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Martin
2/19/14

CS FOR SENATE BILL NO. 140()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR MCGUIRE

A BILL
FOR AN ACT ENTITLED

1 **"An Act creating the Arctic infrastructure development program and fund in the**
2 **Alaska Industrial Development and Export Authority."**

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

4 *** Section 1.** AS 44.88.159(a) is amended to read:

5 (a) The interest rate on a loan purchased from the proceeds of tax-exempt
6 bonds secured by the Alaska Industrial Development and Export Authority sustainable
7 energy transmission and supply development fund (AS 44.88.660) under
8 AS 44.88.650 - 44.88.690 or by the Arctic infrastructure development fund
9 (AS 44.88.810) under AS 44.88.800 - 44.88.840 or a loan participation purchased
10 from the proceeds of tax-exempt bonds or expected by the authority to be purchased
11 from the proceeds of tax-exempt bonds under AS 44.88.155 shall be determined under
12 the regulations adopted by the authority under AS 44.88.085(g)(2)(C) and shall be not
13 less than the cost of funds to the authority. In this subsection, "cost of funds" means
14 the true interest cost expressed as a rate on tax-exempt bonds of the authority plus an

1 additional percentage as determined by the authority to represent the allocable
2 expenses of operation, costs of issuance, and loan servicing costs.

3 * Sec. 2. AS 44.88.159(b) is amended to read:

4 (b) The interest rate on a loan purchased from the proceeds of taxable bonds
5 secured by the Alaska Industrial Development and Export Authority sustainable
6 energy transmission and supply development fund (AS 44.88.660) under
7 AS 44.88.650 - 44.88.690 or by the Arctic infrastructure development fund
8 (AS 44.88.810) under AS 44.88.800 - 44.88.840 or a loan participation purchased
9 from the proceeds of taxable bonds under AS 44.88.155 or expected by the authority
10 to be purchased from the proceeds of taxable bonds under AS 44.88.155 shall be
11 determined under the regulations adopted by the authority under
12 AS 44.88.085(g)(2)(C) and shall be not less than the cost of funds to the authority. In
13 this subsection, "cost of funds" means the true interest cost expressed as a rate on
14 taxable bonds, plus an additional percentage as determined by the authority to
15 represent the allocable expenses of operation, costs of issuance, and loan servicing
16 costs.

17 * Sec. 3. AS 44.88.159(d) is amended to read:

18 (d) The provisions of this section apply only to a loan participation purchased
19 under AS 44.88.155 - 44.88.159 or to a loan made under AS 44.88.650 - 44.88.690 or
20 44.88.800 - 44.88.840.

21 * Sec. 4. AS 44.88.159(e) is amended to read:

22 (e) The interest rate on a loan made under AS 44.88.650 - 44.88.690 or
23 44.88.800 - 44.88.840 or a loan participation purchased directly from the assets of the
24 authority shall be determined under the regulations adopted by the authority under
25 AS 44.88.085(g)(2)(C) and shall be not less than the total of a percentage as
26 determined by the authority to represent the allocable expenses of operation and costs
27 of loan origination and servicing, plus the cost of funds. In this subsection,

28 (1) "comparable financial security" means a type or category of
29 financial security the authority identifies in the regulations adopted by the authority
30 under AS 44.88.085(g)(2)(C) that has a term and financial conditions comparable to
31 the term and financial conditions of a loan participation or a loan made under

1 AS 44.88.650 - 44.88.690 or 44.88.800 - 44.88.840 and for which a regularly
2 published, nationally recognized market index is available;

3 (2) "cost of funds" means the earnings, expressed as an annual interest
4 rate, the authority would receive on a comparable financial security, and, for a loan
5 participation or a loan made under AS 44.88.650 - 44.88.690 or 44.88.800 - 44.88.840
6 with a fixed interest rate, the cost of funds must equal or exceed the minimum interest
7 rate;

8 (3) "minimum interest rate" means the five-year return on investment
9 funds of the authority, expressed as an annual interest rate, achieved by all internal and
10 external investment managers of the authority combined.

11 * Sec. 5. AS 44.88.159(f) is amended to read:

12 (f) In determining an interest rate under the regulations adopted by the
13 authority under AS 44.88.085(g)(2)(C), the authority may determine to disregard the
14 minimum interest rate required under (a), (b), or (e) of this section for a loan
15 participation purchased by the authority or a loan made under AS 44.88.650 -
16 44.88.690 or 44.88.800 - 44.88.840 to resolve lending limits or reserve restrictions
17 imposed on the financial institution and may instead determine to retain the interest
18 rate existing at the time the authority makes the loan or purchases the authority's loan
19 participation.

