agencies.

Sec. 42.45.310 Acquisition of power project.

(a) Two or more public utilities that purchase power from a power project acquired or constructed as part of the former energy program for Alaska and owned by the Alaska Energy Authority under AS 44.83.396 may form a joint action agency under AS 42.45.300 and under this section to purchase the power project from the Alaska Energy Authority if the purchase and sale of the project has first been authorized by law.

(b) The agency may

(5) in addition to the powers of eminent domain in AS 42.05.631, to exercise the powers of eminent domain and a declaration of taking to acquire land or materials within the boundaries of the power project purchased by the agency from the Alaska Energy Authority under the procedures set out in AS 09.55.240 -- 09.55.460 to carry out the authorized purposes of a joint action agency; and

Deborah Grundmann

From: William A. Greene [williamagreene@alaska.net]
Sent: Sunday, February 12, 2006 1:48 PM
To: Ben Mulligan; Deborah Grundmann
Cc: Springer, Henry; Wuerch, George; Sen. Charlie Huggins; Rep. Bill Stoltze
Subject: KNIK ARM BRIDGE AND TOLL AUTHORITY LEGISLATION

Attached is a marked up copy of the draft legislation Deborah forwarded to me late yesterday afternoon. Please pass this on to Brian Kane in Legislative Affairs.

First, this version is excellent, excellent work.

Second, we request the following change to the Bill's title:

"An Act amending the Knik Arm Bridge and Toll Authority Act and the powers of the authority to finance construction and maintenance of the Knik Arm bridge, to set and collect tolls and to carry out its duties, and making conforming changes...."

The reason for this change is to clearly identify the primary purpose of the legislation is as stated and not the conforming changes noted.

Third, the following are very necessary changes we request be made in the attached version:

Section 1.:

on line 10, page 1.:

Add after the words "exclusively by this chapter" the following: ", provided nothing in this chapter shall limit the implied powers and authority of the authority."

The purpose of this addition (also in the original draft) is to dispel any argument that "shall be governed exclusively by this chapter" on line 10 cannot be interpreted to mean that the authority has no implied powers and authority not explicitly stated in the chapter.

On line 8, page 2.:

Add after the words "functions under this chapter" the word "and" .

On line 24, page 2:

Add after the words "incur other indebtedness, including" the words "lines of credit and"

The purpose of this addition was strongly suggested by the officers of TIFIA and is critical their financing.

On line 25, page 4:

Add after the words "appurtenant facilities and" the word "for"

Section 2.:

On line 29, page 4:

Strike delete the words "hold and"

The purpose of this change is to accurately reflect that the Authority will hold its assets, funds and revenue, but that the Department of Revenue will account for them separately.

Section 3 and Section 4.:

On page 5., add a new subsection to AS 19.75.211 to read:

"The authority's bonds may be sold in the amounts or series and at the time determined by its board of directors. Bonds, or a series of bonds, may not be sold if the effective interest rate over the life of the bonds exceeds 11 percent per annum or a rate of interest that is 125 percent of the rate of the Bond Buyer Index of 20 Municipal Average Yields for the week prior to the date of the sale of the authority's bonds, whichever is higher."

This provision is extracted from AS 37.15.650(a), was intended to be included in AS 19.75.211, and is shown the proposed language changes inserted into a copy of AS 19.75 provided with our proposed bill, but it apparently was left out of our proposed draft bill.

Section 8.:

On line 18, page 6:
Insert "(a)"

The purpose of this is to accommodate additional sections from AS 37.15. noted below for line 11, page 7.

On line 11, page 7:
Insert the following additional subsections to the new AS 19.75.330 to fully reflect that the provisions of AS 37.15.650(c) through (f) incorporated into chapter 19.75

"(b) The board may select a trustee or trustees for the holders of the bonds or any series of the bonds, for the safeguarding and disbursement of any of the money in any of the funds created pursuant to this chapter or for the duties of authentication, delivery, and registration of the bonds as the board may determine. The board shall also fix the rights, duties, powers, and obligations of the trustee or trustees.

"(c) In the determination of all of the matters and questions relating to the issuance and sale of the bonds and the fixing of the maturities, terms, conditions, covenants and other subjects of the bonds as provided in (a) and

(b) of this section, the decisions of the board shall be those found to be reasonably necessary for the best interests of the authority and the construction, operation and maintenance of its facilities, and those that will accomplish the most advantageous sale of the bonds, with due regard, however, (1) to necessary or normal costs of maintenance and operation; (2) to renewals and replacements of and repairs to the toll facilities; (3) to all improvements to toll facilities and property of toll facilities owned, used, operated, or leased in connection with toll facilities; and (4) to the future growth and expansion of all of the facilities and the possibility of additional revenue bond financing for toll facilities purposes. A decision of the board as expressed in any bond resolution, is final when any bonds have been issued under the bond resolution.

"(d) A bond resolution may provide that the bonds issued contain a recital that they are issued under AS 19.75 and any bonds containing this recital are conclusively considered to be valid and to have been issued in conformity with AS 19.75.

"(f) The validity of the authorization and issuance of bonds is not affected by any proceeding for the acquisition or construction of the additions, improvements, or facilities for which the bonds have been issued or by any contract in connection with the acquisition or construction."

On lines 18 and 19 page 7:

Delete the word "whether" at the beginning of line 18 and insert "where" in its place.

After the word "sale" on line 18, insert the words ", if any,".

Delete all words after "is to be published" through the end of this sentence on line 19.

The notice is referred to in AS 37.15.660 which is incorporated as 19.75.332, but the notice referred to is a notice in AS 37.15.650(a) which is not incorporated into these bond provisions. This change will reflect that difference.

On line 3, page 8:

After the words "All provisions of", the statute sections reference should include AS 19.75.211(a), the additional subsection to be inserted in either Section 3. or Section 4. on page five noted above, and 19.75.221 through 19.75.271, as well as 19.75.330 through 19.75.340 presently listed.

SECTIONAL ANALYSIS
Of
BILL AMENDING AS CHAPTER 19.75 PERTAINING TO THE POWERS
AND AUTHORITY OF THE KNIK ARM BRIDGE AND TOLL AUTHORITY

Bill
Section

ANALYSIS

- Sec. 1.** Clarifies that chapter AS 19.75 is the exclusive source of the powers and authority of the Knik Arm Bridge and Toll Authority. This amendment eliminates potential confusion regarding the applicability of the general tolling statutes in AS 37.15 and other similar statutes. It also makes explicit the authority to refund bonds, enter into public-private partnerships and other financing arrangements with both public and private entities for the construction, maintenance and operation of the toll bridge, to exclusively fix tolls for use of the bridge, to acquire real estate and to collect its tolls.
- Sec. 2.** Specifies that assets, funds and revenue of the Knik Arm Bridge and Toll Authority shall be held and accounted for separate from other assets, funds and revenue of the State.
- Sec. 3.** Clarifies that the Knik Arm Bridge and Toll authority may refund as well as issue non-recourse revenue bonds, may secure the repayment of the bonds with any revenue it receives, and establishes the maximum amount of revenue bonds it may issue.
- Sec. 4.** Adopts relevant sections of the existing, general statute in AS 37.15 governing toll facilities and toll revenue bonds to precisely define the authorities and mechanisms that apply to revenue bonds issued by the Knik Arm Bridge and Toll Authority distinct from other toll facilities.
- Sec. 5.** Provides the Knik Arm Bridge and Toll Authority with the general power to establish funds and reserves for the issuance of its revenue bonds and the conduct of its authorized business and specifies that interest revenue from such funds and reserves shall belong to the Knik Arm Bridge and Toll Authority.
- Sec. 6.** Adds the requirement of certain notations on Knik Arm Bridge and Toll Authority bond documents to underscore that their bonds are non-recourse bonds and that the State is not otherwise liable for their repayment.
- Sec. 7.** Establishes methods means by which the Knik Arm Bridge and Toll Authority may collect its tolls, that the owner of a vehicle using the facility is liable for payment of the tolls, that tolls may become a lien on Permanent Fund dividends, and that unpaid tolls may, subject to agreement of the Commissioner of the Department of Administration, be cause for the denial of driver and vehicle registration and licenses.
- Sec. 8.** Establishes that liberal interpretation shall be given AS chapter 19.75 to carry out the purposes of the chapter.
- Sec. 9.** Amends and makes applicable relevant statutory definitions.
- Sec. 10.** Provides for an immediate effective date to allow the Knik Arm Bridge and Toll Authority to finalize as soon as possible financial arrangements to complete the financing of the construction, operation and maintenance of the bridge.

SECTIONAL ANALYSIS OF
of
BILL AMENDING THE FINANCING & OTHER POWERS OF
THE KNIK ARM BRIDGE AND TOLL AUTHORITY

Bill
Section

ANALYSIS
February 15, 2006

- Sec. 1.** Clarifies that chapter AS 19.75 is the exclusive source of the powers and authority of the Knik Arm Bridge and Toll Authority. This amendment eliminates potential confusion regarding the applicability of the general tolling statutes in AS 37.15. It also clarifies the authority to refund bonds, incur other debt, obtain TIFIA loans, and enter into public-private partnerships and other financing arrangements with both public and private entities for the construction, maintenance and operation of the toll bridge, and to exclusively fix tolls for use of the bridge, acquire real estate and collect its tolls.
- Sec. 2.** Specifies that assets, funds and revenue of the Knik Arm Bridge and Toll Authority shall be held and accounted for separate from other assets, funds and revenue of the State.
- Sec. 3.** Clarifies that the Knik Arm Bridge and Toll authority may refund as well as issue non-recourse revenue bonds and may secure the repayment of the bonds with any revenue it receives.
- Sec. 4.** Establishes the maximum interest rate that may be paid on the Authority's bonds, the maximum amount of revenue bonds the Authority may issue and specifies that the amount of refunding bonds that may be issued are not included in calculating the maximum amount of bonds the Authority may issue.
- Sec. 5.** Provides the Knik Arm Bridge and Toll Authority with the general power to establish funds and reserves for the issuance of its revenue bonds and the conduct of its business and specifies that interest from such funds and reserves belong to the Knik Arm Bridge and Toll Authority.
- Sec. 6.** Adds the requirement of certain notations on Knik Arm Bridge and Toll Authority bond documents to underscore that its bonds are non-recourse bonds and that the State is not otherwise liable for their repayment.
- Sec. 7.** Adds the requirement of certain notations on Knik Arm Bridge and Toll Authority bond documents to underscore that its bonds are non-recourse bonds and that the bonds do not pledge any revenue of or obligate the State or any other political subdivision to repay the bonds.
- Sec. 8.** Adopts relevant sections of the existing, general statute in AS 37.15 governing toll facilities and toll revenue bonds to precisely define the authorities and mechanisms that apply to revenue bonds issued by the Knik Arm Bridge and Toll Authority distinct from other toll facilities.
- Sec. 9.** Establishes liability for the payment of tolls and provides authority for collection of tolls and other obligations owing the Authority.
- Sec. 10.** Amends and makes applicable relevant statutory definitions.
- Sec. 11.** Makes conforming amendments in AS 28.15.031(B) to permit payment of unpaid and past due tolls to be a prerequisite to obtaining any driver's license.
- Sec. 12.** Makes conforming amendments to AS 43.23.065(b) permit collection of unpaid and past due tolls from Permanent Fund dividends.
- Sec. 13.** Provides for an immediate effective date to permit the Authority to immediately complete financing arrangements for construction, operation and maintenance of the bridge.

These are in the CS

REQUESTED AMENDMENTS TO SB 303 and HB 471

NOTE: The following amendments do not change the substance or intent of SB 303 or HB 471. They eliminate redundancy where appropriate, correct typographical errors, improve internal consistency within the Act, or further clarify the intent and purpose of the legislative language.

AMENDMENT NO. 1. To eliminate redundancy and consolidate KABATA's authority to grant security for the repayment of its debt all in one provision. See Amendment Nos. 2 and 3.

Page 2, line 24: Strike the words "or other indebtedness"

So that subsection (7) of (a)(7) of AS 19.75.111 beginning on line 21, page 2 reads:

"(7) issue **and refund** bonds [AND OTHERWISE INCUR INDEBTEDNESS,] in accordance with **this chapter** [AS 19.75.211], in order to pay the cost of the Knik Arm bridge and its appurtenant facilities; the authority may also secure payment of the bonds as provided in **this chapter** [AS 19.75.221];"

AMENDMENT NO. 2. To correct a typographical error in the first instance and to eliminate redundancy and consolidate KABATA's authority to grant security for the repayment of its debt all in one provision. See Amendment Nos. 1 and 3.

Page 2, line 28: Strike the words "23 U.S.C. 101 - 164" and insert in their place the words "**23 USC 601 - 610**"

and on

Page 2, line 29: After the words "as amended" insert the words "**and to secure such indebtedness as provided in this chapter**".

So that subsection (8) beginning on line 26, page 2 reads:

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

AMENDMENT NO. 5. To make the new AS 19.75.330 consistent with the new AS 19.75.332.

Page 6, line 30: After the words "determined by the board" insert the words ("except as provided in AS 19.75.332")

So that subsection AS 19.75.330(a) preceding its subsections (a)(1) through (a)(6) beginning on page 6, line 28 reads:

"Sec. 19.75.330. Bond terms. (a) The bonds of the authority mature at the time fixed by the board. The bonds may be subject to redemption before their fixed maturities as determined by the board (except as provided in AS 19.75.332) and with the premium fixed by the board, but a bond may not be subject to redemption before its fixed maturity date unless the right to redeem that bond is expressly mentioned on the face of the bond. The bonds"

AMENDMENT NO. 6. To eliminate any implication that the bonds of the authority necessarily have interest coupons.

Page 7, line 9: After the words "interest coupons" insert the words and punctuation ", if any,".

So that subsection (4) beginning on page 7, line 8 reads:

"(4) shall be signed on behalf of the authority as the board may direct; the signatures may be facsimile signatures; each of the interest coupons, if any, attached to the bonds shall be signed by the facsimile signatures of the officials as the board may direct;"

AMENDMENT NO. 7. To make consistent with the remainder of this subsection.

