

CS FOR SENATE BILL NO. 269(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 3/10/10

Referred: Rules

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the waiver of volume cap of recovery zone economic development**
2 **bonds authorized by 26 U.S.C. 1400U-2 and reallocation by the Alaska Municipal Bond**
3 **Bank Authority of the waived volume cap; relating to the waiver of volume cap of**
4 **recovery zone facility bonds authorized by 26 U.S.C. 1400U-3 and reallocation by the**
5 **Alaska Industrial Development and Export Authority of the waived volume cap;**
6 **increasing the total amount of bonds and notes that the Alaska Municipal Bond Bank**
7 **Authority may have outstanding; relating to revenue bonds and to obligations secured**
8 **by lease that are issued by the Alaska Municipal Bond Bank Authority; relating to**
9 **allocations of tax credit and bonding limits imposed by the federal government; and**
10 **providing for an effective date."**

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

12 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section

1 to read:

2 FINDINGS AND INTENT FOR SECS. 5 AND 6 OF THIS ACT. (a) The legislature
3 finds for secs. 5 and 6 of this Act that P.L. 111-5 (American Recovery and Reinvestment Act
4 of 2009)

5 (1) authorized the issuance of certain tax-advantaged bonds known as
6 recovery zone economic development bonds and recovery zone facility bonds under Division
7 B, Title I, Subtitle E, sec. 1401, P.L. 111-5 (26 U.S.C. 1400U-1 - 1400U-3); the purpose of
8 those bonds is to provide tax incentives for state and local governmental borrowing at lower
9 borrowing costs to promote job creation and economic recovery that is targeted to areas
10 particularly affected by employment declines;

11 (2) set a national volume limitation for recovery zone economic development
12 bonds of \$10,000,000,000, and a national volume limitation for recovery zone facility bonds
13 of \$15,000,000,000 under 26 U.S.C. 1400U-1(a)(4);

14 (3) authorized the United States Secretary of the Treasury to allocate the
15 national volume limitation for those bonds among the states under 26 U.S.C. 1400U-1(a);

16 (4) required each state to reallocate its volume among the counties and large
17 municipalities in the state in proportion to relative employment declines in 2008 under 26
18 U.S.C. 1400U-1(a)(3); because that requirement was nondiscretionary, the Internal Revenue
19 Service performed the reallocations within states and published them on its website under
20 I.R.B. 2009-26;

21 (5) permits a county or municipality to waive its allocation under 26 U.S.C.
22 1400U-1(a)(3); the Internal Revenue Service guidance relating to the allocation of recovery
23 zone economic development bonds and recovery zone facility bonds provides that a county or
24 large municipality may waive a portion of the volume cap allocation received for recovery
25 zone bonds; upon a waiver, the state in which the county or large municipality is located is
26 authorized to reallocate the waived volume cap in any reasonable manner as it shall determine
27 in good faith in its discretion under I.R.B. 2009-26; the guidance further provides that the
28 states have authority to consider a waiver; in this state, the Internal Revenue Service allocated
29 the bond volume to boroughs and census areas; and

30 (6) requires the bonds to be issued before January 1, 2011, under 26 U.S.C.
31 1400U-2(b)(1) and 26 U.S.C. 1400U-3(b)(1)(B).

(b) It is the intent of the legislature for secs. 5 and 6 of this Act to

(1) define when a borough or census area to which recovery zone economic development bond volume cap and recovery zone facility bond volume cap have been allocated is considered to have waived the volume cap;

(2) authorize the Alaska Municipal Bond Bank Authority to reallocate waived recovery zone economic development bond volume cap; and

(3) authorize the Alaska Industrial Development and Export Authority to reallocate waived recovery zone facility bond volume cap.

* **Sec. 2.** AS 37.15.800 is amended by adding a new subsection to read:

(f) The committee shall allocate tax credit limits and tax-exempt bond limits for the state in accordance with requirements imposed by federal law in connection with the tax credits and tax-exempt bonds. This subsection does not apply to low-income housing tax credits, qualified veterans' mortgage bonds under applicable provisions of 26 U.S.C. (Internal Revenue Code), or private activity bonds.

* **Sec. 3.** AS 44.85.180(c) is amended to read:

(c) Notwithstanding the provisions of (a) and (b) of this section, the total amount of bond bank authority bonds and notes outstanding at any one time may not exceed \$1,000,000,000 [\$750,000,000]. This subsection does not apply to

(1) bonds or notes issued to fund or refund bonds or notes;

(2) bonds, notes, commercial paper, and other obligations issued under AS 44.85.086 or (a)(5) of this section.

