

consent of the qualified voters of the municipality is first obtained through a referendum vote at a general or special election, upon ballots which clearly present the proposition as to whether such sales tax shall be authorized within the municipality. The ballot shall also set forth whether the tax is to be levied for general revenue for the municipality or for a special purpose, and, if for a special purpose, same shall be specified on the ballot. If a majority of the votes cast in said referendum are in the affirmative, the council may thereafter enact such a tax in the nature of a levy upon buyers but with imposition upon sellers of the obligation of collecting same at the time of sale or at time of collection with respect to credit transactions, and transmit same to the municipality. No such sales tax proposition shall be presented to the voters more than

once in any twelve months. The sole purpose of this sub-section is to enable cities, with the consent of the residents thereof, to impose sales taxes, and that although such method of taxation be established within a city, the council may, at any time abandon same. It is also the intent that if consent to such tax be obtained for a special purpose, the proceeds of the tax may not be used for any other purpose unless with consent of the voters at another referendum. Provided, however, that any municipality may provide by ordinance for exemption from the tax levied hereunder if not otherwise expressly prohibited by law.

Section 2. Any exemption heretofore granted by any municipality within the Territory of Alaska, pursuant to an ordinance, is hereby validated, ratified and confirmed.

Approved April 1, 1957

CHAPTER 152

AN ACT

Creating the Alaska Highway and Public Works Department; establishing the Alaska Highway and Public Works Board and defining its powers and duties; establishing the office of Commissioner of the Alaska Highway and Public Works Department and defining his powers and duties; abolishing the office of the Territorial Highway Engineer; establishing policies and procedures for the construction of highways and public works; authorizing certain expenditures and loans; assenting to certain Federal Acts; declaring certain acts misdemeanors and providing for the punishment thereof; amending Secs. 10-2-1, 11-1-6, 11-5-7, 14-2-3, 14-2-4, 40-10-1, 50-1-1, 50-1-6, ACLA 1949; amending Ch. 52, SLA 1953, Ch. 86, SLA 1953, Ch. 144, SLA 1953 as amended by Ch. 8, SLA 1955 and Ch. 152, SLA 1955, and amending Ch. 20, SLA 1955, Ch. 40, SLA 1955, Sec. 48-5-2 (f), (g) and (i) as amended by Ch. 47, SLA 1955, Ch. 162, SLA 1955, Ch. 174, SLA 1955, Ch. 180, SLA 1955; amending Sec. 50-1-4 (e), ACLA 1949, as amended by Ch. 152, SLA 1955; repealing Secs. 41-2-2, 41-2-3, 41-3-1, 41-3-2, 41-3-3, ACLA 1949; re-

pealing Sec. 41-2-1, ACLA 1949, as amended by Ch. 123, SLA 1953; repealing Sec. 41-3-4, ACLA 1949, as amended by Ch. 117, SLA 1955; repealing Sec. 41-1-1, ACLA 1949; Ch. 179, SLA 1955; and declaring an emergency.

(H. B. 191)

Be it enacted by the Legislature of the Territory of Alaska:

Title I

Article I

Short Title: Purpose: Definitions

Section 1. Short Title. This Act shall be known and may be cited as the "Alaska Highway and Public Works Act of 1957".

Sec. 2. Purpose. The purpose of of this Act is twofold: (1) to establish a Highway Division capable of carrying out a highway planning, construction, and maintenance program which will provide a common defense to the United States and Alaska, a network of highways linking together cities and communities throughout Alaska (thereby contributing to the development of commerce and industry in Alaska, and aiding the extraction and utilization of its resources), and otherwise improve the economic and general welfare of the people of Alaska; and (2) to establish a Public Works Division capable of carrying out a public works planning and construction program which will provide public buildings necessary to efficient government, and boat harbors, jetties, dikes and breakwaters necessary to the economy of Alaska communities, all of which is to the advantage and benefit of the general welfare of the public.

It is the intent of the Legislature to declare, in general terms, the powers and duties of the Board

and the Commissioner leaving specific details to be determined by reasonable rules and regulations which may be promulgated.

Sec. 3. Definitions. As used in this Act, unless the context otherwise requires:

(1) "Alaska" means the Territory of Alaska or, in the event of statehood, the State of Alaska.

(2) "Board" means the Alaska Highway and Public Works Board.

(3) "Member" means a member of the Board.

(4) "Department" means the Alaska Highway and Public Works Department.

(5) "Commissioner" means the Commissioner of the Department.

(6) "Director" means the Director of the Highway Division of the Department.

(7) "Superintendent" means the Superintendent of the Public Works Division of the Department.

(8) "Construction" or any derivative thereof means construction, reconstruction, alteration, improvements or major repairs.

(9) "Highway" means all highways (whether included in primary or secondary systems), roads, streets, trails, walks, bridges, tunnels, drainage structures and other similar or related structures or facilities and further includes ferries and all such related facilities.

(10) "Maintenance" means the preservation of each type of highway, roadside structure and facility as nearly as possible in its original condition as constructed, or as subsequently improved, and the operation of highway facilities and services to provide satisfactory and safe highways.

(11) "Public buildings" means any building owned or controlled and held by Alaska, for government or public use.

(12) "Public works" means all fixed works, constructed or maintained for Alaska government or public use, and includes but is not limited to, work on any public buildings, boat harbors, jetties, dikes and breakwaters, except that it shall not include any Public Works under the jurisdiction of the Department of Aviation.

(13) "Municipalities" means any incorporated city or any political subdivision in Alaska having jurisdiction over highways within its incorporated area.

Article II

Organization

Section 1. The Alaska Highway and Public Works Department. There is hereby created and established the Alaska Highway and Public Works Department. The Department shall be under the control and supervision of the Board. Administrative power and such delegated duties as may be prescribed by law shall be vested in the Commissioner.