Page 7, line 20: After the words "of the principal and interest" insert the words: "or for operations, maintenance or capital improvements".

So that subsection (6) beginning on page 7, line 14 reads:

"(6) shall be issued under and subject to the terms, conditions, and covenants, providing for the payment of the principal of and interest on the bonds and the other terms, conditions, covenants, and protective features safeguarding this payment and relating to the maintenance, operation, and improvement of the toll facilities as found necessary by the board, which covenants may include a provision requiring the setting aside and maintenance of certain reserves to secure the payment of the principal and interest or for operations, maintenance or capital improvements.

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Central Microfilm Services
Department of Education & Early Development
State of Alaska

These
are in the CS

REQUESTED AMENDMENTS TO SB 303 and HB 471

NOTE: The following amendments do not change the substance or intent of SB 303 or HB 471. They eliminate redundancy where appropriate, correct typographical errors, improve internal consistency within the Act, or further clarify the intent and purpose of the legislative language.

AMENDMENT NO. 1. To eliminate redundancy and consolidate KABATA's authority to grant security for the repayment of its debt all in one provision. See Amendment Nos. 2 and 3.

Page 2, line 24: Strike the words "or other indebtedness"

So that subsection (7) of (a)(7) of AS 19.75.111 beginning on line 21, page 2 reads:

"(7) issue and refund bonds [AND OTHERWISE INCUR INDEBTEDNESS,] in accordance with this chapter [AS 19.75.211], in order to pay the cost of the Knik Arm bridge and its appurtenant facilities; the authority may also secure payment of the bonds as provided in this chapter [AS 19.75.221];"

AMENDMENT NO. 2. To correct a typographical error in the first instance and to eliminate redundancy and consolidate KABATA's authority to grant security for the repayment of its debt all in one provision. See Amendment Nos. 1 and 3.

Page 2, line 28: Strike the words "23 U.S.C. 101 - 164" and insert in their place the words "23 USC 601 - 610"

and on

Page 2, line 29: After the words "as amended" insert the words "and to secure such indebtedness as provided in this chapter".

So that subsection (8) beginning on line 26, page 2 reads:

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

AMENDMENT NO. 3. To eliminate redundancy and consolidate KABATA's authority to grant security for the repayment of its debt all in one provision. See Amendment Nos. 1 and 2.

Page 3, line 13: After the words "otherwise obligate" insert the words "revenue derived by the authority from the ownership, use, or operation of toll facilities including"

and on

Page 3, line 14: After the words "or other revenue of the authority" insert the words "or money that the legislature may appropriate, except a state tax or license"

So that subparagraph (12) beginning on line 13, page 3 reads:

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

AMENDMENT NO. 4. To make clear that only documents published or signed by the authority must bear the notation required.

Page 6, line 17: After the words "All documents" strike the words "prepared by" and insert their place the words "published by or to which the authority is a signatory".

So that the amendment to subparagraph (b) of AS 19.75.241 of beginning on page 6, line 14 reads:

"(b) The bonds issued by the authority do not constitute an indebtedness or other liability of the state or of a political subdivision of the state other than the authority, but shall be payable solely from the income, receipts, or other money or property of the authority. All documents published by or to which the authority is a signatory and used in or for the issuance of bonds by the authority must state that they are prepared by or for the authority."

AMENDMENT NO. 5. To make the new AS 19.75.330 consistent with the new AS 19.75.332.

Page 6, line 30: After the words "determined by the board" insert the words ("except as provided in AS 19.75.332")

So that subsection AS 19.75.330(a) preceding its subsections (a)(1) through (a)(6) beginning on page 6, line 28 reads:

"**Sec. 19.75.330. Bond terms.** (a) The bonds of the authority mature at the time fixed by the board. The bonds may be subject to redemption before their fixed maturities as determined by the board (except as provided in AS 19.75.332) and with the premium fixed by the board, but a bond may not be subject to redemption before its fixed maturity date unless the right to redeem that bond is expressly mentioned on the face of the bond. The bonds"

AMENDMENT NO. 6. To eliminate any implication that the bonds of the authority necessarily have interest coupons.

Page 7, line 9: After the words "interest coupons" insert the words and punctuation ", if any,".

So that subsection (4) beginning on page 7, line 8 reads:

"(4) shall be signed on behalf of the authority as the board may direct; the signatures may be facsimile signatures; each of the interest coupons, if any, attached to the bonds shall be signed by the facsimile signatures of the officials as the board may direct;"

AMENDMENT NO. 7. To make consistent with the remainder of this subsection.

Page 7, line 20: After the words "of the principal and interest" insert the words: "or for operations, maintenance or capital improvements".

So that subsection (6) beginning on page 7, line 14 reads:

"(6) shall be issued under and subject to the terms, conditions, and covenants, providing for the payment of the principal of and interest on the bonds and the other terms, conditions, covenants, and protective features safeguarding this payment and relating to the maintenance, operation, and improvement of the toll facilities as found necessary by the board, which covenants may include a provision requiring the setting aside and maintenance of certain reserves to secure the payment of the principal and interest or for operations, maintenance or capital improvements.

AMENDMENT NO. 8. To facilitate the timely issuance of bonds approved by the Authority's Board of Directors.

Page 8, line 17: Strike the word "prepare" and insert in its place the word "approve"

and on

Page 8, line 19: After the words "shall fix the" insert the word "aggregate".

and on

Page 8, line 23: After the end of the last sentence insert a sentence reading:

"The board my delegate to the authority's executive director the authority to approve final principal maturities and dates, interest rate or rates, redemption rights and interest payment dates under such terms and conditions as the board determines by resolution."

So that the new AS 19.75.332 beginning on page 8, line 16 reads:

"Sec. 19.75.332. Bond resolution. When issuing bonds of the authority, the board shall adopt the bond resolution and approve all other documents and proceedings necessary for the issuance, sale, and delivery of the bonds or any part or series of them. The bond resolution shall fix the aggregate principal amount, denomination, date, maturities, place or places of payment, rights of redemption, if any, terms, form, conditions, and covenants of the bonds or each series of them. The board shall also determine and provide for the date and manner of sale of the bonds, and shall provide where the notice of sale, if any, is to be published. The board my delegate to the authority's executive director the authority to approve final principal maturities and dates, interest rate or rates, redemption rights and interest payment dates under such terms and conditions as the board determines by resolution."

AMENDMENT NO. 9. To eliminate the first sentence of the new section AS 19.75.338(b) in Bill Section 8 at page 8-9 as redundant of amendments to AS 19.75.211 in Bill Sections 3 and 4 and to further clarify the intent of the new AS 19.75. 338 in Bill Section 8.

Page 9, line 4: Strike the first sentence of subsection (b) beginning on page 9, line 4.

and on

Page 9, line 5: Strike the word "prepare".

and on

Page 9, line 7: After the words "All provisions of AS 19.75.211 – 19.75.271" insert the words "except AS 19.75.211(c)".

and on

Page 9, line 9: After the words "provided in this section" as part of that sentence, the words "or therein".

and on

Page 9, line 13: After the words "These expenses include" insert the words "without limitation".

and on

Page 9, line 19: Strike the word "and" after the word "them," and before the words "the premium".

and on

Page 9, line 21: After the words "call or retirement", insert the words "and other costs of issuance and of the refunding".

So that subsection (b) and (c) of the new AS 19.75.338 beginning on page 9, line 4 read as follows:

"(b) The board shall adopt the resolution authorizing refunding and all other documents and proceedings necessary for the issuance, exchange or sale, and delivery of the bonds. All provisions of AS 19.75.211 - 19.75.271 (except for AS 19.75.211(c)) and AS 19.75.330 - 19.75.340 applicable to revenue bonds are applicable to the refunding bonds and to the issuance, sale, or exchange of the bonds, except as otherwise provided in this section or therein

"(c) Refunding bonds may be issued in a principal amount sufficient to provide money for the payment of all bonds to be refunded by them and, in addition, for the

payment of all expenses incident to the calling, retiring, or paying of the outstanding bonds, and the issuance of the refunding bonds. These expenses include without limitation the difference in amount between the par value of the refunding bonds and any amount less than par for which the refunding bonds are sold, any amount necessary to be made available for the payment of interest on the refunding bonds from the date of sale of them to the date of payment of the bonds to be refunded or to the date on which the bonds to be refunded will be paid under the call of the bonds or agreement with the holders of them, the premium, if any, necessary to be paid in order to call or retire the outstanding bonds and the interest accruing on the outstanding bonds to the date of the call or retirement and other costs of issuance and of the refunding."

AMENDMENT NO. 10. To clarify the time for giving notice to the Department of Revenue of the amount owing the Authority which may be collected from a Permanent Fund dividend.

Page 10, line 3: After the words "tolls or fees due" insert the word "to".

Page 10, line 6: After the words "due and owing" insert the words "which notice shall be given not earlier than".

So subsection (b) of the new AS 19.75.915 beginning on page 10, line 3 reads:

"(b) Unpaid tolls or fees due to the authority by a person entitled to receive an Alaska permanent fund dividend shall be a lien on and entitled to payment from the permanent fund dividend of the person from the date the authority notifies the Department of Revenue of the amount due and owing words which notice shall not be given not earlier than 30 days after the due date."

ALASKA STATE LEGISLATURE

SENATE TRANSPORTATION COMMITTEE

Committee Members

Senator Huggins, Chairman
Senator Cowdery, Vice-Chair
Senator Therriault
Senator Kookesh
Senator French



State Capitol, Room 417
Juneau AK 99801-1182
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March 1, 2006

SPONSOR'S STATEMENT

SB 303 "An Act amending the Knik Arm Bridge and Toll Authority Act and the powers and authority of the authority to finance construction and maintenance of the Knik Arm Bridge, to set and collect tolls, and to carry out its duties, and making conforming changes to statutes relating to issuance, renewal, or reinstatement of driver's licenses and to levy on permanent fund dividends; and providing for an effective date."

In 2003 the Alaska Legislature created the Knik Arm Bridge and Toll Authority (KABATA), in Alaska Statute chapter 19.75, to construct a toll bridge across Knik Arm and connect the Municipality of Anchorage and the Matanuska-Susitna Borough to develop, stimulate, and advance the economic welfare of the state and further the development of public transportation systems in the vicinity of the Upper Cook Inlet.

To accomplish the task assigned by the Legislature, the Knik Arm Bridge and Toll Authority must supplement the federal-aid funds authorized by Congress with significant additional public and private sector financing.

SB 303 clarifies and makes more specific the powers and authority of the Knik Arm Bridge and Toll Authority to obtain the necessary non-recourse financing from the private and public financial sectors to supplement the federal-aid financing for the construction, maintenance and operation costs of the toll bridge across Knik Arm.

SB 303 assures public and private financing sources that the Knik Arm Bridge and Toll Authority has adequate and specific authority to issue, refund and secure repayment of non-recourse revenue bonds and to obtain lines of credit and other debt, to borrow from the U.S. Department of Transportation's Transportation Infrastructure Finance and Innovation (TIFIA) loan program and to enter into partnerships with the private sector to finance this project.

The amendments to AS chapter 19.75 reflect advice provided to the Knik Arm Bridge and Toll Authority from TIFIA executives and other public and private financing experts that these clarifying amendments are essential for their participation in the financing of this project.

The provisions of SB 303:

- (1) Provide exclusive authority to the Knik Arm Bridge and Toll Authority to set the amount of the bridge tolls;
- (2) Provide explicit authority to enter into public-private partnerships for the construction, maintenance and operation of the toll bridge;
- (3) Authorize obtaining non-recourse loans from the U.S. DOT's TIFIA loan program and other financing;
- (4) Set the dollar value of non-recourse revenue bonds that may be issued and refunded.
- (5) Provide means for the collection of tolls and other obligations owing the Knik Arm Bridge and Toll Authority in the operation of the toll bridge.

SB 303 will give KABATA the authority to finalize financial arrangements to complete the financing of the construction, operation and maintenance of the bridge.

Staff Contact
Deborah Grundmann
Senate Transportation Staff
Senator Huggins 465-4711



KABATA

KNIK ARM CROSSING

DOT&PF



KNIK ARM BRIDGE AND TOLL AUTHORITY PRESENTATION

CSSB No. 303

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION
BY THE SENATE TRANSPORTATION COMMITTEE
Introduced: 2/17/06
Referred: Transportation, Finance
CSSB 303 BY THE SENATE TRANSPORTATION
COMMITTEE 3/03/06

CSHB No. 471 (DRAFT)

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION
BY REPRESENTATIVE STOLTZE
Introduced: 2/13/06
Referred: Transportation, Finance
CSHB 471 (Draft) BEFORE THE HOUSE FINANCE
COMMITTEE

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PURPOSE of
CS for SENATE BILL 303 and CS for HOUSE BILL 471

“An Act amending the Knik Arm Bridge and Toll Authority Act and the powers and authority of the authority to finance construction and maintenance of the Knik Arm Bridge, to set and collect tolls, and to carry out its duties, and making conforming changes to statutes relating to issuance, renewal, or reinstatement of driver’s licenses and to levy on permanent fund dividends; and providing for an effective date.”

In 2003 the Legislature created the Knik Arm Bridge and Toll Authority (KABATA) to construct a toll bridge across the Knik Arm and connect the Municipality of Anchorage and the Matanuska-Susitna Borough to develop, stimulate, and advance the economic welfare of the state and further the development of public transportation systems in Upper Cook Inlet.

To accomplish the task assigned by the Legislature, KABATA must supplement the federal-aid funds authorized by Congress with significant additional public and private sector financing.

CSSB 303 and CSHB 471 are fundamentally housekeeping bills designed to clarify and make more specific the powers and authority of KABATA for the purpose of assuring the public and private sectors that KABATA has adequate authority to obtain the necessary supplemental financing.

CSSB 303 and CSHB 471 reflect advice provided KABATA by the U.S. Department of Transportation's Transportation Infrastructure Finance and Innovation Act (TIFIA) executives and other public and private financing experts that these clarifying amendments are essential for the participation of both the public and private sectors in financing of this project.

