

SENATE CS FOR CS FOR HOUSE BILL NO. 466(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 4/23/96

Referred: Rules

Sponsor(s): REPRESENTATIVES MOSES, Mulder

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the Adak Reuse Authority."

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

3 * Section 1. AS 30 is amended by adding a new chapter to read:

4 CHAPTER 17. ADAK REUSE AUTHORITY.

5 ARTICLE 1. ESTABLISHMENT.

6 Sec. 30.17.010. CREATION OF AUTHORITY. There is created the Adak
7 Reuse Authority. The authority is a public corporation of the state and a body
8 corporate and is an instrumentality of the Department of Commerce and Economic
9 Development, but with separate and independent legal existence.

10 Sec. 30.17.020. MEMBERSHIP OF AUTHORITY. (a) The membership of
11 the authority consists of

12 (1) the commissioner of commerce and economic development;

13 (2) two other persons selected by the governor who serve as the heads
14 of principal departments of the executive branch of state government; and

15 (3) four public members appointed by the governor, two of whom must

1 be residents of the area that is within the boundaries of the Aleut Corporation, a Native
2 regional corporation established under 43 U.S.C. 1606 (Alaska Native Claims
3 Settlement Act).

4 (b) If a member described in (a)(1) or (2) of this section is unable to attend
5 a meeting of the authority, the member may, by an instrument in writing filed with the
6 authority, designate a deputy or assistant to act in the member's place as a member at
7 the meeting. For purposes of this chapter, the designee is a member of the authority
8 at the meeting.

9 (c) Members of the authority described in (a)(2) and (3) of this section serve
10 two-year terms but serve at the pleasure of the governor.

11 (d) If a vacancy occurs in the membership of the authority, the governor shall
12 immediately appoint a member for the unexpired portion of the term.

13 Sec. 30.17.030. CHAIR AND VICE-CHAIR. The members of the authority
14 shall elect a chair from among themselves. A vice-chair may be elected by the
15 authority from among its other members. The vice-chair presides over all meetings
16 in the absence of the chair and has other duties that the authority may prescribe.

17 Sec. 30.17.040. MEETINGS, COMPENSATION, AND EMPLOYEES. (a)
18 A majority of the members of the authority constitutes a quorum for the transaction
19 of business or the exercise of a power or function at a meeting of the authority.
20 Action may be taken and motions and resolutions may be adopted by the authority
21 only upon an affirmative vote of a majority of the full membership of the authority.
22 The authority may meet and transact business by electronic media if (1) public notice
23 of the time and locations where the meeting will be held by electronic media has been
24 given in the same manner as if the meeting were held in a single location; (2)
25 participants and members of the public in attendance can hear and have the same right
26 to participate in the meeting as if the meeting were conducted in person; and (3) copies
27 of pertinent reference materials, statutes, regulations, and audio-visual materials are
28 reasonably available to participants and to the public. A meeting by electronic media
29 as provided in this subsection has the same legal effect as a meeting in person.

30 (b) The public members of the authority are entitled to \$100 compensation for
31 each day spent on official business of the authority and may be reimbursed by the

1 authority for actual and necessary expenses at the same rate paid to members of state
2 boards under AS 39.20.180.

3 (c) The authority may not hire employees but may contract with individuals
4 or entities to serve in capacities it considers advisable, including service as an
5 executive director, executive secretary, professional advisor, legal counsel, technical
6 expert, agent, and in other positions. A contractor hired under this subsection is not
7 a state employee for any purpose. A contract under this subsection may not exceed
8 two years' duration.

9 (d) The authority shall keep minutes of each meeting and send a certified copy
10 to the governor and to the Legislative Budget and Audit Committee.

11 ARTICLE 2. PURPOSE AND GENERAL POWERS.

12 Sec. 30.17.100. PURPOSE OF THE AUTHORITY. The purpose of the
13 authority is to develop and implement a comprehensive reuse and redevelopment plan
14 for the territory encompassed by the Adak Naval Air Facility in a manner that will
15 attract business, create jobs, and advance the general prosperity and economic welfare
16 of the people of the state by

17 (1) administering in a manner consistent with the purpose of the
18 authority the assets transferred to the authority by the federal government, including
19 facilities and other real or personal property, located at the Adak Naval Air Facility;

20 (2) entering into necessary agreements with the federal government for
21 operation of the facilities comprising the Adak Naval Air Facility;

22 (3) operating or contracting with others to operate enterprises and other
23 facilities located at the Adak Naval Air Facility; and

24 (4) cooperating and acting in conjunction with other organizations,
25 public and private, the objects of which are the promotion and advancement of
26 economic use of the facilities located at the Adak Naval Air Facility.