Sec. 2. Composition of the Board: Chairman: Meetings: Quorum. There is hereby created and established the Alaska Highway and Public Works Board. The Board shall consist of five persons to be

appointed by the Governor, except as otherwise provided in this section by and with the consent of the Legislature in joint session assembled, and in substantial compliance with Ch. 64, SLA 1955, as amended.

Each appointee shall be a resident and legally qualified voter of Alaska at the time of his appointment and while serving as a member of the Board. One member shall be appointed from each judicial division and one shall be appointed at large. The five Board members shall be appointed for overlapping terms of five years with the term of office of one member expiring each year. Each term of office shall commence April first of the year in which they are made; provided, however, that those members of the Territorial Board of Road Commissioners, including the "Highway Engineer", holding office immediately preceding the effective date of this Act under Sec. 41-2-1, ACLA 1949, as amended by Ch. 123, SLA 1953, shall serve as members of the Board created and established herein, for the terms of their respective appointment and election. The Governor shall fill any vacancies in the membership of the Board for the balance of any unexpired term, subject to confirmation by the Legislature as provided above.

The Highway Engineer, elected in October, 1956, in his capacity as Commissioner, shall serve as chairman of the Board for the period he was elected to the office of Highway Engineer. Provided, however, that thereafter the Board shall elect the chairman. The Chairman may call meetings of the Board upon at least seven days notice, and shall do so at the request of two members; provided, the

first Board meeting shall be called by the Governor within 60 days of the effective date of this Act. The majority of the Board shall constitute a quorum and action taken by a majority of those present at any meeting, at which a quorum is present, shall be deemed the action of the Board. Members of the Board shall serve without pay, except that they shall be reimbursed for necessary travel, and for per diem in conformity with Alaska law.

Sec. 3. Appointment of Commissioner: Qualifications. A Commissioner shall be appointed by the Board. He shall preferably be a competent graduate of an approved engineering school with at least five years experience in highway or public works construction and maintenance, or in case he shall not be a graduate of some college or school of engineering, he shall have had at least ten years experience in highway or public works construction and maintenance. He shall be a licensed engineer eligible to practice under the laws of any State or Alaska. He shall serve at the pleasure of the Board and shall be paid such compensation as the Board prescribes. He shall not engage in any profession or other occupation outside of the government in any way related to the duties of his office and he shall exercise such power and perform such duties as may be prescribed by law or by the Board. Provided, however, the Highway Engineer elected in October 1956 shall serve as Commissioner for the term for which he was elected.

Article III

General Duties and Powers of the Board

Section 1. **General.** The Board

shall be responsible for the planning, construction, maintenance, protection and control of the Alaska Highway System and for the planning and construction of public works. The Board shall promulgate such rules and regulations as it deems necessary to attain and carry out the purpose and provisions of this Act.

Sec. 2. Duties and Powers. The Board is hereby granted, but not by way of limitation, full power and authority to acquire property; institute eminent domain proceedings; take immediate possession of real property, or any interest therein under a declaration of taking or by other lawful means; acquire rights-of-way for present or future use; control accesses to highways; regulate roadside development; preserve and maintain the scenic beauty along Alaskan highways; dispose of property or property rights no longer needed; accept and dispose of Federal funds or property available for highway and public works construction, maintenance, equipment or other like purpose; enter into any contract or agreement, relating to highways or public works with the United States Government, a political subdivision or with any foreign government, if such contract with the latter entity is approved by the Government of the United States; and to exercise any other power and authority necessary to attain and carry out the purpose and provisions of this Act.

Sec. 3. Delegation of Authority. The Board may delegate any of the above duties and powers it deems proper and necessary to the Commissioner, the Director or the Superintendent to act on its behalf during the interim between Board meetings.

Article IV

Duties and Powers of the Commissioner

Section 1. **General.** The Commissioner shall be responsible for the supervision and administration of the Department and may exercise any powers specifically delegated to him by law or any further duties as may be imposed upon him by the Board.

Sec. 2. **Duties and Powers.** The Commissioner is hereby granted, but not by way of limitation, the following powers and duties: To direct Board approved highway and public works planning and construction; to direct maintenance, protection and control of highways; to employ and fix the compensation of assistants and employees of each division; to certify and approve all lawful vouchers; to provide a program of highway research; to prepare a departmental budget; to review the annual highway and public works program; and to do all other things that may be necessary to carry out the powers and duties authorized by law or delegated to him.

Sec. 3. **Delegation of Authority.** The Commissioner may delegate any administrative duty, power or function to the Director or Superintendent.

Title II

Article I

Alaska Highway Division

Section 1. **General.** There is hereby created and established within the Alaska Highway and Public Works Department, the Alaska Highway Division. This Division shall be under the supervision of a Director. He shall be vested with such powers and dele-

gated such duties as are prescribed by law or regulation or as may be lawfully delegated him by the Board or the Commissioner.

Sec. 2. **Duties and Powers.** The Director shall be appointed by the Commissioner with the approval of the Board. He shall preferably be a competent graduate of an approved engineering school, experienced in highway construction and maintenance and a licensed engineer eligible to practice in any State or Alaska. He shall serve at the pleasure of the Commissioner and he shall be paid such compensation as the Commissioner prescribes, subject to the approval of the Board. He shall not engage in any profession or other occupation outside of the government in any way related to the duties of his office. He shall supervise all approved highway planning, construction and maintenance and do all other things that may be imposed upon him by law, the Board or the Commissioner.