The provisions of CSSB 303 and CSHB 471:

- Provide exclusive authority to KABATA to set the amount of the bridge tolls.
- Provide explicit authority to enter into public-private partnerships and other financing arrangements for the construction, maintenance and operation of the toll bridge.
- Authorize obtaining non-recourse loans from the U.S. DOT's TIFIA loan program.
- Set the dollar amount of non-recourse revenue bonds that may be issued and refunded.
- Provide means for collection of tolls and other obligations owing KABATA in the operation of the toll bridge.

SB 303 and HB 471 will provide KABATA authority to finalize arrangements to complete financing for the construction, operation and maintenance of the bridge.

SECTIONAL ANALYSIS OF CSSB 303 and CSHB 471 (Proposed)

Bill
Sec.

ANALYSIS

- Sec. 1. Clarifies the powers of the Knik Arm Bridge and Toll Authority ("Authority"). Also clarifies that the general tolling statutes in AS 37.15 do not apply. Clarifies KABAATA'S authority to refund bonds, incur other debt, obtain TIFIA loans and enter into public-private partnership and other financing arrangements with both public and private entities for the construction maintenance and operation of the toll bridge, and to exclusively fix tolls for use of the bridge acquire real estate and collect its tolls.
- Sec. 2. Specifies that assets, funds and revenue of the Authority shall be held and accounted for separate from other assets, funds and revenue of the State.
- Sec. 3. Clarifies that the Authority may refund as well as issue revenue bonds and may secure the repayment of the bonds with any revenue it receives.
- Sec. 4. Establishes the maximum interest rate that may be paid on the Authority's bonds and the maximum amount of revenue bonds the Authority may issue. Specifies that refunding bonds are not counted in the maximum amount of bonds the Authority may issue.
- Sec. 5. Provides the Authority with the general power to establish funds and reserves for the issuance of its revenue bonds and the conduct of its business and specifies that interest from such funds and reserves belong to the Authority.
- Sec. 6. Adds a requirement that the Authority's bond documents contain a notation that they are documents of the authority to underscore that they are not obligations of the State.
- Sec. 7. Adds a requirement that the Authority's bond documents contain a notation that they are documents of the authority to underscore that its bonds do not pledge any revenue of or obligate the State or any other political subdivision to repay the bonds.
- Sec. 8. Adopts relevant sections of the existing statute in AS 37.15 governing toll facilities and toll revenue bonds generally to precisely define the authorities and mechanisms that apply to revenue bonds issued by the Authority distinct from other toll facilities.
- Sec. 9. Establishes liability for the payment of tolls and provides authority for collection of tolls and other obligations owing the Authority.
- Sec. 10. Incorporates relevant statutory definitions.
- Sec. 11. Makes conforming amendments in AS 28.15.031(b) to permit payment of unpaid and past due tolls to be a prerequisite to obtaining any driver's license.
- Sec. 12. Makes conforming amendments to AS 43.23.065(b) to permit collection of unpaid and past due tolls from Permanent Fund dividends.
- Sec. 13. Provides for an immediate effective date to permit the Authority to immediately complete financing arrangements for construction, operation and maintenance of the bridge.

24-LS1671\Y

CS BILL NO.

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

BY

Offered:
Referred: Finance

Spencer(s):

A BILL

FOR AN ACT ENTITLED

1 "An Act amending the Knik Arm Bridge and Toll Authority Act and the powers and
2 authority of the authority to finance construction and maintenance of the Knik Arm
3 Bridge, to set and collect tolls, and to carry out its duties, and making conforming
4 changes to statutes relating to issuance, renewal, or reinstatement of driver's licenses
5 and to levy on permanent fund dividends; and providing for an effective date."

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

7 * Section 1. AS 19.75.111 is amended to read:

8 Sec. 19.75.111. Powers and duties of the authority. (a) Except as otherwise
9 explicitly made applicable to the authority, the performance of the authority's
10 duties and the exercise of its powers, including its powers to issue bonds and
11 otherwise incur debt, shall be governed exclusively by this chapter. In furtherance
12 of its purposes, the authority may

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

- 1 operate, maintain, extend, and improve the Knik Arm bridge and its appurtenant
2 facilities;
- 3 (2) sue and be sued;
- 4 (3) adopt a seal;
- 5 (4) adopt, amend, and repeal regulations under AS 44.62 and establish
6 bylaws;
- 7 (5) make and execute agreements, contracts, and all other instruments
8 with any public or private person, governmental unit or agency, corporation, or
9 other business entity lawfully conducting business in the United States for the
10 exercise of its powers and functions under this chapter and for the financing, design,
11 construction, maintenance, improvement, or operation of facilities, properties, or
12 projects of the authority, including making and executing contracts with any
13 person, firm, corporation, governmental agency, or other entity for the purpose of
- 14 (A) incurring indebtedness, obtaining investments in the
15 authority's projects, acquiring or granting lump sum payments for
16 services in advance or in arrears, grants, and other financing; and
- 17 (B) entering into public-private partnerships or service
18 contracts in any form:
- 19 (6) in its own name acquire, lease, rent, sell, or convey real and
20 personal property;
- 21 (7) issue and refund bonds [AND OTHERWISE INCUR
22 INDEBTEDNESS,] in accordance with this chapter [AS 19.75.211], in order to pay
23 the cost of the Knik Arm bridge and its appurtenant facilities; the authority may also
24 secure payment of the bonds [OR OTHER INDEBTEDNESS] as provided in this
25 chapter [AS 19.75.221];
- 26 (8) incur other indebtedness, including lines of credit and
27 indebtedness to the Federal Highway Administration, United States Department
28 of Transportation, under 23 U.S.C. 601 - 610 (Transportation Infrastructure
29 Finance and Innovation Act of 1998), as amended, and secure that indebtedness
30 as provided in this chapter;
- 31 (9) apply for and accept gifts, grants, or loans from a federal agency or

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

5 (10) [(9)] fix and collect fees, rents, tolls, rates, or other charges for the
6 use of the Knik Arm bridge and appurtenant facilities, or for a service developed,
7 operated, or provided by the authority; notwithstanding AS 37.10.050(a), fees, rents,
8 tolls, rates, and other charges fixed and collected under this paragraph may exceed the
9 actual operating cost of the use of the bridge, facility, or service;

10 (11) bring civil actions, refer criminal actions to the appropriate
11 authority, and take other actions or enter into agreements with law enforcement
12 and collection agencies to enforce the collection of its fees, rents, tolls, rates, other
13 charges, penalties, and other obligations;

14 (12) [(10)] pledge, encumber, transfer, or otherwise obligate
15 revenue derived by the authority from the ownership, use, or operation of toll
16 facilities, including fees, rents, tolls, rates, charges, or other revenue of the authority
17 or money that the legislature may appropriate, except a state tax or license, as
18 security for bonds or other indebtedness or agreements of the authority;

19 (13) [(11)] deposit or invest its funds, subject to agreements with
20 bondholders;

21 (14) [(12)] procure insurance against any loss in connection with its
22 operation;

23 (15) [(13)] contract for and engage the services of consultants, experts,
24 and financial and technical advisors that the authority considers necessary for the
25 exercise of its powers and functions under this chapter;

26 (16) [(14)] apply for, obtain, hold, and use permits, licenses, or
27 approvals from appropriate agencies of the state, the United States, a foreign country,
28 and any other proper agency in the same manner as any other person;

29 (17) [(15)] perform reconnaissance studies and engineering, survey,
30 and design studies with respect to the Knik Arm bridge and its appurtenant facilities;

31 (18) [(16)] exercise powers of eminent domain or file a declaration of

1 taking as necessary for the Knik Arm bridge and appurtenant facilities under
2 AS 09.55.240 - 09.55.460 to acquire land or an interest in land;

3 ~~(19)~~ [(17)] confer with municipal and other governments, metropolitan
4 planning organizations, and the department, concerning the Knik Arm bridge;

5 ~~(20)~~ [(18)] do all acts and things necessary to carry out the powers
6 expressly granted or necessarily implied in this chapter; nothing in this chapter
7 limits the powers of the authority that are expressly granted or necessarily
8 implied.

9 (b) The authority shall

10 (1) prepare an annual report of its operations to include a balance
11 sheet, an income statement, a statement of changes in financial position, a
12 reconciliation of changes in equity accounts, a summary of significant accounting
13 principles, an auditor's report, comments regarding the year's business, and prospects
14 for the next year; the report shall be completed by the third day of each regular session
15 of the legislature, and the authority shall notify the governor, the commissioner of the
16 department, the presiding officers of each house of the legislature, and the Legislative
17 Budget and Audit Committee that the report is available;

18 (2) comply with the provisions of AS 37.07 (Executive Budget Act),
19 except that AS 37.07 does not apply to the activities of the authority that relate to the
20 authority's borrowing of money as provided in this chapter, including the issuing of its
21 obligations or evidence of that borrowing and the repayment of the debt obligation;

22 (3) establish a personnel management system for hiring employees and
23 setting employee-benefit packages;

24 (4) establish procedures, rules, and rates governing per diem and travel
25 expenses of the employees of the authority in substantial conformity to statutes,
26 procedures, rules, and rates applicable to state employees of similar state entities;

27 (5) coordinate the exercise of its powers to plan, design, construct,
28 operate, and maintain the Knik Arm bridge with the department, and with the mayors
29 of the Municipality of Anchorage and the Matanuska-Susitna Borough;

30 (6) have the exclusive authority to determine and fix fees, rents,
31 tolls, rates, and other charges, including the tolls for the use of the bridge and

1 apartment facilities and for the use of all other properties under the control of
2 or owned or managed by the authority.

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

4 Sec. 19.75.113. Assets, funds, and revenue of the authority. (a) The
5 Department of Revenue shall separately account for all funds, assets, and revenue of
6 the authority.

7 (b) The deposit or investment of money in the authority's funds may be made
8 as the board determines. The interest earned on or profits derived from the deposit,
9 investment, or sale of an investment by the authority are funds of the authority.

10 * Sec. 3. AS 19.75.211 is amended to read:

11 Sec. 19.75.211. Bonds of the authority. Notwithstanding any other
12 provision of law, the [THE] authority may borrow money and issue and refund
13 bonds on which the principal and interest are paid out of and secured by the gross
14 revenue derived by the authority from the ownership, use, and operation of its
15 toll facilities, including [PAYABLE FROM] money derived from the fees, rents,
16 tolls, rates, charges, and other revenue of the authority under this chapter and any
17 other revenue or money that the legislature may appropriate, except a state tax
18 or license. Before issuing bonds for the Knik Arm bridge, the authority shall submit to
19 the state bond committee a description of the bond issue and a preliminary prospectus,
20 offering circular, or official statement relating to the bond issue. Bonds may not be
21 issued unless the state bond committee finds, based upon the information submitted by
22 the authority under this section and other information that is reasonably available to
23 the committee, that the Knik Arm bridge revenue and other revenue available to the
24 authority can be reasonably expected to be adequate for payment of the principal of
25 and interest on the bonds to be issued and that issuance of the bonds by the authority
26 would not be expected to adversely affect the ability of the state or its political
27 subdivisions to market bonds. [BONDS MAY NOT BE ISSUED UNLESS THE
28 PRINCIPAL AMOUNT OF THE BOND ISSUE IS AUTHORIZED BY LAW.]

29 * Sec. 4. AS 19.75.211 is amended by adding new subsections to read:

30 (b) The bonds of the authority may be sold in the amounts or series and at the
31 time determined by its board of directors. Bonds, or a series of bonds, may not be sold

1 if the effective interest rate over the life of the bonds exceeds 11 percent a year or a
2 rate of interest that is 125 percent of the rate of the Bond Buyer Index of 20 Municipal
3 Bond Average Yields for the week previous to the date of the sale of the bonds,
4 whichever is higher.

5 (c) The authority may issue bonds in an aggregate amount not to exceed
6 \$500,000,000, plus the cost of issuance.

7 (d) The amount of refunding bonds that may be issued by the authority and
8 bond premiums may not be included in the aggregate amount, but may be in addition
9 to the amount authorized by (c) of this section.

10 * Sec. 5. AS 19.75.221 is amended by adding a new subsection to read:

11 (h) Notwithstanding any other provision of law, the authority may establish
12 other funds and reserves as the board of directors may determine reasonable and
13 prudent for the issuance of bonds or for the conduct of the business and affairs of the
14 authority. The interest earned on or profit derived from these funds and reserves shall
15 be the property of the authority.

16 * Sec. 6. AS 19.75.241(b) is amended to read:

17 (b) The bonds issued by the authority do not constitute an indebtedness or
18 other liability of the state or of a political subdivision of the state other than the
19 authority, but shall be payable solely from the income, receipts, or other money or
20 property of the authority. All documents published by the authority or to which the
21 authority is a signatory and used in or for the issuance of bonds by the authority
22 must state that they are prepared by or for the authority.

23 * Sec. 7. AS 19.75.241(c) is amended to read:

24 (c) The authority may not pledge the faith or credit of the state or of a political
25 subdivision of the state other than the authority, and the issuance of a bond by the
26 authority does not directly, indirectly, or contingently obligate the state or a political
27 subdivision of the state to apply money from, levy, or pledge any form of taxation to
28 the payment of the bond or to make payments due on the bonds from any source of
29 funds not pledged for repayment of the bonds.

30 * Sec. 8. AS 19.75 is amended by adding new sections to article 2 to read:

31 **Sec. 19.75.330. Bond terms.** (a) The bonds of the authority mature at the time

1 fixed by the board. The bonds may be subject to redemption before their fixed
2 maturities as determined by the board, or by the authority's executive director when
3 delegated that responsibility under AS 19.75.332, and with the premium fixed by the
4 board, but a bond may not be subject to redemption before its fixed maturity date
5 unless the right to redeem that bond is expressly mentioned on the face of the bond.

