

HOUSE BILL NO. 246

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/19/16

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act creating the oil and gas infrastructure development program and the oil and
2 gas infrastructure development fund in the Alaska Industrial Development and Export
3 Authority; relating to the interest rates of the Alaska Industrial Development and
4 Export Authority; relating to the sustainable energy transmission and supply
5 development and Arctic infrastructure development programs of the Alaska Industrial
6 Development and Export Authority; relating to dividends from the Alaska Industrial
7 Development and Export Authority; and adding definitions for 'oil and gas development
8 infrastructure' and 'proven reserves.'"

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

10 * **Section 1.** AS 44.88.088(a) is amended to read:

11 (a) The authority shall adopt a policy for payment of a dividend from the
12 revolving fund, the Alaska Industrial Development and Export Authority sustainable

energy transmission and supply development fund (AS 44.88.660), [AND] the Arctic infrastructure development fund (AS 44.88.810), **and the oil and gas infrastructure development fund (AS 44.88.860)** to the state each fiscal year. The dividends for a fiscal year shall be made available by the authority before the end of that fiscal year. The authority shall notify the commissioner of revenue when the dividends for a fiscal year are available for appropriation. The amount of the dividend payable from the

(1) revolving fund for a fiscal year may not be less than 25 percent nor more than 50 percent of the net income of the revolving fund for the base fiscal year; however, in no event, may the dividend payable from the revolving fund for a fiscal year exceed the total unrestricted net income of the revolving fund from the base year;

(2) Alaska Industrial Development and Export Authority sustainable energy transmission and supply development fund (AS 44.88.660) for a fiscal year may not be less than 25 percent nor more than 50 percent of the net income of the Alaska Industrial Development and Export Authority sustainable energy transmission and supply development fund for the base fiscal year; however, the dividend payable from the Alaska Industrial Development and Export Authority sustainable energy transmission and supply development fund for a fiscal year may not exceed the total unrestricted net income of the Alaska Industrial Development sustainable energy transmission and supply development fund for the base year;

(3) Arctic infrastructure development fund (AS 44.88.810) for a fiscal year may not be less than 25 percent nor more than 50 percent of the net income of the Arctic infrastructure development fund for the base fiscal year; however, the dividend payable from the Arctic infrastructure development fund for a fiscal year may not exceed the total unrestricted net income of the Arctic infrastructure development fund for the base year;

(4) oil and gas infrastructure development fund (AS 44.88.860) for a fiscal year may not be less than 25 percent nor more than 50 percent of the net income of the oil and gas infrastructure development fund for the base fiscal year; however, the dividend payable from the oil and gas infrastructure development fund for a fiscal year may not exceed the total unrestricted net income of the oil and gas infrastructure development fund for the base year.

1 * **Sec. 2.** AS 44.88.088(b)(2) is amended to read:

2 (2) "net income" means the change in net position, or the equivalent
3 term under generally accepted accounting principles, of the revolving fund, the change
4 in net position of the Alaska Industrial Development and Export Authority sustainable
5 energy transmission and supply development fund (AS 44.88.660), [OR] the change in
6 net position of the Arctic infrastructure development fund (AS 44.88.810), **or the**
7 **change in net position of the oil and gas infrastructure development fund**
8 **(AS 44.88.860)** as set out in the audited financial statements of the authority for the
9 base fiscal year, excluding amounts attributable to intergovernmental transfers, capital
10 contributions, grants, or impairment losses on development projects financed under
11 AS 44.88.172;

12 * **Sec. 3.** AS 44.88.088(b)(3) is amended to read:

13 (3) "unrestricted net income" means the unrestricted change in net
14 position, or the equivalent term under generally accepted accounting principles, of the
15 revolving fund, the Alaska Industrial Development and Export Authority sustainable
16 energy transmission and supply development fund (AS 44.88.660), [OR] the Arctic
17 infrastructure development fund (AS 44.88.810), **or the oil and gas infrastructure**
18 **development fund (AS 44.88.860)** as set out in the audited financial statements of the
19 authority for the base fiscal year, excluding amounts attributable to intergovernmental
20 transfers, capital contributions, grants, or impairment losses on development projects
21 financed under AS 44.88.172.

22 * **Sec. 4.** AS 44.88.159(a) is amended to read:

23 (a) The interest rate on a loan **made with** [PURCHASED FROM] the
24 proceeds of tax-exempt bonds secured by the **(1)** Alaska Industrial Development and
25 Export Authority sustainable energy transmission and supply development fund
26 (AS 44.88.660) under AS 44.88.650 - 44.88.690; **(2)** [OR BY THE] Arctic
27 infrastructure development fund (AS 44.88.810) under AS 44.88.800 - 44.88.840; **or**
28 **(3) oil and gas infrastructure development fund (AS 44.88.860) under**
29 **AS 44.88.850 - 44.88.890** or a loan participation purchased from the proceeds of tax-
30 exempt bonds or expected by the authority to be purchased from the proceeds of tax-
31 exempt bonds under AS 44.88.155 shall be determined under the regulations adopted

by the authority under **AS 44.88.085** [AS 44.88.085(g)(2)(C)] and shall be not less than the cost of funds to the authority. In this subsection, "cost of funds" means the true interest cost expressed as a rate on tax-exempt bonds of the authority plus an additional percentage as determined by the authority to represent the allowable expenses of operation, costs of issuance, and loan servicing costs.