27 Sec. 30.17.110. POWERS OF THE AUTHORITY. In furtherance of its
28 corporate purposes, the authority may, in addition to other powers that it may have by
29 law,

30 (1) sue and be sued;

31 (2) have a seal and alter the seal at its pleasure;

1 (3) adopt and amend bylaws for its organization and internal
2 management;

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

4 (5) subject to AS 30.17.130(c), accept title to, or other interest in,
5 assets transferred to the authority by the federal government, including facilities and
6 other real or personal property, located at the Adak Naval Air Facility;

7 (6) lease to others a project acquired by it for the rentals and upon the
8 terms and conditions the authority may consider advisable, including, without
9 limitation, provisions for options to purchase or renew;

10 (7) issue and secure the payment of bonds, including revenue bonds;
11 provide for the rights of holders of the bonds; and purchase, hold, and dispose of
12 bonds;

13 (8) sell, by installment sale or otherwise, exchange, donate, convey, or
14 encumber in any manner by mortgage or by creation of any other security interest, real
15 or personal property owned by it, or in which it has an interest, including a project,
16 when, in the judgment of the authority, the action is in furtherance of its corporate
17 purposes;

18 (9) accept gifts, grants, or loans from, and enter into contracts or other
19 transactions regarding them with, a federal agency or an agency or instrumentality of
20 the state, a municipality, a private organization, or other source;

21 (10) deposit or invest its funds, subject to agreements with bondholders;

22 (11) acquire, manage, and operate projects as the authority considers
23 necessary or appropriate to serve a public purpose;

24 (12) enter into contracts or other transactions with a federal agency,
25 with an agency or instrumentality of the state or of a municipality, or with a private
26 organization or other entity consistent with the exercise of any power under this
27 chapter;

28 (13) charge fees or other forms of remuneration for the use or
29 possession of the projects described in (11) of this section in accordance with the
30 agreements described in (12) of this section, other agreements pertaining to the
31 projects, covenants, or representations made in bond documents pertaining to the

1 projects, or regulations of the authority pertaining to the projects.

2 Sec. 30.17.120. ADMINISTRATIVE PROCEDURE. The provisions of the
3 Administrative Procedure Act regarding the adoption of regulations under
4 AS 44.62.040 - 44.62.320 apply to the authority.

5 Sec. 30.17.130. LIMITATION ON POWERS. (a) The authority has only the
6 powers expressly granted in this chapter, reasonably implied from this chapter, or
7 reasonably necessary or convenient to carry out its corporate purposes and to exercise
8 the powers expressly granted in or reasonably implied from this chapter.

9 (b) The authority does not have powers of

- 10 (1) eminent domain;
- 11 (2) taxation;
- 12 (3) land use planning;
- 13 (4) zoning;
- 14 (5) permitting; or
- 15 (6) other similar governmental powers.

16 (c) The authority may not accept transfer by the federal government of title
17 to, an interest in, control over, or responsibility for a facility or other real or personal
18 property located at the Adak Naval Air Facility unless sufficient federal or other
19 money is available to the authority to manage the property or operate the facility at a
20 minimal level for two years after the date of the transfer. The director of the office
21 of management and budget shall determine whether sufficient money is available to
22 the authority with respect to each proposed transfer subject to this subsection, and
23 approve or disapprove the proposed transfer.

24 (d) Notwithstanding other provisions of this chapter, the authority may not
25 enter into a trust indenture or contract that has the effect of precluding the transfer of
26 the assets and liabilities of the authority to a successor.