Article II

Federal Aid

Section 1. **Assent to Federal-Aid Given.** The legislative assent required by Section 1 of the Act of Congress approved July 11, 1916 (39 Stat. 355) entitled, "An Act to provide that the United States shall aid the states in the construction of rural post roads, and for other purposes," is hereby given. The Board is authorized and empowered to make all contracts and to do all things necessary to cooperate with the United States Government in the construction of highways under the provisions of the said Act, and all Acts amendatory or supplementary thereto, or any other Act of Congress that may hereafter be enacted, and including

the Federal-Aid Highway Act of 1956 (Public Law 627, 85th Congress, 2nd Session).

Sec. 2. Municipality May Aid Federal Highway Construction. Any municipality, through its governing body, wherever a Federal-aid highway is routed through such municipality, may participate in the financing, planning, construction, acquisition of right-of-way and maintenance of said highway in such manner and proportion as the Board may determine is reasonable and proper.

Sec. 3. General Laws Governing Assessments by Municipalities to Pay Highway Costs. All provisions of Alaska municipal law relating to the levying of assessments for such highway financing, planning, construction, acquisition of right-of-way and maintenance, referred to in the preceding section, are applicable in so far as they are not inconsistent with the general purpose of this Act.

Article III

Alaska Highway System

Section 1. Designation of Alaska Highway System. The Board is hereby vested with complete authority to designate, locate, create, and determine what highways shall constitute the Alaska Highway System. In designating, locating, creating and determining the several routes of the Alaska Highway System, the Board shall strive to attain the purposes and objectives set forth in Sec. 2 of Art. I of this Act.

Sec. 2. Responsibility for Alaska Highway System. The Board shall be responsible for the construction and maintenance of the Alaska Highway System. It shall be authorized to enter into cooperative

agreements with any municipality for the construction or maintenance of a connecting highway located within a municipality.

The jurisdiction, control and duty of the Board and municipality with respect to any such connecting highways shall be as follows:

(a) The Board shall have no authority to change or establish any grade of any such highway without approval of the governing body of such municipality;

(b) The municipality shall at its own expense maintain all underground facilities in such highway and shall have the right to construct such additional underground facilities as may be necessary in such highways.

(c) The municipality shall have the right to grant the privilege to open the surface of any such highway, but all damage occasioned thereby shall promptly be repaired by said municipality at its direction;

(d) The municipality shall have the exclusive right subject to law to grant franchises over, beneath and upon such highways; provided, that no franchise for transportation of passengers in motor vehicles shall be granted on such highways without the approval of the Board.

Sec. 3. Uniform Marking and Erection of Signs of Highway. In addition to all other powers vested in the Board by law it shall classify, designate and mark highways lying within the boundaries of Alaska which are under the jurisdiction of the Department and shall provide a uniform system of marking and posting such highways. Such system of marking and posting shall correlate with and, as far as pos-

sible, shall conform to the recommendations of the Manual on Traffic Control Devices as adopted by the American Association of State Highway Officials.

Sec. 4. Traffic Control Signals.

The Board is hereby authorized and directed to prescribe types of traffic control signals which correlate with and, as far as possible, conform to the recommendations of the Manual on Uniform Traffic Control Devices as adopted by the American Association of State Highway Officials, and which shall be used to regulate traffic upon any highway within Alaska. It shall also prescribe uniform rules for the placing and installation of such signals.

Sec. 5. Vehicle Size and Weight Controlled. The Board, with respect to highways under its jurisdiction, may: (a) classify highways and enforce limitations as to weight and load of vehicles thereon; (b) issue special written permits authorizing the operation of overweight vehicles; (c) prohibit the operation or impose restrictions on vehicular use of highways during certain seasons of the year.

Sec. 6. Determination of Speed.

The Board, with respect to highways under its jurisdiction, may conduct an investigation with the assistance of the Department of Territorial Police, and shall determine safe speed limits on any highway.

Sec. 7. Board to Designate Through Highways. The Board, with reference to highways under its jurisdiction, may designate through highways by erecting stop signs at the entrances thereto.

Sec. 8. Erection and Maintenance of Guard Rails. The Board shall

have the authority to erect and maintain guard rails, stretch wires and other devices, on all highways under its jurisdiction, in the interest of public safety.

Article IV

Highway Planning and Construction

Section 1. Standard Plans and Specifications. The Board shall prepare and adopt uniform standard plans and specifications for the establishment, construction and maintenance of highways within Alaska. Such plans and specifications may be amended from time to time as the Board deems advisable. Such standards shall conform as closely as practicable to those adopted by the American Association of State Highway Officials.

Sec. 2. Municipal Master Highway Plan. Each municipality of over 5,000 population in Alaska, according to the latest available census, together with the Board, shall develop and adopt a master highway plan, which shall insure the proper location and integration of the Alaska highway connections in the city. In selecting and designating the master highway plan, the cooperating officials shall take into account the important principal streets that connect residential areas with business areas and the streets that carry important rural traffic into and across the city, in order to insure a system of highways upon which traffic can be controlled and protected in such a manner as to provide safe and efficient movement of traffic within a municipality.

Sec. 3. Construction Program. Not later than February first of each year, there shall be submitted by the Director to the Commissioner

for presentation to the Board, a statement showing what construction work has been requested and proposed and may be undertaken by the Division. Such statement shall set forth a general itemization of the estimated cost for each and every project which may be made and the total estimates of all such projects. The Board shall examine the same and shall proceed to adopt a construction program which shall include the projects to be undertaken by the Department during the ensuing construction season and which shall establish project priorities. Nothing herein shall prevent the Board from adding to, amending, revising, or reducing from time to time as circumstances may warrant, such construction program.

