

27-GS1822\D
Kane
2/22/11

CS FOR SENATE BILL NO. 42(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered:

Referred:

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

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the Alaska Railbelt energy fund and relating to the fund; relating
2 to and repealing the Railbelt energy fund; relating to the quorum of the Alaska Energy
3 Authority; relating to the powers of the Alaska Energy Authority regarding employees
4 and the transfer of certain employees of the Alaska Industrial Development Export
5 Authority to the Alaska Energy Authority; relating to the acquisition or construction of
6 certain projects by the Alaska Energy Authority; relating to the Alaska Energy
7 Authority's creating subsidiary corporations for power projects; providing approval by
8 law for the Alaska Energy Authority to create a subsidiary corporation relating to the
9 Watana Hydroelectric Power Project; relating to the definition of 'feasibility study' in
10 the Alaska Energy Authority Act; and providing for an effective date."

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

12 * **Section 1.** AS 37.05.520 is amended to read:

1 **Sec. 37.05.520. Railbelt energy fund.** There is established in the general fund
2 the Railbelt energy fund. The fund consists of money appropriated to it by the
3 legislature and interest received on money in the fund. The **Department of Revenue**
4 **[DEPARTMENT OF REVENUE]** shall manage the fund. The legislature may
5 appropriate money from the fund **to capitalize the Alaska Railbelt energy fund**
6 **(AS 42.45.035)** or for programs, projects, and other expenditures to assist in meeting
7 Railbelt energy needs, including projects for retrofitting state-owned buildings and
8 facilities for energy conservation.

9 * **Sec. 2.** AS 39.25.110 is amended by adding a new paragraph to read:

10 (44) the executive director and other staff of the Alaska Energy
11 Authority appointed under AS 44.83.040.

12 * **Sec. 3.** AS 42.45 is amended by adding a new section to read:

13 **Sec. 42.45.035. Alaska Railbelt energy fund.** (a) The Alaska Railbelt energy
14 fund is established as a separate fund. The fund consists of

15 (1) money appropriated to the fund by the legislature;

16 (2) gifts, bequests, contributions from other sources, and federal
17 money;

18 (3) interest earned on the fund balance; and

19 (4) investments, to be managed by the Department of Revenue, which
20 shall be the fiduciary of the fund under AS 37.10.071.

21 (b) The fund is not a dedicated fund.

22 (c) The legislature may appropriate from the fund to conduct feasibility
23 studies on, license, permit, acquire, construct, or make grants for power projects and
24 electrical transmission lines and interties that serve the Railbelt region.

25 (d) In this section, "Railbelt region" means the service territories of the
26 electrically interconnected electric utilities that serve Fairbanks, Wasilla, Palmer,
27 Anchorage, the Kenai Peninsula, and other electrically interconnected communities.

28 * **Sec. 4.** AS 44.83.040(a) is amended to read:

29 (a) The chair and vice-chair of the Alaska Industrial Development and Export
30 Authority shall serve as officers of the Alaska Energy Authority. The powers of the
31 Alaska Energy Authority are vested in the directors, and **four** **[THREE]** directors of

1 the authority constitute a quorum. Action may be taken and motions and resolutions
2 adopted by the Alaska Energy Authority at a meeting by the affirmative vote of a
3 majority of the directors. The directors of the Alaska Energy Authority serve without
4 compensation, but they shall receive the same travel pay and per diem as provided by
5 law for board members under AS 39.20.180.

6 * **Sec. 5.** AS 44.83.040 is amended by adding a new subsection to read:

7 (e) The authority may appoint persons as staff, including an executive
8 director, and may employ professional advisors, counsel, technical experts, agents, and
9 other employees. The executive director and employees of the authority are in the
10 exempt service under AS 39.25.110.

11 * **Sec. 6.** AS 44.83.080 is amended to read:

12 **Sec. 44.83.080. Powers of the authority.** In furtherance of its corporate
13 purposes, the authority has the following powers in addition to its other powers:

14 (1) to sue and be sued;

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

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

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

19 (5) to improve, equip, operate, and maintain power projects and bulk
20 fuel, waste energy, energy conservation, energy efficiency, and alternative energy
21 facilities and equipment;

22 (6) to issue bonds to carry out any of its corporate purposes and
23 powers, including **the acquisition or construction of a project to be owned or**
24 **leased, as lessor or lessee, by the authority or by another person or the**
25 **acquisition of an interest in a project or a right to capacity of a project,** the
26 establishment or increase of reserves to secure or to pay the bonds or interest on them,
27 and the payment of all other costs or expenses of the authority incident to and
28 necessary or convenient to carry out its corporate purposes and powers;

29 (7) to sell, lease as lessor or lessee, exchange, donate, convey, or
30 encumber in any manner by mortgage or by creation of any other security interest, real
31 or personal property owned by it, or in which it has an interest, when, in the judgment

1 of the authority, the action is in furtherance of its corporate purposes;

2 (8) to accept gifts, grants, or loans from, and enter into contracts or
3 other transactions regarding them, with any person;

4 (9) to deposit or invest its funds, subject to agreements with
5 bondholders;

6 (10) to enter into contracts with the United States or any person and,
7 subject to the laws of the United States and subject to concurrence of the legislature,
8 with a foreign country or its agencies, for the construction, financing, acquisition,
9 operation, and maintenance of all or any part of a power project or bulk fuel, waste
10 energy, energy conservation, energy efficiency, or alternative energy facilities or
11 equipment, either inside or outside the state, and for the sale or transmission of power
12 from a project or any right to the capacity of it or for the security of any bonds of the
13 authority issued or to be issued for the project;

