SENATE BILL NO. 121

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/28/05
Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

"An Act establishing the State of Alaska Capital Corporation; authorizing the issuance of bonds by the State of Alaska Capital Corporation to finance capital improvements in the state; and providing for an effective date."

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

* Section 1. AS 37.15 is amended by adding new sections to read:


Sec. 37.15.900. Corporation established. There is established in the Department of Revenue the State of Alaska Capital Corporation. The corporation is a public corporation of the state with a separate and independent legal existence.

Sec. 37.15.910. Board of the corporation; staff; meetings. (a) The members of the state bond committee (AS 37.15.110) are the members of the board of directors of the State of Alaska Capital Corporation.

(b) The commissioner of revenue shall serve as chair of the board of directors of the corporation. The powers of the corporation are vested in the directors, and three
directors of the corporation constitute a quorum. Action may be taken and motions
and resolutions adopted by the corporation at a meeting by the affirmative vote of a
majority of the directors. The directors of the corporation serve without
compensation. The Department of Revenue shall provide the staff of the corporation.

(c) The board of directors may meet and transact business by an electronic
medium if

(1) public notice of the time and locations where the meeting will be
held by an electronic medium has been given in the same manner as if the meeting
were held in a single location;

(2) participants and members of the public in attendance can hear and
have the same right to participate in the meeting as if the meeting were conducted in
person; and

(3) copies of pertinent reference material, statutes, regulations, and
audio-visual material are reasonably available to participants and to members of the
public.

(d) A meeting by an electronic medium as provided by (c) of this section has
the same legal effect as a meeting in person.

Sec. 37.15.920. Powers of the corporation. (a) To accomplish its corporate
purposes, the corporation has the following powers in addition to its other powers:

(1) to sue and be sued;

(2) to have a seal and alter it at pleasure;

(3) to make and alter bylaws for its organization and internal
management;

(4) to adopt regulations governing the exercise of its corporate powers;

(5) to issue bonds to finance or refinance the construction, acquisition,
refurbishing, repair, and equipping of state capital improvements, including the
establishment or increase of reserves to secure or to pay the bonds or interest on them,
and the payment of all other costs or expenses of the corporation incident to and
necessary or convenient to carry out its corporate purposes and powers;

(6) to acquire property interests by lease or use agreements;

(7) to enter into lease or use agreements with the Department of
Administration or other departments of the state, political subdivisions of the state, or the federal government, as necessary, in connection with projects financed by bonds of the corporation;

(8) to enter into a cooperative purchasing agreement with the state bond committee for the special services that the state bond committee is authorized to obtain under AS 37.15.150, including the appointment of trustees, auditors, or escrow agents to carry out any of the powers granted by AS 37.15.900 - 37.15.985; and

(9) to enter into other contracts or other transactions regarding the powers granted by this section, with any person.

(b) Lease or use agreements authorized by this section are not lease-purchase agreements within the meaning of AS 36.30.085.

Sec. 37.15.930. Bonds of the corporation. (a) The corporation may borrow money, and may issue special limited obligation bonds of the corporation in a total principal sum not to exceed $350,000,000, secured solely by annual appropriations that may be made by law, by the debt service reserve fund, and by other property, property interests, or security provided by the corporation. The bonds shall be issued in an amount sufficient to finance capital improvements authorized by law. The money to pay principal and interest on the bonds is subject to annual appropriation by the legislature and may be the sole consideration for lease or other use agreements for the capital improvements financed through the issuance of the bonds.

(b) Bonds shall be authorized by resolution of the corporation, may be issued for funding or refunding purposes, and shall be dated and shall mature as the resolution authorizing their issuance may provide, except that no bond may mature more than 40 years from the date of its issue. Bonds shall bear interest at the fixed or variable 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 places, and be subject to the terms of redemption that the resolution, contract, or a subsequent resolution or contract may provide.

(c) All bonds, regardless of form or character, shall be negotiable instruments for all the purposes of AS 45.01 - AS 45.08, AS 45.12, AS 45.14, and AS 45.29 (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 that the corporation determines.

(e) The bonds issued by the corporation do not constitute an indebtedness or other liability of the state or of a political subdivision of the state, other than the corporation, but shall be payable solely from the income and receipts or other funds or property of the corporation. The corporation may not pledge the faith or credit of the state or of a political subdivision of the state, other than the corporation, to the payment of a bond and the issuance of a bond by the corporation does 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. Each bond issued by the corporation shall describe the foregoing limitations plainly on its face.

Sec. 37.15.940. Revenue fund established. (a) There is established as a special fund of the corporation the State of Alaska Capital Corporation revenue fund, into which may be paid all amounts appropriated by the legislature. These appropriations represent revenue, fees, charges, and rentals derived by the corporation from lease or use agreements with state agencies for capital projects financed from the proceeds of bonds of the corporation. The money in the revenue fund may be expended for any authorized purpose of the corporation, established by resolution of the corporation, including transfer to the bond redemption fund, the construction fund, or the debt service reserve fund, or to pay the expenses of the corporation.

(b) The commissioner of revenue shall, on behalf of the corporation, invest money in the revenue fund under the authority provided in AS 37.10.070, 37.10.071, and 37.10.075. The interest earned on or any profits derived from the sale of this investment shall be deposited in and become a part of the revenue fund.

