



LAWS OF ALASKA

1967

Source

Chapter No.

SB 192 am H

95

AN ACT

The Alaska Toll Bridge Authority Act; and providing for an effective date.

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

* Section 1. AS 44 is amended by adding a new chapter to read:

CHAPTER 57. ALASKA TOLL BRIDGE AUTHORITY.

ARTICLE 1. CREATION AND ORGANIZATION.

Sec. 44.57.010. ALASKA TOLL BRIDGE AUTHORITY CREATED. There is created the Alaska toll bridge authority composed of the governor, the commissioner of the Department of Highways, the commissioner of the Department of Administration, the commissioner of the Department of Public Works, and the commissioner of the Department of Revenue. The Alaska toll bridge authority is a public corporation of the state. The authority is an instrumentality of the state within the Department of Highways, but has a legal existence independent of and separate from the state.

(a) If the office of a commissioner is discontinued or abolished by law, the governor shall appoint any person or officer of the state to fill the vacancy resulting from the abolition or discontinuance of the office.

(b) All members of the authority shall serve without compensation, but shall receive their necessary actual traveling expenses incurred in the discharge of their duties.

Sec. 44.57.020. MAJORITY RULE. A majority of the members of the authority may act for the authority. The authority shall establish rules and regulations considered wise and lay down policies of procedure and generally supervise and control the operation of the functions vested

in it by law and is clothed with all necessary powers to carry out its functions. The authority shall appoint an executive secretary who shall serve at its pleasure and who shall be the chief administrative officer of the authority. The authority shall act collectively with recorded resolutions or motions adopted by a majority of the authority at regular or special meetings, notice of which meetings shall be given to all members under the rules of the authority. Three members constitute a quorum at any meeting, but no resolution, motion, or other decision of the authority shall be adopted or passed without a favorable vote of at least three members.

Sec. 44.57.030. AUTHORITY MAY EMPLOY PERSONNEL. The authority may appoint other officers, hire employees and agents, and engage professional and technical services and advice upon employment or independent contract basis. The authority shall prescribe the duties and compensation of its personnel.

Sec. 44.57.040. SUITS. The authority may sue and be sued in the name of the Alaska Toll Bridge Authority.

ARTICLE 2. POWERS AND DUTIES.

Sec. 44.57.120. TOLL BRIDGES AUTHORIZED - INVESTIGATIONS. The Alaska toll bridge authority is empowered, in accordance with the provisions of this chapter, to provide for the establishing and constructing of toll bridges upon any public highways of this state together with approaches wherever the toll bridge is considered necessary or advantageous and practicable for crossing a stream, body of water, gulch, navigable water, swamp or other topographical formation whether it is in this state or constitutes a boundary between this state and an adjoining country. The necessity or advantage and practicability of the toll bridge shall be determined by the Alaska toll bridge authority and the feasibility of financing a toll bridge in the manner provided by this chapter shall be a primary consideration and determined according to the best judgment of the Alaska toll bridge authority. For the purpose of obtaining information for the consideration of the authority upon the construction of a toll bridge or any other matters pertaining thereto it shall be the duty of any cognizant officer or employee of the state upon the request of the authority to make reasonable examination, investigation, survey or reconnaissance for the determination of material facts pertaining thereto and report the same to the authority. The cost of the examination, investigation, survey or reconnaissance shall be borne by the department or office conducting it from the funds provided for the department or office for its usual functions.

Sec. 44.57.130. GENERAL POWERS OF THE AUTHORITY AND OFFICIALS AND FINANCIAL STATEMENTS. The Alaska toll bridge authority, the officials of the authority, and all state officials are empowered to do those acts and make agreements not inconsistent with law which may be necessary or desirable in connection with the duties and powers conferred upon them respectively by law regarding the construction, maintenance, operation and insurance of toll bridges or the safeguarding of the funds and revenues required for the construction and the payment of the indebtedness

incurred therefor. The Alaska toll bridge authority shall keep full, complete and separate accounts of each toll bridge and annually shall prepare balance sheet and income and profit and loss statements showing the financial condition of each toll bridge, which statement shall be open to the inspection of holders of bonds issued by the authority at all reasonable times.

Sec. 44.57.140. CONSTRUCTION OF TOLL BRIDGES. Whenever in the judgment of the Department of Highways it is considered in the best interest of the public highways of the state that a new toll bridge or bridges be constructed upon a public highway and across a stream, body of water, gulch, navigable water, swamp or other topographical formation and operated by the state the Department of Highways shall submit its recommendation to that effect to the Alaska toll bridge authority together with preliminary estimates of the cost of construction and an estimate of the amount necessary to be raised for that purpose by the issuance of revenue bonds, and a statement of the probable amount of money, property, materials or labor to be contributed from other sources in aid of the construction. If the Alaska toll bridge authority concurs in the recommendation of the Department of Highways or on its own motion determines to construct a toll bridge or toll bridges, the Alaska toll bridge authority shall adopt a resolution declaring that public interest and necessity require the construction of the toll bridge or bridges, and may thereafter issue bonds therefor as provided herein.