* **Sec. 4.** AS 44.85.410(4) is amended to read:

(4) "municipal bond" means a bond or note or evidence of debt that constitutes

(A) a general obligation bond that is a direct and general obligation of a political subdivision of the state, all the taxable property within which is subject to taxation to pay the bond, note, or evidence of debt, and the interest without limitation, as to rate or amount generally to the extent permitted by law or to avoid a default as provided for second class cities under AS 29.45.590;

(B) a revenue bond [, EXCEPT A REVENUE BOND FOR

1 ELECTRICAL GENERATION PURPOSES OTHER THAN DIESEL-
 2 POWERED GENERATION,] issued by a municipality, a solid waste
 3 management authority, or a port authority that pledges the revenue of a
 4 revenue-producing capital improvement and that is payable solely from the
 5 revenue of the revenue-producing capital improvement;

6 (C) a general obligation bond or revenue bond combined or
 7 additionally secured;

8 (D) a bond of a borough issued as a general obligation of a
 9 service area under AS 29.47.440 or former AS 29.58.340; or

10 (E) an obligation of a municipality secured only by

11 (i) special assessments on benefited property;

12 (ii) tax increments and a letter of credit or equal
 13 security; or

14 (iii) a lease [FOR EQUIPMENT OR BUILDING
 15 IMPROVEMENTS IF THE STATE IS NOT A LESSEE];

16 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
 17 read:

18 WAIVER AND REALLOCATION OF RECOVERY ZONE ECONOMIC
 19 DEVELOPMENT BOND VOLUME CAP. (a) A borough in the state that has received an
 20 allocation of recovery zone economic development bond volume cap under 26 U.S.C. 1400U-
 21 1 and 1400U-2, as amended, may waive all or part of its allocation at any time.

22 (b) A borough in the state that has received an allocation of recovery zone economic
 23 development bond volume cap under 26 U.S.C. 1400U-1 and 1400U-2, as amended, is
 24 considered to have waived the unused portion of the borough's recovery zone economic
 25 development bond volume cap as of the close of business June 30, 2010, unless the borough
 26 has authorized the issuance of bonds and files a written notice with the Alaska Municipal
 27 Bond Bank Authority before June 30, 2010, stating its intention to use the volume cap before
 28 August 31, 2010. If the borough files the written notice, the borough is considered to have
 29 waived the unused portion of its volume cap on the close of business, August 31, 2010.

30 (c) The recovery zone economic development bond volume cap for a census area in
 31 the state that has received an allocation of recovery zone economic development bond volume

1 cap under 26 U.S.C. 1400U-1 and 1400U-2, as amended, is considered waived as of the close
2 of business June 30, 2010.

3 (d) The recovery zone economic development bond volume cap that has been waived
4 or considered waived under this section lapses to the Alaska Municipal Bond Bank Authority
5 (AS 44.85.020). The Alaska Municipal Bond Bank Authority is authorized to reallocate the
6 waived recovery zone economic development bond volume cap.

7 (e) An issuer of recovery zone economic development bonds authorized by 26 U.S.C.
8 1400U-1 and 1400U-2, as amended, shall at the time of issuance, notify the Alaska Municipal
9 Bond Bank Authority in writing of the principal amount of the recovery zone economic
10 development bonds being issued and the date of issuance.

11 (f) The Alaska Municipal Bond Bank Authority may designate any bonds it issues
12 under AS 44.85 as recovery zone economic development bonds authorized by 26 U.S.C.
13 1400U-1 and 1400U-2, as amended. In connection with issuing recovery zone economic
14 development bonds, the Alaska Municipal Bond Bank Authority may designate areas in the
15 state as recovery zones and may apply recovery zone economic development bond volume
16 cap the authority has received under this section to the bonds. The Alaska Municipal Bond
17 Bank Authority may reallocate recovery zone economic development bond volume cap to
18 other issuers of bonds in the state and may authorize those issuers to designate areas as
19 recovery zones for purposes of using the recovery zone economic development bond volume
20 cap the authority allocates to those issuers.

21 (g) The Alaska Municipal Bond Bank Authority may use or reallocate waived
22 recovery zone economic development bond volume cap under this section in the manner the
23 authority considers most likely to achieve the efficient use of all the waived recovery zone
24 economic development bond volume cap, taking into consideration job creation and economic
25 recovery in areas of the state particularly affected by employment declines. The Alaska
26 Municipal Bond Bank Authority shall give priority to projects in a borough or census area that
27 received an allocation of recovery zone economic development bond volume cap under 26
28 U.S.C. 1400U-1 and 1400U-2, as amended. If a borough that received the allocation
29 designates a project within the borough or designates a project outside of the borough that
30 benefits the borough or its residents, the Alaska Municipal Bond Bank Authority shall
31 reallocate the volume cap for that project in the amount designated and to the designated

1 eligible issuer of recovery zone economic development bonds.

2 (h) The Alaska Municipal Bond Bank Authority may reallocate recovery zone
3 economic development bond volume cap allocations from a census area to political
4 subdivisions located in the census area. Before making a reallocation, the Alaska Municipal
5 Bond Bank Authority shall consult with all political subdivisions in the census area having
6 legal authority to issue the bonds regarding the need for reallocation of volume cap.