Sec. 37.15.950. Construction fund established. (a) There is established as a capital construction fund of the corporation the State of Alaska Capital Corporation construction fund, into which shall be paid the net proceeds received from the sale of the bonds, less any accrued interest paid on the bonds that was deposited in the bond redemption fund under AS 37.15.970(b) and less any amount deposited in the debt service reserve fund under AS 37.15.960(a); and other money of the corporation
authorized for transfer to the construction fund by resolution of the corporation. The
money in the construction fund may be used for any purpose for which bonds may be
issued, including the payment of issuance and financing costs and arbitrage rebate.
The corporation also may transfer money in the construction fund to the debt service
reserve fund or the bond redemption fund.

(b) The commissioner of revenue shall, on behalf of the corporation, invest
money in the construction fund under the authority provided in AS 37.10.070,
37.10.071, and 37.10.075. The interest earned on or any profits derived from the sale
of this investment shall be deposited in and become a part of the construction fund.

Sec. 37.15.960. Debt service reserve fund established. (a) For the purpose
of securing bonds, there is established as a special fund of the corporation, the State of
Alaska Capital Corporation debt service reserve fund. The corporation shall deposit
bond proceeds or other money received by the corporation, or surety instruments, into
the debt service reserve fund equal to the debt service reserve fund requirement set by
(c) of this section.

(b) Except as provided in this subsection, money in the debt service reserve
fund may not be withdrawn from it at any time in an amount that would reduce the
balance of that fund to less than the debt service reserve fund requirement set by (c) of
this section. Notwithstanding the debt service reserve fund requirement set by (c) of
this section, money may be withdrawn from the debt service reserve fund for the
purpose of paying, if necessary, the following:

(1) arbitrage rebate on earnings of the fund;
(2) debt service on bonds.

(c) Bonds secured by the debt service reserve fund may not be issued unless
the debt service reserve fund has a balance equal to the least of

(1) the maximum annual debt service on outstanding bonds issued by
the corporation;
(2) 125 percent of the average annual debt service on all outstanding
bonds of the corporation; or
(3) 10 percent of the proceeds of outstanding bonds.

(d) In computing the amount of the debt service reserve fund requirement for
the purpose of (c) of this section, securities in which all or a portion of the money in
the debt service reserve fund is invested shall be valued by some reasonable method
established by the Department of Revenue. Valuation on a particular date shall
include the amount of any interest earned or accrued to that date.

(e) The commissioner of revenue shall annually, no later than January 30,
make and deliver to the governor and the legislature a certificate stating the sum, if
any, required to restore the debt service reserve fund to the debt service reserve fund
requirement set by (c) of this section. The legislature may appropriate the amount
requested, which shall be deposited by the corporation in the debt service reserve fund.
Nothing in this section creates a debt or liability of the state.

(f) The Department of Revenue shall, on behalf of the corporation, invest the
money in the debt service reserve fund in accordance with AS 37.10.070, 37.10.071,
and 37.10.075. Money in the debt service reserve fund shall be transferred to the bond
redemption fund at any time if necessary to pay principal of and interest and
redemption premium, if any, on the bonds.

Sec. 37.15.970. Bond redemption fund established. (a) There is established
as a special fund of the corporation the State of Alaska Capital Corporation bond
redemption fund, for paying and securing the payment of the principal of and interest
and redemption premium, if any, on the bonds and which shall be at all times
completely segregated and set apart from all other funds of the corporation.

(b) Accrued interest paid on the bonds shall be deposited in the bond
redemption fund. As provided by resolution of the corporation, amounts also may be
transferred from the revenue fund to the bond redemption fund and expended to pay
debt service, or reduce the outstanding principal of the bonds. Payment for these
purposes may be according to the order of priority established by resolution of the
corporation.

Sec. 37.15.980. Refunding bonds. (a) The bonds or any part of them may be
refunded at or before their maturity by the issuance of refunding bonds of the
corporation if, in the opinion of the board of directors of the corporation, refunding is
advantageous to and in the best interests of the corporation.

(b) The issuance of refunding bonds need not be authorized by an act of the
legislature, and the board of directors of the corporation shall adopt the resolution or resolutions and prepare all other documents and proceedings necessary for the issuance, exchange or sale, and delivery of the refunding bonds. All provisions of AS 37.15.910 - 37.15.985 applicable to bonds are applicable to the refunding bonds and to the issuance, sale, or exchange of them, 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 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 upon 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 upon which the bonds to be refunded will be paid pursuant to the call of them or agreement with the holders of them, and the premium, if any, necessary to be paid in order to call or retire the outstanding bonds and the interest accruing on them to the date of the call or retirement.

Sec. 37.15.985. Annual audit of corporation. The corporation shall have its financial records audited annually by a certified public accountant. The legislative auditor may prescribe the form and content of the financial records of the corporation and shall have access to these records at any time.

Sec. 37.15.990. Definitions. In AS 37.15.900 - 37.15.990,

(1) "bond redemption fund" means the State of Alaska Capital Corporation bond redemption fund established in AS 37.15.970;

(2) "bonds" means the special limited obligation bonds, notes, or other evidences of indebtedness authorized in AS 37.15.930;

(3) "construction fund" means the State of Alaska Capital Corporation construction fund established in AS 37.15.950;

(4) "corporation" means the State of Alaska Capital Corporation established in AS 37.15.900;
(5) "debt service reserve fund" means the State of Alaska Capital Corporation debt service reserve fund established in AS 37.15.960;

(6) "lease or use agreement" is an agreement that secures or is related to bonds of the corporation and is not a lease-purchase agreement for purposes of AS 36.30.085;

(7) "revenue fund" means the State of Alaska Capital Corporation revenue fund established in AS 37.15.940.

* Sec. 2. This Act takes effect June 30, 2005.