Sec. 44.57.150. AUTHORITY TO ACQUIRE RIGHT OF WAY IN CONSTRUCTING A TOLL BRIDGE. Whenever the Alaska toll bridge authority authorizes the construction of a toll bridge, the Department of Highways is empowered to secure right of way and for approaches by gift or purchase, or by condemnation in the manner provided by law for the taking of private property for public highway purposes.

Sec. 44.57.160. RIGHT OF WAY ACROSS STATE LAND, STREETS, ROADS AND COMPENSATION. The right of way is hereby given, dedicated and set apart upon which to locate, construct and maintain bridges or approaches to toll bridges or other highway crossings, and transportation facilities thereof or thereto, through, over or across any of the lands which are now or may be the property of this state, including highways, and through, over or across the streets, alleys, lanes and roads within a city, borough, or other political subdivision of the state. If property belonging to a city, borough or other political subdivision of the state is required to be taken for the construction of the bridge or approach to the toll bridge or should the property be injured or damaged by the construction, compensation therefor as may be proper or necessary and as shall be agreed upon may be paid by the Alaska toll bridge authority to the particular borough, city, or other political subdivision of the state owning the property, or condemnation proceedings may be brought for the determination of the compensation.

Sec. 44.57.170. RESOLUTION OF NECESSITY IN ACQUIRING RIGHT OF WAY AND EFFECT. (a) Before proceeding with an action to secure a right of way or to construct a toll bridge under the provisions of this chapter the Alaska

toll bridge authority shall have first passed a resolution that public interest and necessity require the acquisition of right of way for and the construction of the toll bridge. The resolution shall state and be conclusive evidence

- (1) of the public necessity of the construction;
- (2) that the property is necessary therefor; and
- (3) that the proposed construction is planned or located in a manner which will be most compatible with the greatest public good and the least private injury.

(b) When it becomes necessary for the Department of Highways to condemn real estate to be used in connection with a toll bridge, the attorney general of the state shall represent the department. In eminent domain proceedings to acquire property for any of the purposes of this chapter, a toll bridge, real property, personal property, franchises, rights, easements or other property or privileges appurtenant thereto appropriated or dedicated to a public use or purpose by a person, firm, private, public or municipal corporation, borough, city, district or political subdivision of the state, may be condemned and taken, and the acquisition and use as herein provided for the same public use or purpose to which the property has been so appropriated, dedicated, or for any other public use of purpose, shall be considered a superior and permanent right and necessity, and a more necessary use and purpose than the public use or purpose to which the property has already been appropriated or dedicated. It shall not be necessary in an eminent domain proceedings under this chapter to plead or prove any acts or proceedings preliminary or prior to the adoption of the resolution hereinbefore referred to describing the property sought to be taken and directing the proceedings.

Sec. 44.57.180. REVENUES AND APPLICATION. (a) The authority is hereby authorized to establish, levy and collect tolls and other charges it may consider necessary, proper or desirable, in connection with a crossing, transportation or terminal facility or other project which it is or may be authorized at any time to construct, own, operate or control, and the aggregate of the tolls and charges shall be at least sufficient

- (1) to meet the combined expenses of operation, maintenance and improvement thereof,
- (2) to pay the cost of acquisition or construction, including the payment, amortization and retirement of bonds or other securities or obligations assumed, issued or incurred by the authority, together with interest thereon, and
- (3) to provide reserves for such purposes.

(b) The authority is hereby authorized and empowered subject to prior pledges, if any, to pledge the tolls and other revenues or any part thereof as security for the repayment with interest of money borrowed by it or advanced to it for its authorized purposes and as security for the satisfaction of any other obligations assumed by it in

connection with the loans or advances. There shall be allocated to the cost of the acquisition, construction, operation, maintenance and improvement of the facilities and projects, a proportion of the general expenses of the authority it considers properly chargeable thereto.

Sec. 44.57.190. COOPERATIVE FUNDS. The Alaska toll bridge authority is empowered to receive and accept funds from the state or the federal government or any municipality upon a cooperative or other basis for the construction of a toll bridge authorized under this chapter and the authority and the state are empowered to enter into and perform agreements, including without limitation agreements to cease toll collection on any bridge pursuant to 23 U.S.C.A. sec. 129 with the federal government, which may be required for the securing of the funds.

ARTICLE 3. FINANCIAL PROVISIONS.

Sec. 44.57.210. BONDS OF THE AUTHORITY. (a) Subject to the provisions of (f) of this section, the authority may borrow money for any of its corporate purposes, including the payment or securing of any of its obligations, and may issue bonds therefor, including but not limited to bonds on which the principal and interest are payable

(1) exclusively from the income and receipts or other money derived from the project financed with the proceeds of the bonds,

(2) exclusively from the income and receipts or other money derived from designated projects whether or not they are financed in whole or in part with the proceeds of the bonds, or

(3) from its income and receipts or other assets generally, or a designated part or parts of them.

(b) Bonds shall be authorized by resolution of the authority, and shall be dated and shall mature as the resolution may provide, except that no bond shall mature more than 40 years from the date of its issue. Bonds shall bear interest at the rate or rates, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in the medium of payment, at the place or places, and be subject to the terms of redemption which the resolution or a subsequent resolution may provide.