6 The bonds

7 (1) may be in denominations determined by the board;

8 (2) may be issued in coupon form or in fully registered form, and may
9 be registrable as to principal or both principal and interest, all under regulations and
10 conditions the board provides;

11 (3) are payable as to principal and interest at the place determined by
12 the board;

13 (4) shall be signed on behalf of the authority as the board may direct;
14 the signatures may be facsimile signatures; each of the interest coupons, if any,
15 attached to the bonds shall be signed by the facsimile signatures of the official^s as the
16 board may direct;

17 (5) shall have the seal of the authority impressed, printed, or
18 lithographed on them; and

19 (6) shall be issued under and subject to the terms, conditions, and
20 covenants, providing for the payment of the principal of and interest on the bonds and
21 the other terms, conditions, covenants, and protective features safeguarding this
22 payment and relating to the operations, maintenance, or capital improvements as found
23 necessary by the board, which covenants may include a provision requiring the setting
24 aside and maintenance of certain reserves to secure the payment of the principal and
25 interest or for operations, maintenance, or capital improvements.

26 (b) The board may select a trustee or trustees for the holders of the bonds or
27 any series of the bonds, for the safeguarding and disbursement of any of the money in
28 any of the funds created under this chapter or for the duties of authentication, delivery,
29 and registration of the bonds as the board may determine. The board shall fix the
30 rights, duties, powers, and obligations of the trustee or trustees.

31 (c) In determining the matters and questions relating to the issuance and sale

1 of the bonds and the fixing of the maturities, terms, conditions, covenants, and other
2 subjects of the bonds as provided in (a) and (b) of this section, the decisions of the
3 board shall be those found to be reasonably necessary for the best interests of the
4 authority and the construction, operation, and maintenance of its facilities, and those
5 that will accomplish the most advantageous sale of the bonds, giving due regard to (1)
6 necessary or normal costs of maintenance and operation; (2) renewals and
7 replacements of and repairs to the toll facilities; (3) all improvements to toll facilities
8 and property of toll facilities owned, used, operated, or leased in connection with toll
9 facilities; (4) the future growth and expansion of all of the facilities; and (5) the
10 possibility of additional revenue bond financing for toll facilities purposes. A decision
11 of the board as expressed in any bond resolution, is final when any bonds have been
12 issued under the bond resolution.

13 (d) A bond resolution may provide that the bonds issued must contain a recital
14 that the bonds are issued under this chapter, and any bonds containing this recital are
15 conclusively considered to be valid and to have been issued in conformity with this
16 chapter.

17 (e) The validity of the authorization and issuance of bonds is not affected by
18 any proceeding for the acquisition or construction of the additions, improvements, or
19 facilities for which the bonds have been issued or by any contract in connection with
20 the acquisition or construction.

21 **Sec. 19.75.332. Bond resolution.** (a) When issuing bonds of the authority, the
22 board shall adopt the bond resolution and approve all other documents and
23 proceedings necessary for the issuance, sale, and delivery of the bonds or any part or
24 series of them. The bond resolution shall fix the aggregate principal amount and the
25 denomination, date, maturities, place or places of payment, rights of redemption, if
26 any, terms, form, conditions, and covenants of the bonds or each series of them. The
27 board shall also determine and provide for the date and manner of sale of the bonds,
28 and shall provide where the notice of sale, if any, is to be published.

29 (b) The board may delegate to the authority's executive director the authority
30 to approve final principal maturities and dates, interest rates, redemption rights, and
31 interest payment dates under the terms and conditions the board determines by

1 resolution.

2 **Sec. 19.75.334. Enforcement by holder.** The holder of any bonds or the
3 trustee for the holders of the bonds or any series of them, may, by appropriate
4 proceedings in state court, compel the transfer, setting aside, and payment of money
5 and the enforcement of all of the terms, conditions, and covenants as required and
6 provided in AS 19.75.330 and 19.75.332 and in the bond resolution.

7 **Sec. 19.75.336. Bond negotiability.** The bonds and the coupons attached to
8 them are fully negotiable instruments under the laws of the state.

9 **Sec. 19.75.338. Refunding.** (a) The bonds or any part of them may be
10 refunded at or before their maturity by the issuance of refunding revenue bonds of the
11 authority if, in the opinion of the board, refunding is advantageous to and in the best
12 interest of the authority.

13 (b) The board shall adopt the resolution authorizing refunding and all other
14 documents and proceedings necessary for the issuance, exchange or sale, and delivery
15 of the bonds. All provisions of AS 19.75.211 - 19.75.271, except AS 19.75.211(c), and
16 AS 19.75.330 - 19.75.340 applicable to revenue bonds are applicable to the refunding
17 bonds and to the issuance, sale, or exchange of the bonds, except as otherwise
18 provided in this section.

19 (c) Refunding bonds may be issued in a principal amount sufficient to provide
20 money for the payment of all bonds to be refunded by them and, in addition, for the
21 payment of all expenses incident to the calling, retiring, or paying of the outstanding
22 bonds, and the issuance of the refunding bonds. These expenses include, without
23 limitation,

24 (1) the difference in amount between the par value of the refunding
25 bonds and any amount less than par for which the refunding bonds are sold;

26 (2) any amount necessary to be made available for the payment of
27 interest on the refunding bonds from the date of sale of the bonds to the date of
28 payment of the bonds to be refunded or to the date on which the bonds to be refunded
29 will be paid under the call of the bonds or agreement with the holders of the bonds;

30 (3) the premium, if any, necessary to be paid in order to call or retire
31 the outstanding bonds; and

1 (4) the interest accruing on the outstanding bonds to the date of the call
2 or retirement and other costs of issuance and refunding.

3 **Sec. 19.75.340. Bonds as legal investments.** Bonds of the authority, including
4 toll facilities bonds, are legal investments for all banks, trust companies, savings
5 banks, savings and loan associations, and other persons carrying on a banking
6 business, all insurance companies and other persons carrying on an insurance business,
7 and all executors, administrators, trustees, and other fiduciaries. The bonds may be
8 accepted as security for deposits of all money of the state and its political subdivisions.

9 * **Sec. 9.** AS 19.75 is amended by adding new sections to read:

10 **Sec. 19.75.915. Liability for payment of tolls.** (a) The owner of a vehicle
11 using a facility owned, controlled, or managed by the authority for which a toll or fee
12 is imposed is liable for the payment of the toll or fee solely because of the vehicle
13 ownership, unless the vehicle, except a rental vehicle, is used without the owner's
14 knowledge and incurs the toll or fee during operation.

15 (b) Unpaid tolls or fees due the authority by a person entitled to receive an
16 Alaska permanent fund dividend shall be a lien on and entitled to payment from the
17 permanent fund dividend of the person from the date the authority notifies the
18 Department of Revenue of the amount due and owing. The notice required under this
19 subsection may not be given earlier than 30 days after the due date.

20 (c) Upon agreement between the authority and the commissioner of
21 administration, a vehicle owner liable for an unpaid toll or fee due the authority may,
22 after 30 days after the due date, be barred from obtaining or renewing a driver's license
23 or a vehicle registration or license, regardless of whether the vehicle was used at the
24 authority's facilities or incurred the toll or fee, until the toll or fee is paid in full.

25 **Sec. 19.75.920. Statutory construction.** This chapter shall be liberally
26 construed in order to carry out the purposes for which it was enacted. All existing laws
27 in conflict with this chapter are superseded as necessary to accomplish the purposes of
28 this chapter.

29 * **Sec. 10.** AS 19.75.980 is amended to read:

30 **Sec. 19.75.980. Definitions.** In this chapter, except as otherwise provided
31 and unless the context requires otherwise,

- 1 (1) "authority" means the Knik Arm Bridge and Toll Authority;
2 (2) "board" means the board of directors of the authority;
3 (3) "department" means the Department of Transportation and Public
4 Facilities;
5 (4) "state bond committee" means the state bond committee
6 created by AS 37.15.110.

7 * Sec. 11. AS 28.15.031(b) is amended to read:

8 (b) The department may not issue an original or duplicate driver's license to,
9 nor renew or reinstate the driver's license of, a person

10 (1) whose license is suspended or revoked, except as otherwise
11 provided in this chapter;

12 (2) who fails to appear in court for the adjudication of a certain
13 vehicle, driver, or traffic offense when the person's appearance is required by statute,
14 regulation, or court rule;

15 (3) who is an habitual user of alcohol or another drug to such a degree
16 that the person is incapable of safely driving a motor vehicle;

17 (4) [REPEALED

18 (5)] when the department, based upon medical evidence, has
19 determined that because of the person's physical or mental disability the person is not
20 able to drive a motor vehicle safely;

21 (5) [(6)] who is unable to understand official traffic control devices as
22 displayed in this state or who does not have a fair knowledge of traffic laws and
23 regulations, as demonstrated by an examination;

24 (6) [(7)] who has knowingly made a false statement in the person's
25 application for a license or has committed fraud in connection with the person's
26 application for, or in obtaining or attempting to obtain, a license, or who has not
27 applied under oath on the form provided for the purpose of obtaining or attempting to
28 obtain a license or permit; [OR]

29 (7) [(8)] who is required under AS 28.20 to furnish proof of financial
30 responsibility and who has not done so; or

31 (8) who is liable for an unpaid toll or fee under AS 19.75.915(c).

1 * **Sec. 12. AS 43.23.065(b) is amended to read:**

2 **(b) An exemption is not available under this section for permanent fund**
3 **dividends taken to satisfy**

4 **(1) child support obligations required by court order or decision of the**
5 **child support services agency under AS 25.27.140 - 25.27.220;**

6 **(2) court ordered restitution under AS 12.55.045 - 12.55.051,**
7 **12.55.100, or AS 47.12.120(b)(4);**

8 **(3) claims on defaulted education loans under AS 43.23.067;**

9 **(4) court ordered fines;**

10 **(5) writs of execution under AS 09.35 of a judgment that is entered**

11 **(A) against a minor in a civil action to recover damages and**
12 **court costs;**

13 **B) under AS 34.50.020 against the parent, parents, or legal**
14 **guardian of an unemancipated minor;**

15 **(6) a debt owed by an eligible individual to an agency of the state,**
16 **including the University of Alaska, unless the debt is contested and an appeal is**
17 **pending, or the time limit for filing an appeal has not expired;**

18 **(7) a debt owed to a person for a program for the rehabilitation of**
19 **perpetrators of domestic violence required under AS 12.55.101, AS 18.66.100(c)(15),**
20 **AS 25.20.061(3), or AS 33.16.150(f)(2);**

21 **(8) an unpaid toll or fee under AS 19.75.915(b).**

22 * **Sec. 13. This Act takes effect immediately under AS 01.10.070(c).**

ALASKA STATUTES¹

WITH CSSB 303 and CSHB 471 INCORPORATED²

Title 19. Highways and Ferries.

Chapter 75. Knik Arm Bridge and Toll Authority.

Effective dates. - Section 1, ch. 77, SLA 2003, which enacted this chapter, took effect on September 10, 2003. For Governor's transmittal letter *see* 2003 Senate Journal 1183 - 1884.

Article 1. Establishment and Organization.

Sec. 19.75.011 Purpose.

The purpose of the authority created by this chapter is to develop, stimulate, and advance the economic welfare of the state and further the development of public transportation systems in the vicinity of the Upper Cook Inlet with construction of a bridge to span Knik Arm and connect the Municipality of Anchorage and the Matanuska-Susitna Borough.

Sec. 19.75.021 Establishment of authority.

(a) There is established the Knik Arm Bridge and Toll Authority. The authority is a public corporation and an instrumentality of the state within the Department of Transportation and Public Facilities, but the authority has a separate and independent legal existence from the state. The exercise by the authority of the powers in this chapter is considered an essential governmental function of the state.

(b) The authority may not be terminated as long as it has bonds, notes, or other obligations outstanding. Upon termination of the authority, its rights and property pass to the state.

Sec. 19.75.031 Board of directors of authority.

(a) The authority shall be governed by a board of directors consisting of the following:

(1) the commissioner of transportation and public facilities or the commissioner's designee;

(2) the commissioner of revenue or the commissioner's designee;

(3) one public member, appointed by the governor, who is a state resident and United States citizen;

(4) one public member, appointed by the governor, who is a resident of the Municipality of Anchorage and who has knowledge of local transportation issues;

1. Amendments to other statutes by CSSB 303 and CSHB 471 are set out at the end.

2. Amendments by CSSB 303 and CSHB 471 are set out in blue. *New Text Underlined* [DELETED TEXT BRACKETED].

(5) one public member, appointed by the governor, who is a resident of the Matanuska-Susitna Borough and who has knowledge of local transportation issues;

(6) one nonvoting member who is a member of the state house of representatives appointed by the speaker of the house and who serves at the pleasure of the speaker of the house; the speaker of the house shall consider the appointment of a legislator elected from a house district that lies entirely or partially within the Municipality of Anchorage or the Matanuska-Susitna Borough for appointment under this paragraph; and

(7) one nonvoting member who is a member of the state senate appointed by the president of the senate and who serves at the pleasure of the president of the senate; the president of the senate shall consider the appointment of a senator elected from a senate district that lies entirely or partially within the Municipality of Anchorage or the Matanuska-Susitna Borough for appointment under this paragraph.

(b) The public members of the board shall serve for staggered terms of five years and may be reappointed to a single successive five-year term. A public member may only be removed for cause.

(c) If a vacancy occurs in a public member's seat on the board, the governor shall make an appointment, effective immediately, for the unexpired portion of that member's term.

Sec. 19.75.041 Operation of authority.

(a) The powers of the authority are vested in the board.

(b) Three voting members of the board constitute a quorum.

(c) The governor shall designate one member of the board to serve as the chair of the board. The voting members of the board shall elect other officers they determine desirable.

(d) Action may be taken and motions and resolutions adopted by the board at a meeting by the affirmative vote of at least three voting members.

(e) The public members of the board shall receive a stipend of \$300 a day while performing business of the authority.

(f) The members of the board serving under AS 19.75.031(a)(1), (2), (6), and (7) serve without compensation but are entitled to per diem and travel expenses authorized by law under AS 39.20.180.

Sec. 19.75.051 Executive director.

The authority shall employ an executive director who may not be a member of the board. The executive director shall serve at the pleasure of the board. The board shall establish the duties and compensation of the executive director.