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

(a) The interest rate on a loan **made with** [PURCHASED FROM] the proceeds of taxable bonds secured by the **(1)** Alaska Industrial Development and Export Authority sustainable energy transmission and supply development fund (AS 44.88.660) under AS 44.88.650 - 44.88.690; **(2)** [OR BY THE] Arctic infrastructure development fund (AS 44.88.810) under AS 44.88.800 - 44.88.840; **or** **(3) oil and gas infrastructure development fund (AS 44.88.860) under AS 44.88.850 - 44.88.890** or a loan participation purchased from the proceeds of taxable bonds under AS 44.88.155 or expected by the authority to be purchased from the proceeds of taxable bonds under AS 44.88.155 shall be determined under the regulations adopted by the authority under **AS 44.88.085** [AS 44.88.085(g)(2)(C)] and shall be not less than the cost of funds to the authority. In this subsection, "cost of funds" means the true interest cost expressed as a rate on taxable bonds of the authority plus an additional percentage as determined by the authority to represent the allowable expenses of operation, costs of issuance, and loan servicing costs.

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

(d) The provisions of this section apply only to a loan participation purchased under AS 44.88.155 - 44.88.159 or to a loan made under AS 44.88.650 - 44.88.690, [OR] 44.88.800 - 44.88.840, **or 44.88.850 - 44.88.890.**

* **Sec. 7.** AS 44.88.159(e) is amended to read:

(e) The interest rate on a loan made under AS 44.88.650 - 44.88.690, [OR] 44.88.800 - 44.88.840, **or 44.88.850 - 44.88.890** or a loan participation purchased directly from the assets of the authority shall be determined under the regulations adopted by the authority under **AS 44.88.085** [AS 44.88.085(g)(2)(C)] and shall be not less than the total of a percentage as determined by the authority to represent the allocable expenses of operation and costs of loan origination and servicing, plus the

1 cost of funds. In this subsection,

2 (1) "comparable financial security" means a type or category of
3 financial security the authority identifies in the regulations adopted by the authority
4 under AS 44.88.085 [AS 44.88.085(g)(2)(C)] that has a term and financial conditions
5 comparable to the term and financial conditions of a loan participation or a loan made
6 under AS 44.88.650 - 44.88.690, [OR] 44.88.800 - 44.88.840, or 44.88.850 -
7 44.88.890 and for which a regularly published, nationally recognized market index is
8 available;

9 (2) "cost of funds" means the earnings, expressed as an annual interest
10 rate, the authority would receive on a comparable financial security, and, for a loan
11 participation or a loan made under AS 44.88.650 - 44.88.690, [OR] 44.88.800 -
12 44.88.840, or 44.88.850 - 44.88.890 with a fixed interest rate, the cost of funds must
13 equal or exceed the minimum interest rate;

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

17 * **Sec. 8.** AS 44.88.159(f) is amended to read:

18 (f) In determining an interest rate under the regulations adopted by the
19 authority under AS 44.88.085 [AS 44.88.085(g)(2)(C)], the authority may determine
20 to disregard the minimum interest rate required under (a), (b), or (e) of this section for
21 a loan participation purchased by the authority or a loan made under AS 44.88.650 -
22 44.88.690, [OR] 44.88.800 - 44.88.840, or 44.88.850 - 44.88.890 or to resolve lending
23 limits or reserve restrictions imposed on the financial institution and may instead
24 determine to retain the interest rate existing at the time the authority makes the loan or
25 purchases the authority's loan participation.

26 * **Sec. 9.** AS 44.88.159 is amended by adding a new subsection to read:

27 (h) In regulations adopted under AS 44.88.085, the authority may establish
28 differing interest rates or methods for setting interest rates for each of its programs,
29 depending on the creditworthiness of the borrower, the risks of and security provided
30 for the financing provided under each program, comparable market rates, and other
31 factors the authority determines relevant in setting the interest rates for each program.

1 * **Sec. 10.** AS 44.88.690(a) is amended to read:

2 (a) Unless the authority has obtained legislative approval by law, the authority
3 may not use the Alaska Industrial Development and Export Authority sustainable
4 energy transmission and supply development fund established in AS 44.88.660 to

5 (1) make a loan for more than **50 percent** [ONE-THIRD] of the capital
6 cost of qualified energy development; or

7 (2) make a loan guarantee if the amount of the guarantee exceeds
8 **\$25,000,000** [\$20,000,000]; and

9 (3) purchase or acquire gas reserves or a gas lease or become a
10 working interest owner of a natural gas lease.