Sec. 4. Research on Highway Development. The Director shall have the authority to gather, investigate, and compile information concerning the use, construction and maintenance of highways, the practices and methods of efficient highway organization, financing, and such other information, data and statistics of Alaska and the extent of the natural resources of road-building materials within Alaska. The Director, with the approval of the Board, shall have authority to enter into agreements with states, municipalities or research organizations to carry on research and test projects involving highway development and to expend highway funds for this purpose. He may disseminate all such information, together with any recommendations he deems advisable.

Sec. 5. Traffic Surveys. The Director shall have the authority to collect, analyze and interpret all physical and economic data needed to measure existing and estimated

future highway traffic characteristics such as origin and destination, volumes, speeds, accidents, congestion, parking, pedestrian use of highways and the economic loss caused by inferior traffic facilities, including the preparation of traffic plans and recommendations.

Sec. 6. Inspection and Testing of Materials. The Director is hereby granted authority to inspect and test all materials, supplies, equipment and machinery used by the Division or by any contractor constructing or maintaining highways within Alaska, and to develop methods and procedures for such inspection and testing.

Sec. 7. Method of Construction of Highway Ditches. All highways of any kind hereafter constructed or reconstructed by the Department, their contractors, subcontractors, or agents, or by any individual firm or corporation, shall be so designed as to permit water to drain from such highways into ditches which shall drain into coulees, rivers and lakes according to the surface and terrain where such highway or highways are constructed in accordance with scientific highway construction and engineering so as to avoid the waters flowing into and accumulating in the ditches to overflow adjacent and adjoining lands. It is the intention of this Act that in the construction of highways, as herein provided, the natural flow and drainage of surface waters shall not be obstructed, but that such water shall be permitted to follow the natural course according to the surface and terrain of the particular terrain.

Sec. 8. Closing of Roads. Whenever, during the construction work on any highway or at any other time, it may be necessary to pre-

vent traffic passing over any portion of a highway, the Director may close such portion of the highway to all traffic by causing to be posted in a conspicuous manner, at the ends of the portion of the highway so closed, suitable signs warning the public that such road is closed under authority of law, and by the erection of suitable barricades, fences, or other obstructions. The driver or owner, or both, of any vehicle, self-propelling or otherwise, passing through, over or around any such barricade, fence, or other obstruction so placed, or any person or persons opening, removing, or defacing any such barricade, fence, or other obstruction, or any such warning sign, without written permission from the engineer in charge of the work, or in charge of such highway, or any person or persons willfully, knowingly, or maliciously causing any damage to the work under construction, is guilty of a misdemeanor.

Sec. 9. Warning Signs of Road Construction. Whenever the Department shall enter into a contract for the construction of any highway, it shall, as a condition of such contract, provide therein that the contractor shall place suitable warning signs which can be read for a distance of one hundred feet in daytime, and that the contractor also shall erect and place at night a red or white lantern or a torch or other effective device, of a type approved by the Department, at both ends of such construction work, no less than three hundred feet therefrom, warning the public that such road is under construction or improvement and is closed, impassable, or dangerous for travel. Nothing contained in this section shall make Alaska liable for the failure of any contractor to erect

such warning signs.

Sec. 10. Penalty for Failure to Erect Warning Signs. Any contractor, foreman, or other person in charge of any work or repairs on any highway who shall fail or neglect to erect and maintain suitable warning signs as provided above shall be punished by a fine of not less than ten dollars nor more than fifty dollars, or by imprisonment in jail for not more than sixty days, or by both such fine and imprisonment.

Article V

Control of Access

Section 1. Authority to Establish Controlled-Access Facilities. The Board and the highway authorities of the municipalities, acting alone or in cooperation with each other or with any Federal agency having authority to participate in the construction and maintenance of highways, are hereby authorized to plan, designate, establish, regulate, vacate, alter, improve, maintain, and provide controlled-access facilities for public use wherever such authority or authorities are of the opinion that traffic conditions, present or future, will justify such special facilities. The Board or the highway authorities of the municipalities, in addition to the specific powers granted in this Act, shall also have and may exercise, relative to controlled-access facilities, any and all additional authority now or hereafter vested in them relative to highways within their respective jurisdictions. Said units may regulate, restrict, or prohibit the use of such controlled-access facilities by the various classes of vehicles or traffic in a manner consistent with the definition of a controlled-access facility contained herein. For the purposes

of this Act, a controlled-access facility shall mean a highway especially designed for through traffic, and over, from, or to which owners or occupants of abutting land or other persons have no right or easement or only a controlled right or easement of access, light, air, or view by reason of the fact that their property abuts upon such controlled-access facility or for any other reason.

Sec. 2. Design of Controlled-Access Facility. The Board and the highway authorities of the municipalities, are authorized to so design any controlled-access facility and to so regulate, restrict, or prohibit access as to best serve the traffic for which such facility is intended. In this connection the Board and such highway authorities are authorized to divide and separate any controlled-access facility into separate highways by the construction of raised curbsings, central dividing sections, or other physical separations, or by designating such separate highways by signs, markers, stripes and the proper lane for such traffic by appropriate signs, markers, stripes and other devices. No person shall have any right of ingress or egress to, from or across controlled-access facilities to or from abutting lands, except at such designated points at which access may be permitted, upon such terms and conditions as may be specified from time to time.

Sec. 3. Acquisition of Property and Property Rights. For the purposes of this Act, the Board and the highway authorities of the municipalities, may acquire private or public property and property rights for controlled-access facilities and service roads, including rights of access, air, view, and light, by gift, device, purchase, or

condemnation in the same manner as such units are now or hereafter may be authorized by law to acquire such property or property rights in connection with highways within their respective jurisdictions. All property rights acquired under the provisions of this Act shall be in fee simple. In connection with the acquisition of property or property rights for any controlled-access facility or portion thereof, or service highways in connection therewith, the municipal authority may, in its discretion, acquire an entire lot, block, or tract of land, if, by so doing, the interests of the public will be best served, even though said entire lot, block, or tract is not immediately needed for the right-of-way proper.