Sec. 19.75.061 Employment of personnel.

The executive director may hire employees of the authority. The board shall prescribe the duties and compensation of authority employees.

Sec. 19.75.071 Personnel exempt from State Personnel Act.

The executive director and employees of the authority are in the exempt service under AS 39.25 (State Personnel Act).

Sec. 19.75.081 Legal advisor.

The attorney general is the legal counsel for the authority. The attorney general shall advise the authority in legal matters and represent it in suits.

Sec. 19.75.111 Powers and duties of the authority.

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

(1) own, acquire, construct, develop, create, reconstruct, equip, operate, maintain, extend, and improve the Knik Arm bridge and its appurtenant facilities;

(2) sue and be sued;

(3) adopt a seal;

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

(5) make and execute agreements, contracts, and all other instruments with any public or private person, governmental unit or agency, corporation or other business entity lawfully conducting business within the United States for the exercise of its powers and functions under this chapter and for the financing, design, construction, maintenance, improvement, or operation of facilities, properties, or projects of the authority, including making and executing contracts with any person, firm, corporation, governmental agency, or other entity for the purpose of

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

(B) entering into public-private partnerships or service contracts in any form;

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

(7) issue and refund bonds [AND OTHERWISE INCUR INDEBTEDNESS,] in accordance with this chapter [AS 19.75.211], in order to pay the cost of the Knik Arm bridge and its appurtenant facilities; the authority may also secure payment of the bonds [OR OTHER INDEBTEDNESS] as

provided in this chapter [AS 19.75.221];

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

(9) apply for and accept gifts, grants, or loans from a federal agency or an agency or instrumentality of the state, or from a municipality, private organization, or other source, including obtaining title to state, local government, or privately owned land, directly or through a department of the state having jurisdiction of the land;

(10) [(9)] fix and collect fees, rents, tolls, rates, or other charges for the use of the Knik Arm bridge and appurtenant facilities, or for a service developed, operated, or provided by the authority; notwithstanding AS 37.10.050(a), fees, rents, tolls, rates, and other charges fixed and collected under this paragraph may exceed the actual operating cost of the use of the bridge, facility, or service;

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

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

(13) [(11)] deposit or invest its funds, subject to agreements with bondholders;

(14) [(12)] procure insurance against any loss in connection with its operation;

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

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

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

(18) [(16)] exercise powers of eminent domain or file a declaration of taking as necessary for the Knik Arm bridge and appurtenant facilities under AS 09.55.240 - 09.55.460 to acquire land or an interest in land;

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

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

(b) The authority shall

(1) prepare an annual report of its operations to include a balance sheet, an income statement, a statement of changes in financial position, a reconciliation of changes in equity accounts, a summary of significant accounting principles, an auditor's report, comments regarding the year's business, and prospects for the next year; the report shall be completed by the third day of each regular session of the legislature, and the authority shall notify the governor, the commissioner of the department, the presiding officers of each house of the legislature, and the Legislative Budget and Audit Committee that the report is available;

(2) comply with the provisions of AS 37.07 (Executive Budget Act), except that AS 37.07 does not apply to the activities of the authority that relate to the authority's borrowing of money as provided in this chapter, including the issuing of its obligations or evidence of that borrowing and the repayment of the debt obligation;

(3) establish a personnel management system for hiring employees and setting employee-benefit packages;

(4) establish procedures, rules, and rates governing per diem and travel expenses of the employees of the authority in substantial conformity to statutes, procedures, rules, and rates applicable to state employees of similar state entities;

(5) coordinate the exercise of its powers to plan, design, construct, operate, and maintain the Knik Arm bridge with the department, and with the mayors of the Municipality of Anchorage and the Matanuska-Susitna Borough.

(6) have the exclusive authority to determine and fix fees, rents, tolls, rates, and other charges, including the tolls for the use of the bridge and appurtenant facilities and for the use of all other properties under the control of or owned or managed by the authority.

Sec. 19.75.113. Assets, funds, and revenue of the authority.

(a) The Department of Revenue shall separately account for all funds, assets, and revenue of the authority.

(b) The deposit or investment of money in the authority's funds may be made as the board determines. The interest earned on or profits derived from the deposit, investment, or sale of an investment by the authority are funds of the authority.

Article 2. Powers and Duties.

Sec. 19.75.211. Bonds of the authority.

(a) Notwithstanding any other provision of law, the [THE] authority may borrow money and issue and refund bonds on which the principal and interest are paid out of and secured by the gross revenue derived

by the authority from the ownership, use, and operation of its toll facilities, including [PAYABLE FROM] money derived from the fees, rents, tolls, rates, charges, and other revenue of the authority under this chapter and any other revenue or money that the legislature may appropriate, except a state tax or license. Before issuing bonds for the Knik Arm bridge, the authority shall submit to the state bond committee a description of the bond issue and a preliminary prospectus, offering circular, or official statement relating to the bond issue. Bonds may not be issued unless the state bond committee finds, based upon the information submitted by the authority under this section and other information that is reasonably available to the committee, that the Knik Arm bridge revenue and other revenue available to the authority can be reasonably expected to be adequate for payment of the principal of and interest on the bonds to be issued and that issuance of the bonds by the authority would not be expected to adversely affect the ability of the state or its political subdivisions to market bonds. [BONDS MAY NOT BE ISSUED UNLESS THE PRINCIPAL AMOUNT OF THE BOND ISSUE IS AUTHORIZED BY LAW.]

(b) The bonds of the authority may be sold in the amounts or series and at the time determined by its board of directors. Bonds, or a series of bonds, may not be sold if the effective interest rate over the life of the bonds exceeds 11 percent a year or a rate of interest that is 125 percent of the rate of the Bond Buyer Index of 20 Municipal Bond Average Yields for the week previous to the date of the sale of the bonds, whichever is higher.

(c) The authority may issue bonds in an aggregate amount not to exceed \$500,000,000, plus the cost of issuance.

(d) The amount of refunding bonds that may be issued by the authority and bond premiums may not be included in the aggregate amount, but may be in addition to the amount authorized by (c) of this section.

Sec. 19.75.221 Trust indentures and trust agreements.

(a) In the discretion of the authority, an issue of bonds may be secured by a trust indenture or trust agreement between the authority and a corporate trustee, by a secured loan agreement or other instrument, or by a resolution giving powers to a corporate trustee, by means of which the authority may

(1) make agreements with the trustee or the holders of the bonds that the authority determines to be necessary or desirable, including agreements as to the

(A) application, investment, deposit, use, and disposition of

(i) the proceeds of bonds of the authority;

(ii) money or other property of the authority; or

(iii) money or other property in which the authority has an interest;

(B) fixing and collecting of fees, rents, tolls, rates, or other charges;

(C) assignment by the authority of its rights in any contract with respect to the Knik Arm bridge or in a mortgage or other security interest created with respect to the Knik Arm bridge to a trustee for the benefit of bondholders;

(D) terms and conditions under which the authority may issue additional bonds;

(E) vesting in a trustee of rights, powers, duties, money, or property in trust for the benefit of bondholders, including the right to enforce payment, performance, and all other rights of the authority or of the bondholders, under a lease, power of contract, contract of sale, mortgage, security agreement, or trust by injunction or other proceeding or by taking possession by agent or otherwise, and operating the Knik Arm bridge and collecting rents or other consideration and applying the same in accordance with the trust agreement;

(2) pledge, mortgage, or assign money, leases, agreements, property, or other rights or assets of the authority either presently in hand or to be received in the future, or both; and

(3) provide for any other matters that affect the security or protection of the bonds.

(b) Notwithstanding any other provisions of this chapter, the trust agreement must contain an agreement by the authority that the authority will at all times maintain fees, rents, tolls, rates, or other charges sufficient to

(1) pay the costs of operation and maintenance of the Knik Arm bridge and its appurtenant facilities and the principal of and interest on bonds issued under the trust agreement as the bonds severally become due and payable;

(2) provide for debt service coverage as considered necessary by the authority for the marketing of its bonds; and

(3) provide for renewals, replacements, and improvements of the Knik Arm bridge, and to maintain reserves required by the terms of the trust agreement.

(c) For the purpose of securing one or more issues of its bonds, the authority may establish one or more special funds, called "capital reserve funds," and shall pay into those capital reserve funds the proceeds of the sale of its bonds and any other money that is available to the authority for the purposes of those funds. The funds shall be established only if the authority determines that the establishment would enhance the marketability of the bonds. All money held in a capital reserve fund, except as provided in this section, shall be used as required solely for (1) the payment of the principal of an interest on bonds or of the sinking fund payments with respect to those bonds, (2) the purchase or redemption of bonds, or (3) the payment of a redemption premium required to be paid when those bonds are redeemed before maturity. However, money in a fund may not be withdrawn from the fund at any time in an amount that would reduce the amount of the fund to less than the capital reserve requirement set out in (d) of this section, except for the purpose of making, with respect to those bonds, payment, when due, of principal, interest, redemption premiums, and the sinking fund payments for the payment of which other money of the authority is not available. Income or interest earned by or increment to a capital reserve fund due to the investment of the fund or any other amounts in the fund may be transferred by the authority to other funds or accounts of the authority to the extent that the transfer does not reduce the amount of the capital reserve fund below the capital reserve fund requirement.

(d) If the authority decides to issue bonds secured by a capital reserve fund, the bonds may not be issued if the amount in the capital reserve fund is less than the amount of the capital reserve fund requirement, if any, established by resolution of the authority, unless the authority, at the time of issuance of the obligations, deposits in the capital reserve fund from the proceeds of the obligations to be issued or from other sources an amount that, together with the amount then in the fund, will not be less than the capital reserve fund requirement.

(e) In computing the amount of a capital reserve fund for the purpose of this section, securities in which

all or a portion of the fund is invested shall be valued by some reasonable method established by the authority by resolution. Valuation on a particular date shall include the amount of any interest earned or accrued to that date.

(f) If the authority decides to issue bonds secured by a capital reserve fund, the bonds may not be issued until 30 days after the authority has mailed notification to the state bond committee and the Legislative Budget and Audit Committee by certified mail of its intention to establish a capital reserve fund to secure the bond issue. The notification must include the amount of the capital reserve fund to be established, the amount of bonds proposed to be issued, and the total cost for which the bonds are to be issued. The notification shall be accompanied by an estimate by the authority of the need to withdraw money from the capital reserve fund during the term of the bond issue, the amount that may be necessary to withdraw, and the time at which withdrawals are estimated to be needed. By January 30 of each year, the authority shall prepare, and provide to the state bond committee and the Legislative Budget and Audit Committee, a revised estimate, considering the same factors, and a statement of all withdrawals that have occurred from the date of issuance of the bonds to the end of the preceding calendar year.

(g) Nothing in this section creates a debt or liability of the state.

(h) Notwithstanding any other provision of law, the authority may establish other funds and reserves as the board of directors may determine reasonable and prudent for the issuance of bonds or for the conduct of the business and affairs of the authority. The interest earned on or profit derived from these funds and reserves shall be the property of the authority.

Sec. 19.75.231 Validity of pledge.

It is the intention of the legislature that a pledge made in respect of bonds shall be perfected and shall be valid and binding from the time the pledge is made, that the money or property so pledged and after that received by the authority shall immediately be subject to the lien of the pledge without physical delivery or further act, and that the lien of the pledge shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the authority irrespective of whether the parties have notice. Neither the resolution, trust agreement, nor any other instrument by which a pledge is created need be recorded or filed under the provisions of the Uniform Commercial Code in order to be perfected or to be valid, binding, or effective against the parties. This section does not affect title to or conveyances of real property, and does not limit the applicability of AS 40.17.080(b).

Sec. 19.75.241 Nonliability on bonds.

(a) Neither the members of the board nor a person executing the bonds of the authority is liable personally on the bonds or is subject to personal liability or accountability by reason of the issuance of the bonds.

(b) The bonds issued by the authority do not constitute an indebtedness or other liability of the state or of a political subdivision of the state other than the authority, but shall be payable solely from the income, receipts, or other money or property of the authority. All documents published by the authority or to which the authority is a signatory and used in or for the issuance of bonds by the authority must state that they are prepared by or for the authority.

(c) The authority may not pledge the faith or credit of the state or of a political subdivision of the state other than the authority, and the issuance of a bond by the authority does not directly, indirectly, or

contingently obligate the state or a political subdivision of the state to apply money from, levy, or pledge any form of taxation to the payment of the bond or to make payments due on the bonds from any source of funds not pledged for repayment of the bonds.

(d) Each obligation issued under this chapter other than a state guaranteed bond shall contain on its face a statement that the authority is not obligated to pay it nor the interest on it except from the revenue or assets of the authority and that neither the faith and credit nor the taxing power of the state or of any political subdivision of the state is pledged to the payment of the principal of or the interest on the obligation.

Sec. 19.75.251 Pledge of the state.

The state pledges to and agrees with the holders of bonds issued under this chapter and with a federal agency that loans or contributes money in respect to the Knik Arm bridge that the state will not limit or alter the rights and powers vested in the authority under this chapter to fulfill the terms of a contract made by the authority with the holders or federal agency or in any way impair the rights and remedies of the holders until the bonds, together with the interest on them, with interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met and discharged. The authority may include this pledge and agreement of the state, insofar as it refers to holders of bonds of the authority, in a contract with the holders and, insofar as it relates to a federal agency, in a contract with the federal agency.

Sec. 19.75.261 Exemption from taxation.

The real and personal property of the authority and its assets, income, and receipts are declared to be the property of a political subdivision of the state and are exempt from all taxes and special assessments of the state or a political subdivision of the state. All bonds of the authority are declared to be issued by a political subdivision of the state and for an essential public and governmental purpose. The bonds, the interest on the bonds, the income from the bonds and the transfer of the bonds, and all assets, income, and receipts pledged to pay or secure the payment of the bonds or interest on the bonds are, at all times, exempt from taxation by or under the authority of the state, except for inheritance and estate taxes and taxes on transfers by or in contemplation of death. Nothing in this section affects or limits an exemption from license fees, property taxes, or excise, income, or other taxes provided under any other law, nor does it create a tax exemption with respect to the interest of any business enterprise or other person, other than the authority, in any property, assets, income, receipts, project, or lease, regardless of whether financed under this chapter.