14 (11) to enter into contracts with any person and with the United States
15 [,] and, subject to the laws of the United States and subject to the concurrence of the
16 legislature, with a foreign country or its agencies for the purchase, sale, exchange,
17 transmission, or use of power from a project, or any right to the capacity of it;

18 (12) to apply to the appropriate agencies of the state, the United States,
19 and a foreign country and any other proper agency for the permits, licenses, or
20 approvals as may be necessary, to acquire, construct, maintain, and operate power
21 projects in accordance with the licenses or permits, and to obtain, hold, and use the
22 licenses and permits in the same manner as any other person or operating unit;

23 (13) to enter into contracts or agreements with respect to the exercise
24 of any of its powers, and do all things necessary or convenient to carry out its
25 corporate purposes and exercise the powers granted in this chapter;

26 (14) to recommend to the legislature

27 (A) the pledge of the credit of the state to guarantee repayment
28 of all or any portion of revenue bonds issued to assist in construction of power
29 projects;

30 (B) an appropriation from the general fund

31 (i) for debt service on bonds or other project purposes;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

or

(ii) to reduce the amount of debt financing for the

project;

(15) to carry out the powers and duties assigned to it under AS 42.45;

(16) to make grants or loans to any person and enter into contracts or other transactions regarding the grants or loans;

(17) to promote energy conservation, energy efficiency, and alternative energy through training and public education;

(18) to acquire power projects, whether by construction, purchase, gift, or lease;

(19) to perform feasibility studies and engineering and design with respect to power projects.

* **Sec. 7.** AS 44.83 is amended by adding a new section to read:

Sec. 44.83.085. Creation of subsidiaries. The authority may, if approved by law, create a subsidiary corporation for the purpose of constructing, financing, acquiring, owning, operating, or maintaining a power project. A subsidiary corporation created under this section may be incorporated under AS 10.20.146 - 10.20.166. The authority may transfer assets of the authority to a subsidiary corporation created under this section. A subsidiary corporation created under this section may borrow money and issue bonds as evidence of that borrowing and has all the powers of the authority that the authority grants to the subsidiary corporation. Unless otherwise provided by the authority, the debts, liabilities, and obligations of a subsidiary corporation created under this section are not the debts, liabilities, or obligations of the authority.

* **Sec. 8.** AS 44.83.090 is amended by adding a new subsection to read:

(c) In this section, "authority" includes a subsidiary corporation created under AS 44.83.085.

* **Sec. 9.** AS 44.83.396(a) is amended to read:

(a) A power project that was acquired or constructed **under AS 44.83.080(18)** **or** as part of the former energy program for Alaska is owned, and shall be administered, by the authority.

1 * **Sec. 10.** AS 44.83.396 is amended by adding a new subsection to read:

2 (f) In this section, in reference to a specific power project, "authority" means
3 the subsidiary corporation created under AS 44.83.085, if the authority has created a
4 subsidiary corporation under AS 44.83.085 to construct, finance, acquire, own,
5 operate, or maintain the specific power project.

6 * **Sec. 11.** AS 44.83.990(3) is amended to read:

7 (3) "feasibility study"

8 (A) means a study conducted for the purpose of establishing the
9 economic and environmental practicality of completing a proposed power
10 project [UNDER FORMER AS 44.83.181];

11 (B) includes engineering and design work to meet the
12 requirements for submission of a license application for a proposed new
13 project to the Federal Energy Regulatory Commission;

14 * **Sec. 12.** AS 37.05.520 is repealed.

15 * **Sec. 13.** The uncodified law of the State of Alaska is amended by adding a new section to
16 read:

17 APPROVAL FOR SUBSIDIARY. The Alaska Energy Authority is authorized to
18 create a subsidiary corporation as provided under AS 44.83.085 for the purpose of acquiring,
19 constructing, owning, maintaining, operating, or financing the Watana Hydroelectric Power
20 Project. This authorization constitutes the approval by law required under AS 44.83.085,
21 enacted by sec. 7 of this Act. In this section, "Watana Hydroelectric Power Project" means the
22 hydroelectric power project to be located at or near river mile 184 on the Susitna River,
23 including dams, buildings, improvements, land, equipment, engineering and design plans,
24 transmission lines, permits, licenses, governmental approvals, and other assets or property of
25 any kind associated with the hydroelectric power project.

26 * **Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section to
27 read:

28 TRANSITION: CERTAIN STATE EMPLOYEES. The Alaska Energy Authority and
29 the Alaska Industrial Development and Export Authority shall jointly identify the employees
30 of the Alaska Industrial Development and Export Authority who will be transferred as staff to
31 the Alaska Energy Authority. The transfer of employees to the Alaska Energy Authority shall

1 be completed not later than December 31, 2011.

2 * **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change the
5 heading of AS 44.83.040 from "Officers; meetings; quorum" to "Officers; meetings; quorum;
6 employees."

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

9 CONDITIONAL EFFECT; NOTIFICATION. Section 12 of this Act takes effect only
10 if the Twenty-Seventh Alaska State Legislature makes an appropriation that becomes law that
11 appropriates the unexpended and unobligated balance in the Railbelt energy fund
12 (AS 37.05.520) (1) to the Alaska Railbelt energy fund (AS 42.45.035), created by sec. 3 of
13 this Act, or (2) for other authorized purposes. The commissioner of administration shall notify
14 the lieutenant governor and the revisor of statutes when the conditions described in this
15 section are met.

16 * **Sec. 17.** If, under sec. 16 of this Act, sec. 12 of this Act takes effect, it takes effect on the
17 day after the effective date of the appropriation described in sec. 16 of this Act.

18 * **Sec. 18.** Except as provided in sec. 17 of this Act, this Act takes effect immediately under
19 AS 01.10.070(c).