Sec. 4. New and Existing Facilities; Grade-Crossing Eliminations. The Board and the highway authorities of the municipalities, may designate and establish controlled-access highways as new and additional facilities, or may designate and establish an existing highway as included within a controlled-access facility. The Board and the municipalities shall have authority to provide for the elimination of intersections at grade of controlled-access facilities with existing highways by grade separation or service highway, or by closing off such highways at the right-of-way boundary line of such controlled-access facility. After the establishment of any controlled-access facility, no highway which is not part of said facility shall intersect the same at grade. No municipal or Alaskan highway, or other public way shall be opened into or connected with any such controlled-access facility without the consent and prior approval of the Board or the highway authorities of the municipalities.

having jurisdiction over such controlled-access facility. Such consent and approval shall be given only if the public interest shall be served thereby.

Sec. 5. Authorizing Participation in Financing, Planning, Etc. The Board and highway authorities of the municipalities, are authorized to enter into agreements with each other, or with the Federal Government, respecting the financing, planning, establishment, improvement, maintenance, use regulation, or vacation of controlled-access facilities or other public ways in their respective jurisdictions, to facilitate effectuating the purposes of this Act.

Sec. 6. Local Service Roads. In connection with the development of any controlled-access facility, the Board and the municipal authorities are authorized to plan, designate, establish, use, regulate, alter, improve, maintain, and vacate local service highways and to exercise jurisdiction over service highways in the same manner as is authorized over controlled-access facilities under the terms of this Act, if, in their opinion, such local service highways are necessary or desirable. Such local highways shall be of appropriate design, and shall be separated from the controlled-access facility proper by means of the devices designated as necessary or desirable by the proper authority.

Article VI

Financial Provisions

Section 1. Subsection (g) of Sec. 48-5-2, ACLA 1949, as amended by Ch. 47, SLA 1955, is hereby amended to read as follows:

(g) The monies herein col-

lected from the taxes on all motor fuels, except the fuels named in subsections (e) and (f) of this section, shall be covered into a special fund in the Territorial Treasury to be known as the "Highway Fund", and shall be expended by the Alaska Highway and Public Works Board as nearly as practicable in the Division where collected giving due consideration to the need therefor, and be expended for public highways, and approaches and appurtenances thereto including the acquisition of necessary rights-of-way by purchase or otherwise. It shall be the policy of all departments of the Territorial government authorized to expend funds collected from taxes imposed by this Act, to perform, whenever feasible, all construction and/or reconstruction projects by contract after such projects have been duly advertised for competitive bids except that professional and technical services in connection therewith shall insofar as possible be secured under negotiated contracts or under advantageous arrangements with the Bureau of Public Roads or political subdivisions and except in cases of emergency.

Sec. 2. Loans. The Board for the purpose of participating in any Federal grant-in-aid program may apply to the Department of Finance for short-term loans from the General Fund for periods not to exceed nine months and for amounts estimated not to exceed anticipated revenues for the term of the loan. The Director of Finance is hereby authorized to approve the loan if he determines such loan would not adversely curtail other expenditures from the General Fund.

Sec. 3. All monies derived from

any source, by the Highway Division, not otherwise required by law to be placed in any other fund, shall be credited to the Highway fund.

Article VII

Highway Fund

General Provisions

Section 1. Preference to Employees of Bureau of Public Roads on Transfer of Functions to Alaska. Upon transfer to Alaska by the Federal Bureau of Public Roads of any function of the highway construction and maintenance program, previously administered by that agency, the Board or Commissioner shall, to the maximum extent consistent with good administration and necessity, give preference to and employ those persons affected by such transfer and where possible shall place them in the employment of the Department.

Sec. 2. Transition: Highway Engineer. The office of Territorial Highway Engineer is abolished and all the powers and duties of that office are hereby transferred to the Alaska Highway and Public Works Department; provided, however, that the person elected in October of 1956 to the office of Highway Engineer shall serve as Commissioner for the term for which he was elected and shall receive the salary allowed the Commissioner. Upon termination of said Highway Engineer's term in office, the Commissioner shall be appointed in the manner set forth in Title I of this Act.

Sec. 3. Damage to Highways. No person shall willfully dig up, remove, displace, break, or otherwise damage or destroy any highway or any private way laid out by authority of law without first securing

permission from the Board, or the person or governing body of the jurisdiction having control thereof.

Sec. 4. Obstructing Highways. No person shall:

(1) Obstruct any highway in any manner with intent to prevent the free use thereof by the public;

(2) Willfully and knowingly obstruct or plow up, or cause to be obstructed or plowed up, any highway, except by order of the overseer of highways for the purpose of working or improving the same; or

(3) Build or place a barbed wire fence across any well-traveled trail which has been the usual and common route of travel for not less than one year without placing on the outside of the top tier of barbed wire on said fence a board, pole or other suitable protection, to be at least sixteen feet in length.

Sec. 5. Garbage Deposited on Highways. No person, firm or corporation shall throw or deposit or cause to be thrown or deposited any garbage, glass, bottles, boxes, or rubbish of any kind upon any highway in Alaska.

Sec. 6. Damage to Mileboards, Guideposts, Traffic Control Signals, Signs or Markings. No person shall remove, damage or destroy any mileboard, milestone, or guidepost, traffic control signals, signs or markings, or any inscription thereon, erected or placed upon any highway.

Sec. 7. Penalties. Any person who violates any provision of this Title is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than ten dollars nor more than five hundred dollars, or by imprisonment in jail for a period not to exceed one year,

or by both such fine and imprisonment.