Sec. 19.75.271 Bonds legal investments for fiduciaries.

The bonds of the authority are securities in which all public officers and bodies of the state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks, savings associations, including savings and loan associations and building and loan associations, investment companies, and other persons carrying on banking business, all administrators, guardians, executors, trustees, and other fiduciaries, and other persons who are now or may afterward be authorized to invest in bonds or other obligations of the state may properly and legally invest money, including capital in their control or belonging to them. Notwithstanding any other provision of law, the bonds of the authority are also securities that may be deposited with and may be received by all public officers and bodies of the

state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of the state is now or may afterward be authorized.

Sec. 19.75.281. Audit.

The legislative auditor annually shall audit, or cause to have audited, the financial records of the authority. The legislative auditor may prescribe the form and content of the financial records of the authority and shall have access to these records at any reasonable time.

Sec. 19.75.291 State appropriations for Knik Arm bridge and appurtenant facilities not affected.

This chapter does not prevent the state from making appropriations for or in aid of the acquisition, design, construction, or operation of the Knik Arm bridge and its appurtenant facilities.

Sec. 19.75.301 Insurance.

The authority shall keep in force public liability insurance in an amount reasonably calculated to cover potential claims for bodily injury, death or disability, and property damage that may arise from or be related to its operation and activities, naming the state as an additional insured.

Sec. 19.75.311 Safeguarding of money.

The authority shall maximize revenue from and deposit all money in depositories acceptable to the commissioner of revenue and otherwise safeguard the money under instructions as the commissioner of revenue may from time to time issue.

Sec. 19.75.321 Fidelity bond.

The authority shall obtain a fidelity bond in an amount determined by the board, for the members of the board and any official responsible for authority accounts and finances. A bond must be in effect for the tenure of the bonded person.

Sec. 19.75.330. Bond terms.

(a) The bonds of the authority mature at the time fixed by the board. The bonds may be subject to redemption before their fixed maturities as determined by the board, or by the authority's executive director when delegated that responsibility under AS 19.75.332, and with the premium fixed by the board, but a bond may not be subject to redemption before its fixed maturity date unless the right to redeem that bond is expressly mentioned on the face of the bond. The bonds

(1) may be in denominations determined by the board;

(2) may be issued in coupon form or in fully registered form, and may be registrable as to principal or both principal and interest, all under regulations and conditions the board provides;

(3) are payable as to principal and interest at the place determined by the board;

(4) shall be signed on behalf of the authority as the board may direct; the signatures may be facsimile signatures; each of the interest coupons, if any, attached to the bonds shall be signed by the facsimile signatures of the officials as the board may direct;

(5) shall have the seal of the authority impressed, printed, or lithographed on them; and

(6) shall be issued under and subject to the terms, conditions, and covenants, providing for the payment of the principal of and interest on the bonds and the other terms, conditions, covenants, and protective features safeguarding this payment and relating to the operations, maintenance, or capital improvements as found necessary by the board, which covenants may include a provision requiring the setting aside and maintenance of certain reserves to secure the payment of the principal and interest or for operations, maintenance, or capital improvements.

(b) The board may select a trustee or trustees for the holders of the bonds or any series of the bonds, for the safeguarding and disbursement of any of the money in any of the funds created under this chapter or for the duties of authentication, delivery, and registration of the bonds as the board may determine. The board shall fix the rights, duties, powers, and obligations of the trustee or trustees.

(c) In determining the matters and questions relating to the issuance and sale of the bonds and the fixing of the maturities, terms, conditions, covenants, and other subjects of the bonds as provided in (a) and (b) of this section, the decisions of the board shall be those found to be reasonably necessary for the best interests of the authority and the construction, operation, and maintenance of its facilities, and those that will accomplish the most advantageous sale of the bonds, giving due regard to

(1) necessary or normal costs of maintenance and operation;

(2) renewals and replacements of and repairs to the toll facilities;

(3) all improvements to toll facilities and property of toll facilities owned, used, operated, or leased in connection with toll facilities;

(4) the future growth and expansion of all of the facilities; and

(5) the possibility of additional revenue bond financing for toll facilities purposes. A decision of the board as expressed in any bond resolution, is final when any bonds have been issued under the bond resolution.

(d) A bond resolution may provide that the bonds issued must contain a recital that the bonds are issued under this chapter, and any bonds containing this recital are conclusively considered to be valid and to have been issued in conformity with this chapter.

(e) The validity of the authorization and issuance of bonds is not affected by any proceeding for the acquisition or construction of the additions, improvements, or facilities for which the bonds have been issued or by any contract in connection with the acquisition or construction.

Sec. 19.75.332. Bond resolution.

(a) When issuing bonds of the authority, the board shall adopt the bond resolution and approve all other documents and proceedings necessary for the issuance, sale, and delivery of the bonds or any part or series of them. The bond resolution shall fix the aggregate principal amount and the denomination, date, maturities, place or places of payment, rights of redemption, if any, terms, form, conditions, and covenants of the bonds or each series of them. The board shall also determine and provide for the date and manner of sale of the bonds, and shall provide where the notice of sale, if any, is to be published.

(b) The board may delegate to the authority's executive director the authority to approve final principal maturities and dates, interest rates, redemption rights, and interest payment dates under the terms and conditions the board determines by resolution.

Sec. 19.75.334. Enforcement by holder.

The holder of any bonds or the trustee for the holders of the bonds or any series of them, may, by appropriate proceedings in state court, compel the transfer, setting aside, and payment of money and the enforcement of all of the terms, conditions, and covenants as required and provided in AS 19.75.330 and 19.75.332 and in the bond resolution.

Sec. 19.75.336. Bond negotiability.

The bonds and the coupons attached to them are fully negotiable instruments under the laws of the state.

Sec. 19.75.338. Refunding.

(a) The bonds or any part of them may be refunded at or before their maturity by the issuance of refunding revenue bonds of the authority if, in the opinion of the board, refunding is advantageous to and in the best interest of the authority.

(b) The board shall adopt the resolution authorizing refunding and all other documents and proceedings necessary for the issuance, exchange or sale, and delivery of the bonds. All

provisions of AS 19.75.211 - 19.75.271, except AS 19.75.211(c), and AS 19.75.330 - 19.75.340 applicable to revenue bonds are applicable to the refunding bonds and to the issuance, sale, or exchange of the bonds, except as otherwise provided in this section.

(c) Refunding bonds may be issued in a principal amount sufficient to provide money for the payment of all bonds to be refunded by them and, in addition, for the payment of all expenses incident to the calling, retiring, or paying of the outstanding bonds, and the issuance of the refunding bonds. These expenses include, without limitation,

(1) the difference in amount between the par value of the refunding bonds and any amount less than par for which the refunding bonds are sold;

(2) any amount necessary to be made available for the payment of interest on the refunding bonds from the date of sale of the bonds to the date of payment of the bonds to be refunded or to the date on which the bonds to be refunded will be paid under the call of the bonds or agreement with the holders of the bonds;

(3) the premium, if any, necessary to be paid in order to call or retire the outstanding bonds; and

(4) the interest accruing on the outstanding bonds to the date of the call or retirement and other costs of issuance and refunding.

Sec. 19.75.340. Bonds as legal investments.

Bonds of the authority, including toll facilities bonds, are legal investments for all banks, trust companies, savings banks, savings and loan associations, and other persons carrying on a banking business, all insurance companies and other persons carrying on an insurance business, and all executors, administrators, trustees, and other fiduciaries. The bonds may be accepted as security for deposits of all money of the state and its political subdivisions.

Article 3. General Provisions.

Sec. 19.75.911 Exemption from local regulation.

Notwithstanding any contrary provision of law, the activities of the authority are exempt from land use planning, zoning, permitting, or other similar governmental powers of political subdivisions of the state.

Sec. 19.75.915. Liability for payment of tolls.

(a) The owner of a vehicle using a facility owned, controlled, or managed by the authority for which a toll or fee is imposed is liable for the payment of the toll or fee solely because of the

vehicle ownership, unless the vehicle, except a rental vehicle, is used without the owner's knowledge and incurs the toll or fee during operation.

(b) Unpaid tolls or fees due the authority by a person entitled to receive an Alaska permanent fund dividend shall be a lien on and entitled to payment from the permanent fund dividend of the person from the date the authority notifies the Department of Revenue of the amount due and owing. The notice required under this subsection may not be given earlier than 30 days after the due date.

(c) Upon agreement between the authority and the commissioner of administration, a vehicle owner liable for an unpaid toll or fee due the authority may, after 30 days after the due date, be barred from obtaining or renewing a driver's license or a vehicle registration or license, regardless of whether the vehicle was used at the authority's facilities or incurred the toll or fee, until the toll or fee is paid in full.

Sec. 19.75.920. Statutory construction.

This chapter shall be liberally construed in order to carry out the purposes for which it was enacted. All existing laws in conflict with this chapter are superseded as necessary to accomplish the purposes of this chapter

Sec. 19.75.980. Definitions.

In this chapter, except as otherwise provided and unless the context requires otherwise,

- (1) "authority" means the Knik Arm Bridge and Toll Authority;
- (2) "board" means the board of directors of the authority;
- (3) "department" means the Department of Transportation and Public Facilities;
- (4) "state bond committee" means the state bond committee created by AS 37.15.110.

Sec. 19.75.990 Short title.

This chapter may be cited as the Knik Arm Bridge and Toll Authority Act.

CSSB 303 AND CSHB 471 CONFORMING AMENDMENTS TO OTHER STATUTES

Title 28. Motor Vehicles
Chapter 15. Drivers' Licenses;
Article 1. Issuance, Expiration and Renewal of Licenses.

Sec. 28.15.031 Persons not to be licensed.

(a) The department may not issue a driver's license to a person who is

(1) under the age of 16 years, except that the department may issue a permit under AS 28.15.051 or a restricted license under AS 28.15.121; or

(2) at least 16 years of age but not yet 18 years of age unless the person meets the requirements of AS 28.15.057.

(b) The department may not issue an original or duplicate driver's license to, nor renew or reinstate the driver's license of, a person

(1) whose license is suspended or revoked, except as otherwise provided in this chapter;

(2) who fails to appear in court for the adjudication of a certain vehicle, driver, or traffic offense when the person's appearance is required by statute, regulation, or court rule;

(3) who is an habitual user of alcohol or another drug to such a degree that the person is incapable of safely driving a motor vehicle;

(4) [REPEALED

(5)] when the department, based upon medical evidence, has determined that because of the person's physical or mental disability the person is not able to drive a motor vehicle safely;

(5) [(6)] who is unable to understand official traffic control devices as displayed in this state or who does not have a fair knowledge of traffic laws and regulations, as demonstrated by an examination;

(6) [(7)] who has knowingly made a false statement in the person's application for a license or has committed fraud in connection with the person's application for, or in obtaining or attempting to obtain, a license, or who has not applied under oath on the form provided for the purpose of obtaining or attempting to obtain a license or permit; [OR]

(7) [(8)] who is required under AS 28.20 to furnish proof of financial responsibility and who has not done so; or

(8) who is liable for an unpaid toll or fee under AS 19.75.915(c).

**Title 43. Revenue and Taxation.
Chapter 23. Permanent Fund Dividends.**

Sec. 43.23.065 Exemption of and levy on permanent fund dividends.

(a) Except as provided in (b) of this section, 20 percent of the annual permanent fund dividend payable to an individual is exempt from levy, execution, garnishment, attachment, or any other remedy for the collection of debt. No other exemption applies to a dividend. Notwithstanding other laws, a writ of execution upon a dividend that has not been delivered to the debtor may be served on the commissioner by certified mail, return receipt requested. Upon receipt of a writ by certified mail, return receipt requested, the commissioner shall deliver that portion of the dividend executed upon to the court along with the case name and number.

(b) An exemption is not available under this section for permanent fund dividends taken to satisfy

(1) child support obligations required by court order or decision of the child support services agency under AS 25.27.140 - 25.27.220;

(2) court ordered restitution under AS 12.55.045 - 12.55.051, 25 12.55.100, or AS 47.12.120(b)(4);

(3) claims on defaulted education loans under AS 43.23.067;

(4) court ordered fines;

(5) writs of execution under AS 09.35 of a judgment that is entered

(A) against a minor in a civil action to recover damages and 30 court costs;

(B) under AS 34.50.020 against the parent, parents, or legal guardian of an unemancipated minor;

(6) a debt owed by an eligible individual to an agency of the state, including the University of Alaska, unless the debt is contested and an appeal is pending, or the time limit for filing an appeal has not expired;

(7) a debt owed to a person for a program for the rehabilitation of perpetrators of domestic violence required under AS 12.55.101, AS 18.66.100(c)(15), AS 25.20.061(3), or AS 33.16.150(f)(2);

(S) an unpaid toll or fee under AS 19.75.915(b).

ALASKA STATE LEGISLATURE

SENATE TRANSPORTATION COMMITTEE

Committee Members

Senator Huggins, Chairman
Senator Cowdery, Vice-Chair
Senator Therriault
Senator Kookesh
Senator French



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March 1, 2006

Bullets-Testimony

For the record my name is Deborah Grundmann staff to Senator Huggins and the Senate Transportation Committee.

Before you today is SB 303 sponsored by the Senate Transportation Committee at the request of the Knik Arm Bridge and Toll Authority.

SB 303 "An Act amending the Knik Arm Bridge and Toll Authority Act and the powers and authority of the authority to finance construction and maintenance of the Knik Arm Bridge, to set and collect tolls, and to carry out its duties, and making conforming changes to statutes relating to issuance, renewal, or reinstatement of driver's licenses and to levy on permanent fund dividends; and providing for an effective date."

In 2003 the Alaska Legislature created the Knik Arm Bridge and Toll Authority (KABATA), in Alaska Statute chapter 19.75.