7 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 **WAIVER AND REALLOCATION OF RECOVERY ZONE FACILITY BOND**
10 **VOLUME CAP.** (a) A borough in the state that has received an allocation of recovery zone
11 facility bond volume cap under 26 U.S.C. 1400U-1 and 1400U-3, as amended, may waive all
12 or part of its allocation at any time.

13 (b) A borough in the state that has received an allocation of recovery zone facility
14 bond volume cap under 26 U.S.C. 1400U-1 and 1400U-3, as amended, is considered to have
15 waived the unused portion of the borough's recovery zone facility bond volume cap as of the
16 close of business June 30, 2010, unless the borough has authorized the issuance of bonds and
17 files a written notice with the Alaska Industrial Development and Export Authority before
18 June 30, 2010, stating its intention to use the volume cap before August 31, 2010. If the
19 borough files the written notice, the borough is considered to have waived the unused portion
20 of its volume cap on the close of business, August 31, 2010.

21 (c) The recovery zone facility bond volume cap for a census area in the state that has
22 received an allocation of recovery zone facility bond volume cap under 26 U.S.C. 1400U-1
23 and 1400U-3, as amended, is considered waived as of the close of business June 30, 2010.

24 (d) The recovery zone facility bond volume cap that has been waived or considered
25 waived under this section lapses immediately to the Alaska Industrial Development and
26 Export Authority (AS 44.88). The Alaska Industrial Development and Export Authority is
27 authorized to reallocate the waived recovery zone facility bond volume cap.

28 (e) An issuer of recovery zone facility bonds authorized by 26 U.S.C. 1400U-1 and
29 1400U-3, as amended, shall at the time of issuance, notify the Alaska Industrial Development
30 and Export Authority in writing of the principal amount of the recovery zone facility bonds
31 being issued and the date of issuance.

1 (f) The Alaska Industrial Development and Export Authority may designate any
2 bonds it issues under AS 44.88 as recovery zone facility bonds authorized by 26 U.S.C.
3 1400U-1 and 1400U-3, as amended. In connection with issuing recovery zone facility bonds,
4 the Alaska Industrial Development and Export Authority may designate areas in the state as
5 recovery zones and may apply recovery zone facility bond volume cap the authority has
6 received under this section to the bonds. The Alaska Industrial Development and Export
7 Authority may reallocate recovery zone facility bond volume cap to other issuers of bonds in
8 the state and may authorize those issuers to designate areas as recovery zones for purposes of
9 using the recovery zone facility bond volume cap the authority allocates to those issuers.

10 (g) The Alaska Industrial Development and Export Authority may use or reallocate
11 waived recovery zone facility bond volume cap under this section in the manner the authority
12 considers most likely to achieve the efficient use of all the waived recovery zone facility bond
13 volume cap, taking into consideration job creation and economic recovery in areas of the state
14 particularly affected by employment declines. The Alaska Industrial Development and Export
15 Authority shall give priority to projects in a borough or census area that received an allocation
16 of recovery zone facility bond volume cap under 26 U.S.C. 1400U-1 and 1400U-3, as
17 amended. If a borough that received the allocation designates a project within the borough or
18 designates a project outside of the borough that benefits the borough or its residents, the
19 Alaska Industrial Development and Export Authority shall reallocate the volume cap for that
20 project in the amount designated and to the designated eligible issuer of recovery zone facility
21 bonds.

22 (h) The Alaska Industrial Development and Export Authority may use or reallocate
23 waived recovery zone facility bond volume cap according to regulations adopted by the
24 Alaska Industrial Development and Export Authority, which may include regulations
25 requiring the use of documents prepared by the Alaska Industrial Development and Export
26 Authority for that purpose and regulations establishing one or more deadlines for use of the
27 waived recovery zone facility bond volume cap by the applicant. The Alaska Industrial
28 Development and Export Authority may grant an application in whole or in part or may reject
29 an application entirely after taking into consideration the factors established in (g) of this
30 section.

31 (i) Before making a reallocation under this section, the Alaska Industrial

1 Development and Export Authority shall charge and collect a fee for reallocating waived
2 recovery zone facility bond volume cap. The fee must be an amount sufficient to reimburse
3 the Alaska Industrial Development and Export Authority for administrative and contract
4 expenses associated with the reallocation but may not exceed one percent of the amount of the
5 reallocation.

6 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 REVISOR'S INSTRUCTION. The revisor of statutes is instructed under AS 01.05.031
9 to change the heading of AS 37.15.800 from "Private activity bonds" to "Tax-exempt bonds
10 and tax credits."

11 * **Sec. 8.** This Act takes effect immediately under AS 01.10.070(c).