Sec. 8. Use of Right-of-Way for Utilities. Electric transmission, telephone or telegraph lines, pole lines, railways, ditches, sewers, water, heat, or gas mains, flumes, or other structures which by other provision of law may be constructed, placed, or maintained across or along any highway by any person, persons, corporation, or political subdivision, may be so maintained or constructed only in accordance with such regulations as may be prescribed by the Board with reference to the placing and maintaining along, across, or on any such highway any of the utilities hereinbefore set forth. No utility projects of this nature shall be undertaken until authorized by a written permit issued by the Board.

Sec. 9. Substituting Name "Commissioner" for "Highway Engineer". In the following Acts or parts thereof, and in all other provisions of law except Section 1 of this Article, the title "Commissioner" shall be, and it is hereby substituted for the title "Highway Engineer;" Secs. 10-2-1, 11-1-6, 11-5-7, 40-10-1, 48-5-2 (i) as amended by Ch. 47 SLA 1955, Sec. 50-1-6, ACLA 1949; and Ch. 52, SLA 1953, Ch. 86, SLA 1953, Ch. 144, SLA 1953 as amended by Ch. 8, SLA 1955 and Ch. 152, SLA 1955, Ch. 20, SLA 1955, Ch. 40, SLA 1955, Ch. 162, SLA 1955, Ch. 174, SLA 1955, and Ch. 180, SLA 1955.

Sec. 10. Substituting Name "Alaska Highway and Public Works Board" for "Territorial Board of Road Commissioners." In the following Acts or parts thereof, and in all other provisions of law, unless the context clearly requires otherwise, the title "Alaska Highway and

Public Works Board" shall be, and it is hereby, substituted for the title "Territorial Board of Road Commissioners," except as appears in Section 2 of Article II of this Act: Secs. 14-2-3, 14-2-4, 50-1-1, ACLA 1949, and Sec. 50-1-4 (e), ACLA 1949, as amended by Ch. 152, SLA 1955.

Title III

Article I

Alaska Public Works Division

Section 1. General. There is hereby created and established within the Alaska Highway and Public Works Department, the Alaska Public Works Division. This Division shall be under the supervision of a Superintendent. He shall be vested with such powers and delegated such duties as are prescribed by law or regulation.

Sec. 2. Duties and Powers. The Superintendent shall be appointed by the Commissioner, with the approval of the Board. He shall preferably be a competent graduate of an approved engineering school and a licensed engineer eligible to practice in any State or in the Territory of Alaska. He shall serve at the pleasure of the Commissioner and he shall be paid such compensation as the Commissioner prescribes, subject to the approval of the Board. He shall devote all his time and services to the Department and shall not engage in any profession or other occupation outside of the government in any way related to the duties of his office. He shall supervise all approved public works planning and construction projects and do all other things that may be imposed upon him by the Board or Commissioner. Provided, however, that for the period ending June 30, 1959 the Commis-

sioner shall also serve as Superintendent and shall be vested with all the powers and duties of the Superintendent.

Article II

Federal-Aid

Section 1. Assent to Federal-Aid Given. The legislative assent to Federal-Aid on behalf of Alaska, including such aid as may be given to Alaska through any department or agency of the Federal Government, is hereby given. The Board is authorized and empowered to make application for, enter into contracts, and to do all things necessary to cooperate with the United States Government for the construction of any public works under the provisions of existing Federal acts and all acts amendatory or supplementary and to any other act of Congress that may hereafter be enacted.

Article III

Public Works Planning and Construction

Section 1. Standard Plans and Specifications. The Board shall prepare and adopt plans, specifications and determine standards for the construction of each and every public work within Alaska, provided, however, that each and every such public work shall be limited in cost to Alaska in the amount of the appropriation made to the Legislature for such purpose. Such plans and specifications may be amended from time to time as the Board deems advisable; provided, however that nothing herein shall be construed as including construction of school buildings within incorporated cities, unless such be done in whole or in part with Territorial funds, or for the construction of school

buildings when such construction amounts to less than \$2,000.00.

Sec. 2. Consulting with Planning Commission. Prior to the construction of any public works within a municipality the Board shall confer with the planning commission of such municipality to determine that the welfare of the public is properly protected.

Sec. 3. Inspection and Supervising Public Works Construction. The Superintendent is made inspector and supervisor of construction of all public works in Alaska. It shall be his duty, whenever any construction contract is entered into by the Board for construction of any public works in Alaska, to supervise such work and inspect the same in person or by qualified deputy or agent. He shall see that the work performed in constructing, repairing, altering or improving any such work are in accordance with the drawings and specifications therefor, that the interests of Alaska are fully protected, and that no person, firm or corporation employed on any work shall perform such work in any other or different manner than is provided by the contract and the plans and specifications for the doing of any such work.

Sec. 4. Fraud by Contractor: Duty to Report to Board. If any contractor or contractors, or any person, firm or corporation having charge of the construction of any public building in Alaska, shall fail to do and perform such work in a good and workmanlike manner and not in accordance with the plans and specifications of the contract therefor, it shall be the duty of the Superintendent to report the same to the Board. In any case when the Superintendent is satisfied that the

work is being slighted, inferior material is being used, or any other fraud is being practiced by any contractor, whereby the interests of Alaska may be injuriously affected, he shall report the same to the Board. The Board shall review the Superintendent's findings and report and shall direct what legal action, if any, shall be taken.

It shall be the duty of the Superintendent to examine, from time to time, as he sees fit, or when directed so to do by the Board, all existing public buildings in Alaska and to report their condition and what, if any, necessary additional construction are needed thereon.