(c) All bonds, regardless of form or character, shall be negotiable instruments for all the purposes of the Uniform Commercial Code.

(d) All bonds may be sold at public or private sale in the manner, for the price or prices, and at the time or times which the authority may determine.

(e) The superior court shall have jurisdiction to hear and determine suits, actions or proceedings relating to the authority, including suits, actions or proceedings brought by or for the benefit or security of a holder of its bonds or by a trustee for or other representative of the holders.

(f) The powers of the authority granted by this section may be utilized only for projects approved by the legislature by concurrent resolution before the exercise of such powers.

Sec. 44.57.220. TRUST INDENTURES AND TRUST AGREEMENTS. 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 (which may be a trust company, bank, or national banking association, with corporate trust powers, located inside or outside the state) or by a secured loan agreement or other instrument or under a resolution giving powers to a corporate trustee (hereinafter in this section referred to as trust agreement) by means of which the authority may

(1) make and enter into any and all the covenants and agreements with the trustee or the holders of the bonds which the authority may determine to be necessary or desirable, including, without limitation, covenants, provisions, limitations and agreements as to

(A) the application, investment, deposit, use and disposition of the proceeds of bonds of the authority or of money or other property of the authority or in which it has an interest;

(B) the terms and conditions upon which additional bonds of the authority may be issued;

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

(3) provide for any other matters of like or different character which in any way affect the security or protection of the bonds.

Sec. 44.57.230. VALIDITY OF PLEDGE. It is the intention of the legislature that a pledge made in respect of bonds shall be valid and binding from the time the pledge is made; that the money or property so pledged and thereafter 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 as 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 to be valid, binding or effective against the parties.

Sec. 44.57.240. NONLIABILITY ON BONDS. (a) Neither the members of the authority nor a person executing the bonds shall be liable personally on the bonds or be subject to personal liability or accountability by reason of the issuance of the bonds.

(b) The bonds issued by the authority shall not constitute an indebtedness or other liability of the state or of a political subdivision of the state, except the authority, but shall be payable solely from the income and

receipts or other funds or property of the authority. The authority may not pledge the faith or credit of the state or of a political subdivision of the state (except the authority) to the payment of a bond and the issuance of a bond by the authority shall not directly or indirectly or contingently obligate the state or a political subdivision of the state to apply money from, or levy or pledge any form of taxation whatever to the payment of the bond.

Sec. 44.57.250. PLEDGE OF THE STATE. The state does hereby pledge to and agree with the holders of bonds issued under this chapter and with the federal agency which loans or contributes funds in respect of a project, that the state will not limit or alter the rights and powers vested in the authority by this chapter to fulfill the terms of any 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 any action or proceeding by or on behalf of the holders, are fully met and discharged. The authority is authorized to 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 a federal agency.

Sec. 44.57.260. EXEMPTION FROM TAXATION. The real and personal property of the authority and its assets, income and receipts are declared to be property of a political subdivision of the state and, together with a toll bridge constructed under this chapter shall be exempt from all taxes and special assessments of the state or a political subdivision of the state, including, without limitation, all boroughs, cities, municipalities, school districts, public utility districts and other taxing units. 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 and to be a public instrumentality and the bonds, and the interest on them, the income from them 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 them, shall at all times be 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.

Sec. 44.57.270. 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 a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding any

other provisions of law, the bonds of the authority are also securities which may be deposited with and may be received by all public officers and bodies of this 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 hereafter be authorized.

ARTICLE 4. GENERAL PROVISIONS.

Sec. 44.57.300. DEFINITIONS. In this chapter

(1) "toll bridge" or "project" means a bridge constructed or acquired under this chapter upon which tolls are charged, together with all appurtenances, additions, alterations, improvements and replacements thereof, and approaches thereto, and lands and interests therein used therefor, and buildings and improvements thereon as may be determined by the authority;

(2) "authority" means the Alaska toll bridge authority;

(3) "state" means the State of Alaska.

Sec. 44.57.310. PURPOSE. The purpose of this chapter is to develop, stimulate, and advance the business prosperity and economic welfare of Alaska and its citizens.

Sec. 44.57.320. STATE APPROPRIATIONS FOR TOLL BRIDGES NOT AFFECTED. Nothing in this chapter prevents the state from making appropriations from time to time in aid of the acquisition or construction under this chapter of a toll bridge or property, franchises, or rights appurtenant thereto, or the transportation facilities thereof or thereto, or for the purpose of making preliminary surveys, plans, and estimates of the cost thereof, and meeting other preliminary expenses as the legislature considers proper.

Sec. 44.57.330. REGULATIONS. The authority may adopt regulations to implement the purposes of this chapter.

Sec. 44.57.340. SEVERABILITY. The provisions of this chapter are severable, and if a provision is held invalid by a court of competent jurisdiction, the invalidation shall not affect or impair any of the remaining provisions.

* Sec. 2. This Act takes effect on the day after its passage and approval or on the day it becomes law without approval.