11 * **Sec. 11.** AS 44.88.840(a) is amended to read:

12 (a) Unless the authority has obtained legislative approval by law, the authority
13 may not use the Arctic infrastructure development fund established in AS 44.88.810 to
14 make

15 (1) a loan for more than **50 percent** [ONE-THIRD] of the capital cost
16 of an Arctic infrastructure development; or

17 (2) a loan guarantee if the amount of the guarantee exceeds
18 **\$25,000,000** [\$20,000,000].

19 * **Sec. 12.** AS 44.88 is amended by adding new sections to read:

20 **Article 10A. Oil and Gas Infrastructure Development.**

21 **Sec. 44.88.850. Oil and gas infrastructure development program.** The oil
22 and gas infrastructure development program is created in the authority to promote and
23 provide financing for oil and gas infrastructure development.

24 **Sec. 44.88.860. Oil and gas infrastructure development fund.** The oil and
25 gas infrastructure development fund is established in the authority. The fund consists
26 of appropriations made to the fund by the legislature, money or other assets transferred
27 to the fund by a majority vote of the members of the authority under AS 44.88.050
28 from any other fund controlled by the authority, and unrestricted loan repayments,
29 interest, or other income earned on loans, investments, or assets of the fund. The fund
30 is not an account in the revolving fund established in AS 44.88.060, and the authority
31 shall account for the fund separately from the revolving fund. The authority may

1 create additional accounts in the fund. Subject to agreements made with the holders of
 2 the authority's bonds or with other persons, the authority may transfer amounts in an
 3 account in the fund to another account in the fund. Amounts deposited in the fund may
 4 be pledged to the payment of bonds of the authority or expended for the purposes of
 5 AS 44.88.850 - 44.88.890. The authority has the powers and responsibilities
 6 established in AS 37.10.071 with respect to the investment of amounts held in the
 7 fund.

8 **Sec. 44.88.870. Use of fund balance.** Subject to the requirements of
 9 AS 44.88.850 - 44.88.890, the authority may use money in the oil and gas
 10 infrastructure development fund (AS 44.88.860) for oil and gas infrastructure
 11 development under AS 48.88.880 and to pay dividends under AS 44.88.088.

12 **Sec. 44.88.880. Oil and gas infrastructure development; powers and duties**
 13 **of the authority.** (a) Subject to the limitations of AS 44.88.890, for oil and gas
 14 infrastructure development, the authority may

15 (1) use the oil and gas infrastructure development fund (AS 44.88.860)
 16 to finance oil and gas infrastructure development, guarantee loans or bonds for oil and
 17 gas infrastructure development, and establish reserves;

18 (2) acquire a lien or security interest on real or personal property with
 19 respect to an oil and gas infrastructure development and, if necessary to protect the
 20 authority's financial interest, acquire or foreclose on the real or personal property;

21 (3) defer principal payments or capitalize interest on financing
 22 provided for oil and gas infrastructure development;

23 (4) contract for services with a professional advisor, including an
 24 engineer or other technical expert, as the authority determines is necessary to fulfill
 25 the purposes of the program;

26 (5) with the approval of the attorney general, contract for the services
 27 of an attorney or bond counsel as the authority determines is necessary to fulfill the
 28 purposes of the program; and

29 (6) subject to AS 44.88.090, borrow money and issue bonds.

30 (b) The authority shall adopt regulations to implement AS 44.88.850 -
 31 44.88.890, including

(1) a process for originating financing for an oil and gas infrastructure development;

(2) a process for confirming the existence of proven reserves sufficient to authorize financing;

(3) requirements and fees for financing oil and gas infrastructure development; and

(4) fiscal controls and accounting procedures for the fund.

Sec. 44.88.890. Limitations on financing. (a) Unless the authority has obtained legislative approval by law, the authority may not use the oil and gas infrastructure development fund established in AS 44.88.860 to

(1) provide financing that constitutes more than one-half of the capital cost of the oil and gas infrastructure development; or

(2) guarantee a loan for an oil and gas infrastructure development if the amount of the guarantee exceeds \$25,000,000.

(b) The authority may not provide financing for an oil and gas infrastructure development unless, with respect to expenditures on the oil and gas field, all participants in the oil and gas field covenant with the authority to not take, apply for, or accept, after the date of the authority's financing commitment, a

(1) gas exploration and development tax credit under AS 43.20.043;

(2) production tax credit under AS 43.55.023; or

(3) production tax credit for exploration expenditures under AS 43.55.025.

(c) Financing under AS 44.88.880 is limited to the projected life of the oil and gas infrastructure development but may not be more than 30 years.

*** Sec. 13.** AS 44.88.900 is amended by adding new paragraphs to read:

(20) "oil and gas infrastructure development" means the acquisition, construction, or installation of and engineering for the construction or installation of a road, pad, camp, processing facility, gathering system, or other on-site improvement or equipment for an oil or gas field located in the state that has been explored and for which proven reserves have been established;

(21) "proven reserves" means those quantities of petroleum which, by

1 analysis of geological and engineering data, can be estimated with reasonable certainty
2 to be commercially recoverable, from a given date forward, from known reservoirs
3 and under current economic conditions, operating methods, and government
4 regulations; "proven reserves" can be categorized as developed or undeveloped.