Sec. 5. Inspection and Testing of Materials. The Superintendent is hereby granted authority to inspect and test all materials, supplies, equipment and machinery used by the division or by any contractor constructing or maintaining public works within Alaska, and to develop methods and procedures for such inspection and testing.

Sec. 6. Research on Public Works. The Superintendent shall have the authority to gather, investigate and compile information concerning the use, construction and maintenance of public works, the practices and methods of efficient organization, financing and such other information, data and statistics of Alaska and the extent of natural resources of building materials within Alaska. The Superintendent shall disseminate all such information, together with any recommendations he deems advisable.

Sec. 7. Construction Work Completed and Proposed. Not later than February 1 of each year, there shall be submitted by the Superintendent to the Commissioner for presentation to the Board a statement show-

ing the public works authorized within the past six year period and the completion schedule thereon as of that date, together with any recommendations regarding the need for additional public works construction.

Article IV

Construction of Boat Harbor, Dike, Jetty and Breakwater Facilities.

Section 1. Applying for Federal Funds. Upon recommendation of the Superintendent and approval of the Board, the Commissioner shall apply in the name of Alaska, as applicant, to the Alaska Public Works Agency of the Department of Interior of the United States, pursuant to 48 USCA 486-486j (63 Stat. 627), as amended, or any other Federal agency, for the construction or assistance in such construction of boat harbor, dike, jetty or breakwater harbor facilities where such facilities are necessary, feasible and appropriate to the local economy.

Sec. 2. Determining Need and Priority of Such Projects. Preliminary determination of need for any such project, its feasibility and appropriateness, shall be made by the Superintendent through representations and data submitted to him by the residents of communities desirous of such projects, and from other information available to him. Determinations so made by the Superintendent shall be reviewed by the Board and it shall approve and make the final determination of those projects, and their order or priority, for which application as aforesaid shall be made.

Sec. 3. Contracting with Communities for Local Participation. The Board is authorized to contract

with any community for the participation of said community either in the financing of projects sought hereunder, or in lieu of local financial participation, to contract with said community for its installing necessary piling, floats, and related equipment and facilities whether at said community's direct expense or through local volunteer labor, after completion of the basic boat harbor, dike, jetty, or break-water facilities.

Article V

Financial Provisions

Section 1. Financing Cost of Constructing Public Works. Each and every public work shall be constructed in a completed manner within the appropriation and limits imposed by the Legislature.

Sec. 2. Water and Harbor Facilities Fund. Subsection (f) of Sec. 48-5-2, ACLA 1949, as amended by Ch. 47, SLA 1955, is hereby amended to read as follows:

(f) The monies herein collected from the taxes on motor fuel used in boats and watercraft of all descriptions shall be covered into a special fund in the Territorial Treasury to be known as the "Water and Harbor Facilities Fund", and shall be expended by the Alaska Highways and Public Works Board as nearly as practicable in the Division where collected, and be expended for water and harbor facilities.

Title IV

Miscellaneous Provisions

Article I

Land Aquisition for Highway and Public Works Purposes

Section 1. Land, Rights-of-Way

and Materials May be Acquired by Purchase or Eminent Domain. The Board, by order, on behalf of Alaska and as part of the cost of constructing or maintaining a highway or public works in Alaska, may purchase, acquire, take over, or condemn under the right and power of eminent domain any and all lands in fee simple or such easements thereof which it shall deem necessary for present public use, either temporary or permanent, or which it may deem necessary and reasonable for the public use. By the same means, it may secure any and all materials, including clay, gravel, sand, or rock, or the lands necessary to secure such material, and the necessary land or easements thereover, to provide ways and access thereto. It may acquire such land or materials notwithstanding that the title thereto may be vested in Alaska or any department, agency, commission or institution thereof.

A declaration of taking, in the form of an order signed by the Chairman of the Board, declaring that said real property, or any interest therein, or any easement, is deemed necessary for the public use of Alaska shall be sufficient to vest title in Alaska; provided, however, such declaration of taking shall not be effective until eminent domain proceedings, have been instituted in the proper court, by and in the name of Alaska, and a copy of such declaration of taking has also been filed in the recorder's office located in the precinct where such lands or easements thereon are situated. All eminent domain proceedings shall be in substantial compliance with Alaska law, and with the rules of procedure established by the appropriate court. The Board, on behalf of Alaska,

may pay or cause to be paid, from the highway or public works fund, or other appropriate fund, into court such amounts it deems represents a reasonable valuation for the lands, easement or materials subject to eminent domain proceedings.

Article II

General Provisions

Section 1. Damage to Public Works. No person shall willfully damage, destroy, deface or injure any public work, constructed or being constructed.

Sec. 2. Penalties. Any person who violates Section 1 of this Article is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than ten dollars nor more than five hundred dollars, or by imprisonment in jail for a period not to exceed one year or by both such fine and imprisonment.

Article III

Award of Construction Contracts

Section 1. Force Accounts. It shall be the general policy of the Board to require the construction of all highways and public works under bid contract as provided hereafter. However, whenever a construction project shall be estimated to cost less than \$20,000.00, or when it appears to be in the best interests of Alaska, the work may be performed by the Department notwithstanding any other provisions of law.

Sec. 2. Wage Rates, Vacation Benefits, and Sick Leave for Seasonal and Field Employees on Construction Projects. The Board may provide for payment of seasonal and field employees hired by the Department, for construction projects, at hourly rates for work done in excess of forty-eight (48) hours

per week, eight (8) hours per day, or for work on Saturdays, Sundays, or legal holidays. The Board may also promulgate rules and regulations to provide for sick leave and vacation benefits for seasonal employees, but such sick leave and vacation benefits shall not exceed such benefits granted employees on an annual basis.