- 1.) To construct a toll bridge across Knik Arm and connect the Municipality of Anchorage and the Matanuska-Susitna Borough
- 2.) to develop, stimulate, and advance the economic welfare of the state and further the development of public transportation systems in the vicinity of the Upper Cook Inlet.

To accomplish the task assigned by the Legislature, the Knik Arm Bridge and Toll Authority must

1. supplement the federal-aid funds authorized by Congress with significant additional public and private sector financing.

SB 303 clarifies and makes more specific the

1. powers and authority of the Knik Arm Bridge and Toll Authority
2. to obtain the necessary non-recourse financing from the private and public financial sectors to supplement the federal-aid financing.

Advice provided to KABATA from the U.S. Department of Transportation executives and other public and private financing experts reflect that these clarifying amendments to the Alaska Statute are essential for their participation in the financing of this project.

George Wuerch,, Chairman of the Board KABATA

Mr. Bill Greene Project Counsel to KABATA

Jim Cantor Statewide Transportation Section Chief for the Attorney General

Tom Boutin, or Deven Mitchell Dept. of Revenue

John Manly DOT/PF



KABATA

KNIK ARM CROSSING

DOT&PF



KNIK ARM BRIDGE AND TOLL AUTHORITY **PRESENTATION**

SENATE BILL NO. 303

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION
BY THE SENATE TRANSPORTATION COMMITTEE

Introduced: 2/17/06

Referred: Transportation, Finance

SPONSOR SUBSTITUTE-HOUSE BILL NO. 471

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

Introduced: _____

Referred: Transportation, Finance

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PURPOSE of SENATE BILL 303 and HOUSE BILL 471

“An Act amending the Knik Arm Bridge and Toll Authority Act and the powers and authority of the authority to finance construction and maintenance of the Knik Arm Bridge, to set and collect tolls, and to carry out its duties, and making conforming changes to statutes relating to issuance, renewal, or reinstatement of driver's licenses and to levy on permanent fund dividends; and providing for an effective date.”

In 2003 the Legislature created the Knik Arm Bridge and Toll Authority (KABATA) to construct a toll bridge across the Knik Arm and connect the Municipality of Anchorage and the Matanuska-Susitna Borough to develop, stimulate, and advance the economic welfare of the state and further the development of public transportation systems in Upper Cook Inlet.

To accomplish the task assigned by the Legislature, KABATA must supplement the federal-aid funds authorized by Congress with significant additional public and private sector financing.

SB 303 and HB 471 clarify and make more specific the powers and authority of KABATA to assure the public and private sectors that KABATA has adequate authority to obtain the necessary supplemental financing.

SB 303 and HB 471 reflect advice provided to KABATA from the U.S. Department of Transportation's Transportation Infrastructure Finance and Innovation Act (TIFIA) executives and other public and private financing experts that these clarifying amendments are essential for their participation in the financing of this project.

The provisions of SB 303 and HB 471:

- Provide exclusive authority to KABATA to set the amount of the bridge tolls.
- Provide explicit authority to enter into public-private partnerships and other financing arrangements for the construction, maintenance and operation of the toll bridge.
- Authorize obtaining non-recourse loans from the U.S. DOT's TIFIA loan program.
- Set the dollar amount of non-recourse revenue bonds that may be issued and refunded.
- Provide means for collection of tolls and other obligations owing KABATA in the operation of the toll bridge.

SB 303 and HB 471 will provide KABATA authority to finalize financial arrangements to complete financing for the construction, operation and maintenance of the bridge.

SECTIONAL ANALYSIS OF SB 303 and HB 471

Bill
Sec.

ANALYSIS

- Sec. 1.** Clarifies the powers of the Knik Arm Bridge and Toll Authority ("Authority"). Also clarifies that the general tolling statutes in AS 37.15 do not apply. Clarifies the authority to refund bonds, incur other debt, obtain TIFIA loans and enter into public-private partnerships and other financing arrangements with both public and private entities for the construction, maintenance and operation of the toll bridge, and to exclusively fix tolls for use of the bridge, acquire real estate and collect its tolls.
- Sec. 2.** Specifies that assets, funds and revenue of the Authority shall be held and accounted for separate from other assets, funds and revenue of the State.
- Sec. 3.** Clarifies that the Authority may refund as well as issue revenue bonds and may secure the repayment of the bonds with any revenue it receives.
- Sec. 4.** Establishes the maximum interest rate that may be paid on the Authority's bonds and the maximum amount of revenue bonds the Authority may issue. Specifies that refunding bonds are not counted in the maximum amount of bonds the Authority may issue.
- Sec. 5.** Provides the Authority with the general power to establish funds and reserves for the issuance of its revenue bonds and the conduct of its business and specifies that interest from such funds and reserves belong to the Authority.
- Sec. 6.** Adds a requirement that the Authority's bond documents contain a notation that they are documents of the authority to underscore that they are not obligations of the State.
- Sec. 7.** Adds a requirement that the Authority's bond documents contain a notation that they are documents of the authority to underscore that its bonds do not pledge any revenue of or obligate the State or any other political subdivision to repay the bonds.
- Sec. 8.** Adopts relevant sections of the existing statute in AS 37.15 governing toll facilities and toll revenue bonds generally to precisely define the authorities and mechanisms that apply to revenue bonds issued by the Authority distinct from other toll facilities.
- Sec. 9.** Establishes liability for the payment of tolls and provides authority for collection of tolls and other obligations owing the Authority.
- Sec. 10.** Incorporates relevant statutory definitions.
- Sec. 11.** Makes conforming amendments in AS 28.15.031(b) to permit payment of unpaid and past due tolls to be a prerequisite to obtaining any driver's license.
- Sec. 12.** Makes conforming amendments to AS 43.23.065(b) to permit collection of unpaid and past due tolls from Permanent Fund dividends.
- Sec. 13.** Provides for an immediate effective date to permit the Authority to immediately complete financing arrangements for construction, operation and maintenance of the bridge.

BILL NO.
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Introduced:
Referred: Transportation, Finance

A BILL
FOR AN ACT ENTITLED

1 "An Act amending the Knik Arm Bridge and Toll Authority Act and the powers and
2 authority of the authority to finance construction and maintenance of the Knik Arm
3 Bridge, to set and collect tolls, and to carry out its duties, and making conforming
4 changes to statutes relating to issuance, renewal, or reinstatement of driver's licenses
5 and to levy on permanent fund dividends; and providing for an effective date."

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

7 * Section 1. AS 19.75.111 is amended to read:

8 Sec. 19.75.111. Powers and duties of the authority. (a) Except as otherwise
9 explicitly made applicable to the authority, the performance of the authority's
10 duties and the exercise of its powers, including its powers to issue bonds and
11 otherwise incur debt, shall be governed exclusively by this chapter. In furtherance
12 of its purposes, the authority may

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

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

3 (2) sue and be sued;

4 (3) adopt a seal;

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

7 (5) make and execute agreements, contracts, and all other instruments
8 with any public or private person, governmental unit or agency, corporation, or
9 other business entity lawfully conducting business in the United States for the
10 exercise of its powers and functions under this chapter and for the financing, design,
11 construction, maintenance, improvement, or operation of facilities, properties, or
12 projects of the authority, including making and executing contracts with any
13 person, firm, corporation, governmental agency, or other entity for the purpose of

14 (A) incurring indebtedness, obtaining investments in the
15 authority's projects, acquiring or granting lump sum payments for
16 services in advance or in arrears, grants, and other financing; and

17 (B) entering into public-private partnerships or service
18 contracts in any form;

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

21 (7) issue and refund bonds [AND OTHERWISE INCUR
22 INDEBTEDNESS.] in accordance with this chapter [AS 19.75.211], in order to pay
23 the cost of the Knik Arm bridge and its appurtenant facilities; the authority may also
24 secure payment of the bonds or other indebtedness as provided in this chapter
25 [AS 19.75.221];

26 (8) incur other indebtedness, including lines of credit and
27 indebtedness to the Federal Highway Administration, United States Department
28 of Transportation, under 23 U.S.C. 101 - 164 (Transportation Infrastructure
29 Finance and Innovation Act of 1998), as amended;

30 (9) apply for and accept gifts, grants, or loans from a federal agency or
31 an agency or instrumentality of the state, or from a municipality, private organization,

1 or other source, including obtaining title to state, local government, or privately
 2 owned land, directly or through a department of the state having jurisdiction of
 3 the land:

4 (10) [(9)] fix and collect fees, rents, tolls, rates, or other charges for the
 5 use of the Knik Arm bridge and appurtenant facilities, or for a service developed,
 6 operated, or provided by the authority; notwithstanding AS 37.10.050(a), fees, rents,
 7 tolls, rates, and other charges fixed and collected under this paragraph may exceed the
 8 actual operating cost of the use of the bridge, facility, or service;

9 (11) bring civil actions, refer criminal actions to the appropriate
 10 authority, and take other actions or enter into agreements with law enforcement
 11 and collection agencies to enforce the collection of its fees, rents, tolls, rates, other
 12 charges, penalties, and other obligations:

13 (12) [(10)] pledge, encumber, transfer, or otherwise obligate fees,
 14 rents, tolls, rates, charges, or other revenue of the authority as security for bonds or
 15 other indebtedness or agreements of the authority;

16 (13) [(11)] deposit or invest its funds, subject to agreements with
 17 bondholders;

18 (14) [(12)] procure insurance against any loss in connection with its
 19 operation;

20 (15) [(13)] contract for and engage the services of consultants, experts,
 21 and financial and technical advisors that the authority considers necessary for the
 22 exercise of its powers and functions under this chapter;

23 (16) [(14)] apply for, obtain, hold, and use permits, licenses, or
 24 approvals from appropriate agencies of the state, the United States, a foreign country,
 25 and any other proper agency in the same manner as any other person;

26 (17) [(15)] perform reconnaissance studies and engineering, survey,
 27 and design studies with respect to the Knik Arm bridge and its appurtenant facilities;

28 (18) [(16)] exercise powers of eminent domain or file a declaration of
 29 taking as necessary for the Knik Arm bridge and appurtenant facilities under
 30 AS 09.55.240 - 09.55.460 to acquire land or an interest in land;

31 (19) [(17)] confer with municipal and other governments, metropolitan

1 planning organizations, and the department, concerning the Knik Arm bridge;

2 ~~(20)~~ [(18)] do all acts and things necessary to carry out the powers
3 expressly granted or necessarily implied in this chapter; nothing in this chapter
4 limits the powers of the authority that are expressly granted or necessarily
5 implied.

6 (b) The authority shall

7 (1) prepare an annual report of its operations to include a balance
8 sheet, an income statement, a statement of changes in financial position, a
9 reconciliation of changes in equity accounts, a summary of significant accounting
10 principles, an auditor's report, comments regarding the year's business, and prospects
11 for the next year; the report shall be completed by the third day of each regular session
12 of the legislature, and the authority shall notify the governor, the commissioner of the
13 department, the presiding officers of each house of the legislature, and the Legislative
14 Budget and Audit Committee that the report is available;

15 (2) comply with the provisions of AS 37.07 (Executive Budget Act),
16 except that AS 37.07 does not apply to the activities of the authority that relate to the
17 authority's borrowing of money as provided in this chapter, including the issuing of its
18 obligations or evidence of that borrowing and the repayment of the debt obligation;

19 (3) establish a personnel management system for hiring employees and
20 setting employee-benefit packages;

21 (4) establish procedures, rules, and rates governing per diem and travel
22 expenses of the employees of the authority in substantial conformity to statutes,
23 procedures, rules, and rates applicable to state employees of similar state entities;

24 (5) coordinate the exercise of its powers to plan, design, construct,
25 operate, and maintain the Knik Arm bridge with the department, and with the mayors
26 of the Municipality of Anchorage and the Matanuska-Susitna Borough;

27 (6) have the exclusive authority to determine and fix fees, rents,
28 tolls, rates, and other charges, including the tolls for the use of the bridge and
29 appurtenant facilities and for the use of all other properties under the control of
30 or owned or managed by the authority.

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

1 **Sec. 19.75.113. Assets, funds, and revenue of the authority.** (a) The
2 Department of Revenue shall separately account for all funds, assets, and revenue of
3 the authority.

4 (b) The deposit or investment of money in the authority's funds may be made
5 as the board determines. The interest earned on or profits derived from the deposit,
6 investment, or sale of an investment by the authority are funds of the authority.

7 * **Sec. 3.** AS 19.75.211 is amended to read:

8 **Sec. 19.75.211. Bonds of the authority.** Notwithstanding any other
9 provision of law, the [THE] authority may borrow money and issue and refund
10 bonds on which the principal and interest are paid out of and secured by the gross
11 revenue derived by the authority from the ownership, use, and operation of its
12 toll facilities, including [PAYABLE FROM] money derived from the fees, rents,
13 tolls, rates, charges, and other revenue of the authority under this chapter and any
14 other revenue or money that the legislature may appropriate, except a state tax
15 or license. Before issuing bonds for the Knik Arm bridge, the authority shall submit to
16 the state bond committee a description of the bond issue and a preliminary prospectus,
17 offering circular, or official statement relating to the bond issue. Bonds may not be
18 issued unless the state bond committee finds, based upon the information submitted by
19 the authority under this section and other information that is reasonably available to
20 the committee, that the Knik Arm bridge revenue and other revenue available to the
21 authority can be reasonably expected to be adequate for payment of the principal of
22 and interest on the bonds to be issued and that issuance of the bonds by the authority
23 would not be expected to adversely affect the ability of the state or its political
24 subdivisions to market bonds. [BONDS MAY NOT BE ISSUED UNLESS THE
25 PRINCIPAL AMOUNT OF THE BOND ISSUE IS AUTHORIZED BY LAW.]

26 * **Sec. 4.** AS 19.75.211 is amended by adding new subsections to read:

27 (b) The bonds of the authority may be sold in the amounts or series and at the
28 time determined by its board of directors. Bonds, or a series of bonds, may not be sold
29 if the effective interest rate over the life of the bonds exceeds 11 percent a year or a
30 rate of interest that is 125 percent of the rate of the Bond Buyer Index of 20 Municipal
31 Bond Average Yields for the week previous to the date of the sale of the bonds,

1 whichever is higher.