20 * Sec. 6. AS 44.88.159(g) is amended to read:

21 (g) The authority may, in the regulations adopted by the authority under
22 AS 44.88.085(g)(2)(C), establish a program to pay to borrowers of loan participations
23 determined by the authority to meet sufficient job creation, rural development, Arctic
24 infrastructure development, renewable energy development, or other economic
25 development criteria incentive rate rebates of not more than one percent of the interest
26 rate charged on the authority's portion of a loan participation. The following standards
27 apply to the program:

28 (1) the payment of an incentive rate rebate may reduce the interest rate
29 to a rate that is less than the minimum interest rate required under (a), (b), or (e) of this
30 section;

31 (2) the authority may not commit to pay an incentive rate rebate for a

1 proposed loan participation if the total of the amount of the proposed loan
2 participation plus the combined outstanding balance of all loan participations for
3 which the authority has committed to pay incentive rate rebates would exceed five
4 percent of the total of the amount of the proposed loan participation plus the combined
5 outstanding balance of all loan participations of the authority;

6 (3) an incentive rate rebate may not accrue for more than five years
7 after the date the loan participation is purchased;

8 (4) the authority may establish a separate account for the incentive rate
9 rebate program.

10 * Sec. 7. AS 44.88 is amended by adding new sections to read:

11 **Article 9A. Arctic Infrastructure Development.**

12 **Sec. 44.88.800. Arctic infrastructure development program.** The Arctic
13 infrastructure development program is created in the authority to promote and provide
14 financing for Arctic infrastructure development.

15 **Sec. 44.88.810. Arctic infrastructure development fund.** The Arctic
16 infrastructure development fund is established in the authority. The fund consists of
17 appropriations made to the fund by the legislature, money or other assets transferred to
18 the fund by the authority from any other fund controlled by the authority, and
19 unrestricted loan repayments, interest, or other income earned on loans, investments,
20 or assets of the fund. The fund is not an account in the revolving fund established in
21 AS 44.88.060, and the authority shall account for the fund separately from the
22 revolving fund. The authority may create additional accounts in the fund. Subject to
23 agreements made with the holders of the authority's bonds or with other persons, the
24 authority may transfer amounts in an account in the fund to another account in the
25 fund. Amounts deposited in the fund may be pledged to the payment of bonds of the
26 authority or expended for the purposes of AS 44.88.800 - 44.88.840. The authority has
27 the powers and responsibilities established in AS 37.10.071 with respect to the
28 investment of amounts held in the fund.

29 **Sec. 44.88.820. Use of fund balance.** Subject to the requirements of
30 AS 44.88.800 - 44.88.840, the authority may use money in the Arctic infrastructure
31 development fund (AS 44.88.810) for Arctic infrastructure development.

1 **Sec. 44.88.830. Qualified infrastructure development; powers and duties**
2 **of the authority.** (a) Subject to the limitations of AS 44.88.840, for Arctic
3 infrastructure development the authority may

4 (1) use the Arctic infrastructure development fund (AS 44.88.810) to
5 finance Arctic infrastructure development, insure project obligations, guarantee loans
6 or bonds, and establish reserves;

7 (2) acquire real or personal property by purchase, transfer, or
8 foreclosure when the acquisition is necessary to protect the authority's interest in
9 financing;

10 (3) defer principal payments or capitalize interest on Arctic
11 infrastructure development;

12 (4) subject to AS 36.30.085(e), enter into lease agreements, sales-
13 lease-back agreements, build-operate-transfer and operate-transfer agreements, or any
14 similar project financing agreement for a qualified Arctic infrastructure development;

15 (5) enter into agreements with government entities for the transfer and
16 control of infrastructure, facilities, rights-of-way, and studies;

17 (6) contract for services with a professional advisor, including an
18 attorney, bond counsel, engineer, or other technical expert necessary to fulfill the
19 purposes of the program; and

20 (7) subject to AS 44.88.090, borrow money and issue bonds.

21 (b) The authority shall adopt regulations to implement AS 44.88.800 -
22 44.88.840, including

23 (1) a process for acquiring financing under this section;

24 (2) qualifications for Arctic infrastructure development projects
25 applying for financing under this section; and

26 (3) fiscal controls and accounting procedures for the fund.

27 **Sec. 44.88.840. Limitations on financing.** (a) Unless the authority has
28 obtained legislative approval by law, the authority may not use the Arctic
29 infrastructure development fund established in AS 44.88.810 to make

30 (1) a loan for more than one-third of the capital cost of an Arctic
31 infrastructure development; or

1 (2) a loan guarantee if the amount of the guarantee exceeds
2 \$20,000,000.

3 (b) Financing under AS 44.88.830 is limited to the projected life of the Arctic
4 infrastructure development, which may not be more than 40 years.

5 (c) Notwithstanding (a) of this section, the authority may use the Arctic
6 infrastructure development fund established in AS 44.88.810 as security for a bond
7 guarantee.

8 * **Sec. 8.** AS 44.88.900 is amended by adding new paragraphs to read:

9 (18) "Arctic" means the area of the state north of the Arctic Circle,
10 north and west of the boundary formed by the Porcupine, Yukon, and Kuskokwim
11 Rivers, all contiguous seas, including the Arctic Ocean, and the Beaufort, Bering, and
12 Chukchi Seas, and the Aleutian Chain;

13 (19) "Arctic infrastructure development" means the construction,
14 improvement, rehabilitation, or expansion in the state that furthers the development of
15 a port, road, energy project, hangar, or facility to aid in development or meet
16 emergency response needs in the Arctic.