Sec. 3. Basis of Contracts for Construction Work. The Board may request bids and award contracts for construction work, requiring the contractor to furnish all equipment, labor, materials, and supplies for each particular contract or project, or requiring the Board to furnish and provide the said contractor with such materials and supplies as it may elect. In the event that the Board shall elect to provide materials and supplies for any project or construction work, such election shall be made at the time of the adoption by the Board of the construction program. The Board shall request proposals or bids for the total and aggregate of such materials and supplies for any and all such projects or construction work according to the class, type, and nature of such materials and supplies, and may proceed to award a contract or contracts therefor upon such basis as it shall deem efficient and economical, whether upon the basis of delivery to the construction project directly or to a central storehouse or storehouses maintained by the Department. Such materials and supplies so purchased by the Department may be delivered to the project or construction work without expense to the contractor doing such construction work, or may be sold to him at cost and made to constitute a part of such construction cost, as the Board may elect.

Sec. 4. Contracts, Bids, Informal Bids. Whenever the cost of any construction shall exceed the sum of \$20,000.00, the Department shall, except as provided in section 1 of this Article, proceed to advertise the same, request bids, and award such contracts in the manner provided herein. Whenever any proposed construction contract shall be for a sum less than \$20,000.00, it shall be discretionary with the Department whether the same shall be advertised and awarded in accordance with Sections 5 and 6 of this Article. But, in all events the Department shall request informal bids from as many contractors as can be requested conveniently.

Sec. 5. Bidding Procedures. All requests for bids and bids for construction projects and maintenance work shall:

(1) In the event Federal funds are allowed, be made in compliance with Federal law and the rules and regulations promulgated thereunder and with Alaska law so long as they are consistent with Federal law.

(2) In the event no Federal funds are involved, be made in compliance with this Act, and in substantial compliance with Ch. 82, SLA 1955, as amended, and such rules and regulations as may be promulgated thereunder, and as are consistent with this Act.

Sec. 6. Award of Contracts. Each and every contract shall be awarded by the Board to the lowest responsible bidder, but said Board may reject all bids. If no satisfactory bids, or bid, shall be received, the project may be readvertised. All awards shall be made in compliance with applicable Federal law and the regulations promulgated thereunder, with this Act, and in compliance

with Ch. 82, SLA 1955, as amended, and such rules and regulations as may be promulgated thereunder, where not in conflict with this Act and Federal law.

Sec. 7. Bonding of Commissioner and Other Department Officers. The Commissioner and any person in the Department entering into contracts, under the laws of Alaska or handling sums of money exceeding Five Hundred Dollars (\$500.00) shall be bonded in the amount of \$10,000.00, the cost of which shall be paid by funds appropriated for the administration of the Department.

Sec. 8. Prior Contracts Unaffected The provisions in this Article shall not apply to contracts entered into prior to the effective date of this Act.

Article IV

Authority to Acquire and Dispose of Property

Section 1. Authority to Acquire Equipment. The Board shall have the authority to purchase, lease or otherwise acquire if it deems necessary all material, machinery, tools, equipment and supplies necessary for the permissive construction, maintenance and control of the Alaska Highway System or for the construction of any public work.

Sec. 2. Authority to Acquire Buildings. The Board shall have authority to rent or purchase the necessary land and buildings for the storage and housing of materials, machinery, equipment and tools.

Sec. 3. Sale of Obsolete Equipment. The Board shall be authorized to sell, exchange or otherwise dispose of any obsolete machinery, equipment and material no longer

needed, required or useful for construction or maintenance purposes. Any funds or money derived from the sale of such property shall be credited to the funds from which such purchase was originally made.

Sec. 4. Vacating Lands by the Board; Sale of Lands. The Board may vacate any land, or part thereof, or rights in land taken or acquired for highway or public work purposes under the provisions of this Act, by executing and filing a deed therefor in the appropriate recording precinct, and said vacation shall revert the title to the land or rights in the persons, heirs, successors, or assigns in whom it was vested at the time of the taking. The Board may transfer the interests of any land acquired by purchase, or otherwise under this Act, and deemed no longer necessary for the purposes hereof, to the Alaska Department of Lands for such disposal as may be deemed proper; provided, how-

ever, that the proceeds of such disposal by the Alaska Department of Lands shall be credited to the funds from which such purchase was made originally under this Act.

Article V

Repealing Clause and Effective Date

Section 1. Repealer. The following Acts or parts thereof, and any other Acts or parts thereof inconsistent with this Act, are hereby repealed: Secs. 41-2-2, 41-2-3, 41-3-1, 41-3-2, 41-3-3, ACLA 1949; and Sec. 41-2-1, ACLA 1949, as amended by Ch. 123, SLA 1953; and Sec. 41-3-4, ACLA 1949, as amended by Ch. 117, SLA 1955; and Sec. 41-1-1, ACLA 1949, and Ch. 179, SLA 1955.

Sec. 2. An emergency is hereby declared to exist and this Act shall be in full force and effect from and after the date of its passage and approval.

Approved April 1, 1957

CHAPTER 153

AN ACT

Relating to the operation and maintenance of moorage and related facilities by city councils; amending Section 1, Section 16-1-35, ACLA, 1949, as amended, by adding thereto Subsection Thirtieth.

(H. B. 194)

Be it enacted by the Legislature of the Territory of Alaska:

Section 1. Section 16-1-35, Alaska Compiled Laws Annotated 1949, as amended, is amended by adding thereto Subsection Thirtieth as follows:

Thirtieth: To purchase, con-

struct, establish, operate and maintain moorage facilities for fishing and other boats and vessels; to expend for this purpose funds of the city; and to establish moorage fees and service charges to defray a portion or all the expenses necessary to carry out the power hereby conferred.

Approved April 1, 1957