2 (c) The authority may issue bonds in an aggregate amount not to exceed
3 \$500,000,000, plus the cost of issuance.

4 (d) The amount of refunding bonds that may be issued by the authority and
5 bond premiums may not be included in the aggregate amount, but may be in addition
6 to the amount authorized by (c) of this section.

7 * Sec. 5. AS 19.75.221 is amended by adding a new subsection to read:

8 (h) Notwithstanding any other provision of law, the authority may establish
9 other funds and reserves as the board of directors may determine reasonable and
10 prudent for the issuance of bonds or for the conduct of the business and affairs of the
11 authority. The interest earned on or profit derived from these funds and reserves shall
12 be the property of the authority.

13 * Sec. 6. AS 19.75.241(b) is amended to read:

14 (b) The bonds issued by the authority do not constitute an indebtedness or
15 other liability of the state or of a political subdivision of the state other than the
16 authority, but shall be payable solely from the income, receipts, or other money or
17 property of the authority. All documents prepared by and used in or for the
18 issuance of bonds by the authority must state that they are prepared by or for the
19 authority.

20 * Sec. 7. AS 19.75.241(c) is amended to read:

21 (c) The authority may not pledge the faith or credit of the state or of a political
22 subdivision of the state other than the authority, and the issuance of a bond by the
23 authority does not directly, indirectly, or contingently obligate the state or a political
24 subdivision of the state to apply money from, levy, or pledge any form of taxation to
25 the payment of the bond or to make payments due on the bonds from any source of
26 funds not pledged for repayment of the bonds.

27 * Sec. 8. AS 19.75 is amended by adding new sections to article 2 to read:

28 **Sec. 19.75.330. Bond terms.** (a) The bonds of the authority mature at the time
29 fixed by the board. The bonds may be subject to redemption before their fixed
30 maturities as determined by the board and with the premium fixed by the board, but a
31 bond may not be subject to redemption before its fixed maturity date unless the right

1 to redeem that bond is expressly mentioned on the face of the bond. The bonds

2 (1) may be in denominations determined by the board;

3 (2) may be issued in coupon form or in fully registered form, and may
4 be registrable as to principal or both principal and interest, all under regulations and
5 conditions the board provides;

6 (3) are payable as to principal and interest at the place determined by
7 the board;

8 (4) shall be signed on behalf of the authority as the board may direct;
9 the signatures may be facsimile signatures; each of the interest coupons attached to the
10 bonds shall be signed by the facsimile signatures of the officials as the board may
11 direct;

12 (5) shall have the seal of the authority impressed, printed, or
13 lithographed on them; and

14 (6) shall be issued under and subject to the terms, conditions, and
15 covenants, providing for the payment of the principal of and interest on the bonds and
16 the other terms, conditions, covenants, and protective features safeguarding this
17 payment and relating to the maintenance, operation, and improvement of the toll
18 facilities as found necessary by the board, which covenants may include a provision
19 requiring the setting aside and maintenance of certain reserves to secure the payment
20 of the principal and interest.

21 (b) The board may select a trustee or trustees for the holders of the bonds or
22 any series of the bonds, for the safeguarding and disbursement of any of the money in
23 any of the funds created under this chapter or for the duties of authentication, delivery,
24 and registration of the bonds as the board may determine. The board shall fix the
25 rights, duties, powers, and obligations of the trustee or trustees.

26 (c) In determining the matters and questions relating to the issuance and sale
27 of the bonds and the fixing of the maturities, terms, conditions, covenants, and other
28 subjects of the bonds as provided in (a) and (b) of this section, the decisions of the
29 board shall be those found to be reasonably necessary for the best interests of the
30 authority and the construction, operation, and maintenance of its facilities, and those
31 that will accomplish the most advantageous sale of the bonds, giving due regard to (1)

1 necessary or normal costs of maintenance and operation; (2) renewals and
2 replacements of and repairs to the toll facilities; (3) all improvements to toll facilities
3 and property of toll facilities owned, used, operated, or leased in connection with toll
4 facilities; (4) the future growth and expansion of all of the facilities; and (5) the
5 possibility of additional revenue bond financing for toll facilities purposes. A decision
6 of the board as expressed in any bond resolution, is final when any bonds have been
7 issued under the bond resolution.

8 (d) A bond resolution may provide that the bonds issued must contain a recital
9 that the bonds are issued under this chapter, and any bonds containing this recital are
10 conclusively considered to be valid and to have been issued in conformity with this
11 chapter.

12 (e) The validity of the authorization and issuance of bonds is not affected by
13 any proceeding for the acquisition or construction of the additions, improvements, or
14 facilities for which the bonds have been issued or by any contract in connection with
15 the acquisition or construction.

16 **Sec. 19.75.332. Bond resolution.** When issuing bonds of the authority, the
17 board shall adopt the bond resolution and prepare all other documents and proceedings
18 necessary for the issuance, sale, and delivery of the bonds or any part or series of
19 them. The bond resolution shall fix the principal amount, denomination, date,
20 maturities, place or places of payment, rights of redemption, if any, terms, form,
21 conditions, and covenants of the bonds or each series of them. The board shall also
22 determine and provide for the date and manner of sale of the bonds, and shall provide
23 where the notice of sale, if any, is to be published.

24 **Sec. 19.75.334. Enforcement by holder.** The holder of any bonds or the
25 trustee for the holders of the bonds or any series of them, may, by appropriate
26 proceedings in state court, compel the transfer, setting aside, and payment of money
27 and the enforcement of all of the terms, conditions, and covenants as required and
28 provided in AS 19.75.330 and 19.75.332 and in the bond resolution.

29 **Sec. 19.75.336. Bond negotiability.** The bonds and the coupons attached to
30 them are fully negotiable instruments under the laws of the state.

31 **Sec. 19.75.338. Refunding.** (a) The bonds or any part of them may be

1 refunded at or before their maturity by the issuance of refunding revenue bonds of the
2 authority if, in the opinion of the board, refunding is advantageous to and in the best
3 interest of the authority.

4 (b) The issuance of refunding bonds need not be authorized by an act of the
5 legislature. The board shall adopt the resolution authorizing refunding and prepare all
6 other documents and proceedings necessary for the issuance, exchange or sale, and
7 delivery of the bonds. All provisions of AS 19.75.211 - 19.75.271 and AS 19.75.330 -
8 19.75.340 applicable to revenue bonds are applicable to the refunding bonds and to the
9 issuance, sale, or exchange of the bonds, except as otherwise provided in this section.

10 (c) Refunding bonds may be issued in a principal amount sufficient to provide
11 money for the payment of all bonds to be refunded by them and, in addition, for the
12 payment of all expenses incident to the calling, retiring, or paying of the outstanding
13 bonds, and the issuance of the refunding bonds. These expenses include the difference
14 in amount between the par value of the refunding bonds and any amount less than par
15 for which the refunding bonds are sold, any amount necessary to be made available for
16 the payment of interest on the refunding bonds from the date of sale of them to the
17 date of payment of the bonds to be refunded or to the date on which the bonds to be
18 refunded will be paid under the call of the bonds or agreement with the holders of
19 them, and the premium, if any, necessary to be paid in order to call or retire the
20 outstanding bonds and the interest accruing on the outstanding bonds to the date of the
21 call or retirement.

22 **Sec. 19.75.340. Bonds as legal investments.** Bonds of the authority, including
23 toll facilities bonds, are legal investments for all banks, trust companies, savings
24 banks, savings and loan associations, and other persons carrying on a banking
25 business, all insurance companies and other persons carrying on an insurance business,
26 and all executors, administrators, trustees, and other fiduciaries. The bonds may be
27 accepted as security for deposits of all money of the state and its political subdivisions.

28 * **Sec. 9.** AS 19.75 is amended by adding new sections to read:

29 **Sec. 19.75.915. Liability for payment of tolls.** (a) The owner of a vehicle
30 using a facility owned, controlled, or managed by the authority for which a toll or fee
31 is imposed is liable for the payment of the toll or fee solely because of the vehicle

1 ownership, unless the vehicle, except a rental vehicle, is used without the owner's
2 knowledge and incurs the toll or fee during operation.

3 (b) Unpaid tolls or fees due the authority by a person entitled to receive an
4 Alaska permanent fund dividend shall be a lien on and entitled to payment from the
5 permanent fund dividend of the person from the date the authority notifies the
6 Department of Revenue of the amount due and owing 30 days after the due date.

7 (c) Upon agreement between the authority and the commissioner of
8 administration, a vehicle owner liable for an unpaid toll or fee due the authority may,
9 after 30 days after the due date, be barred from obtaining or renewing a driver's license
10 or a vehicle registration or license, regardless of whether the vehicle was used at the
11 authority's facilities or incurred the toll or fee, until the toll or fee is paid in full.

12 **Sec. 19.75.920. Statutory construction.** This chapter shall be liberally
13 construed in order to carry out the purposes for which it was enacted. All existing laws
14 in conflict with this chapter are superseded as necessary to accomplish the purposes of
15 this chapter.

16 * **Sec. 10.** AS 19.75.980 is amended to read:

17 **Sec. 19.75.980. Definitions.** In this chapter, except as otherwise provided
18 and unless the context requires otherwise,

19 (1) "authority" means the Knik Arm Bridge and Toll Authority;

20 (2) "board" means the board of directors of the authority;

21 (3) "department" means the Department of Transportation and Public
22 Facilities;

23 (4) "state bond committee" means the state bond committee
24 created by AS 37.15.110.

25 * **Sec. 11.** AS 28.15.031(b) is amended to read:

26 (b) The department may not issue an original or duplicate driver's license to,
27 nor renew or reinstate the driver's license of, a person

28 (1) whose license is suspended or revoked, except as otherwise
29 provided in this chapter;

30 (2) who fails to appear in court for the adjudication of a certain
31 vehicle, driver, or traffic offense when the person's appearance is required by statute,

1 regulation, or court rule;

2 (3) who is an habitual user of alcohol or another drug to such a degree
3 that the person is incapable of safely driving a motor vehicle;

4 (4) [REPEALED

5 (5)] when the department, based upon medical evidence, has
6 determined that because of the person's physical or mental disability the person is not
7 able to drive a motor vehicle safely;

8 ~~(5)~~ [(6)] who is unable to understand official traffic control devices as
9 displayed in this state or who does not have a fair knowledge of traffic laws and
10 regulations, as demonstrated by an examination;

11 ~~(6)~~ [(7)] who has knowingly made a false statement in the person's
12 application for a license or has committed fraud in connection with the person's
13 application for, or in obtaining or attempting to obtain, a license, or who has not
14 applied under oath on the form provided for the purpose of obtaining or attempting to
15 obtain a license or permit; [OR]

16 ~~(7)~~ [(8)] who is required under AS 28.20 to furnish proof of financial
17 responsibility and who has not done so; or

18 (8) who is liable for an unpaid toll or fee under AS 19.75.915(c).

19 * Sec. 12. AS 43.23.065(b) is amended to read:

20 (b) An exemption is not available under this section for permanent fund
21 dividends taken to satisfy

22 (1) child support obligations required by court order or decision of the
23 child support services agency under AS 25.27.140 - 25.27.220;

24 (2) court ordered restitution under AS 12.55.045 - 12.55.051,
25 12.55.100, or AS 47.12.120(b)(4);

26 (3) claims on defaulted education loans under AS 43.23.067;

27 (4) court ordered fines;

28 (5) writs of execution under AS 09.35 of a judgment that is entered

29 (A) against a minor in a civil action to recover damages and
30 court costs;

31 (B) under AS 34.50.020 against the parent, parents, or legal

1 guardian of an unemancipated minor;

2 (6) a debt owed by an eligible individual to an agency of the state,
3 including the University of Alaska, unless the debt is contested and an appeal is
4 pending, or the time limit for filing an appeal has not expired;

5 (7) a debt owed to a person for a program for the rehabilitation of
6 perpetrators of domestic violence required under AS 12.55.101, AS 18.66.100(c)(15),
7 AS 25.20.061(3), or AS 33.16.150(f)(2);

8 **(8) an unpaid toll or fee under AS 19.75.915(b).**

9 * Sec. 13. This Act takes effect immediately under AS 01.10.070(c).

ALASKA STATUTES¹

WITH SB 303 and HB 471 INCORPORATED²

Title 19. Highways and Ferries.

Chapter 75. Knik Arm Bridge and Toll Authority.

Effective dates. - Section 1, ch. 77, SLA 2003, which enacted this chapter, took effect on September 10, 2003. For Governor's transmittal letter *see* 2003 Senate Journal 1183 - 1884.

Article 1. Establishment and Organization.

Sec. 19.75.011 Purpose.

The purpose of the authority created by this chapter is to develop, stimulate, and advance the economic welfare of the state and further the development of public transportation systems in the vicinity of the Upper Cook Inlet with construction of a bridge to span Knik Arm and connect the Municipality of Anchorage and the Matanuska-Susitna Borough.

Sec. 19.75.021 Establishment of authority.

(a) There is established the Knik Arm Bridge and Toll Authority. The authority is a public corporation and an instrumentality of the state within the Department of Transportation and Public Facilities, but the authority has a separate and independent legal existence from the state. The exercise by the authority of the powers in this chapter is considered an essential governmental function of the state.

(b) The authority may not be terminated as long as it has bonds, notes, or other obligations outstanding. Upon termination of the authority, its rights and property pass to the state.

Sec. 19.75.031 Board of directors of authority.

(a) The authority shall be governed by a board of directors consisting of the following:

- (1) the commissioner of transportation and public facilities or the commissioner's designee;
- (2) the commissioner of revenue or the commissioner's designee;
- (3) one public member, appointed by the governor, who is a state resident and United States citizen;
- (4) one public member, appointed by the governor, who is a resident of the Municipality of Anchorage and who has knowledge of local transportation issues;

1. Amendments to other statutes by SB 303 and HB 471 are set out at the end.

2. Amendments by SB 303 and HB 471 are set out in blue. *New Text Underlined* [DELETED TEXT BRACKETED].