27 ARTICLE 3. PROJECTS; BONDS.

28 Sec. 30.17.200. CONSIDERATION OF PROJECTS TO BE FINANCED. (a)
29 Before issuing bonds for a project under this chapter, the authority must find, on the
30 basis of all information reasonably available to it, that the

- 31 (1) project and its development under this chapter will be economically

1 advantageous to the state and the general public welfare and will contribute to the
2 economic growth of the state;

3 (2) project is financially sound and can be expected to produce revenue
4 adequate to repay the bonds with which it is financed; and

5 (3) scope of the project is sufficient to provide a reasonable expectation
6 of a benefit to the region and the economy of the state.

7 (b) The authority shall give fair and reasonable consideration to a project
8 presented to it for financing. When the authority determines whether to finance or
9 assist in the financing of a project, the authority shall state the reasons for its
10 determination in a written resolution upon request by a person who presented the
11 project to the authority or a person who presented opposition to the project. The
12 authority shall base its reasons on the information presented to it concerning the
13 project and on other information considered appropriate by the authority.

14 (c) The authority may not issue bonds to finance or assist in financing a
15 project unless the authority has received legislative approval to do so for a specified
16 project.

17 Sec. 30.17.210. BONDS OF THE AUTHORITY. (a) Subject to the
18 provisions of AS 30.17.200, the authority may borrow money and may issue revenue
19 bonds, including bonds on which the principal and interest are payable

20 (1) exclusively from the income and receipts or other money derived
21 from the project financed with the proceeds of the bonds;

22 (2) exclusively from the income and receipts or other money derived
23 from designated projects whether or not they are financed in whole or in part with the
24 proceeds of the bonds; or

25 (3) from the income and receipts or assets generally, or a designated
26 part or parts of them, of the authority or of any other person.

27 (b) Bonds issued under this chapter shall be authorized by resolution of the
28 authority, and shall be dated and shall mature as the resolution may provide, except
29 that a bond may not mature more than 40 years from the date of its issuance. The
30 bonds shall bear interest at the rate or rates, be in the denominations, be in the form,
31 either coupon or registered, carry the registration privileges, be executed in the manner,

1 be payable in the medium of payment, at the place or places, and be subject to the
2 terms of redemption that the resolution or a subsequent resolution may provide.

3 (c) Bonds issued under this chapter, regardless of form or character, shall be
4 negotiable instruments for the purposes of the Uniform Commercial Code.

5 (d) Bonds issued under this chapter may be sold at public or private sale in the
6 manner, for the price or prices, and at the time or times that the authority may
7 determine.

8 (e) The superior court shall have jurisdiction to hear and determine suits,
9 actions, or proceedings relating to the authority, including suits, actions, or proceedings
10 brought to foreclose or otherwise enforce a mortgage, pledge, assignment, or security
11 interest or brought by or for the benefit or security of a holder of its bonds or by a
12 trustee for or other representative of the holders.

13 (f) Before issuing bonds for a project under this chapter, the authority shall
14 submit to the state bond committee a description of the bond issue and an independent
15 economic feasibility analysis of the project and expected revenue. This information
16 may be contained in a preliminary prospectus, offering circular, or official statement
17 relating to the bond issue. Bonds may not be issued under this chapter unless the state
18 bond committee finds, based upon the information submitted by the authority under
19 this subsection and other information that is reasonably available to the committee, that
20 the project revenue can be reasonably expected to be adequate for payment of the
21 principal and interest on the bonds to be issued if the bonds are to be secured by
22 project revenue alone, and in any event that issuance of the bonds by the authority
23 would not be expected to adversely affect the ability of the state or its political
24 subdivisions to market bonds.

25 Sec. 30.17.220. TRUST INDENTURES AND TRUST AGREEMENTS. In
26 the discretion of the authority, an issue of bonds may be secured by a trust indenture
27 or trust agreement between the authority and a corporate trustee, which may be a trust
28 company, bank, or national banking association, with corporate trust powers, located
29 inside or outside the state, or by a secured loan agreement or other instrument or under
30 a resolution giving powers to a corporate trustee, after this in this section referred to
31 as "trust agreement," by means of which the authority may

1 (1) make and enter into the covenants and agreements with the trustee
2 or the holders of the bonds that the authority determines necessary or desirable,
3 including, without limitation, covenants, provisions, limitations, and agreements as to

4 (A) the application, investment, deposit, use, and disposition of
5 the proceeds of the bonds of the authority or of money or other property of the
6 authority or in which it has an interest;

7 (B) the fixing and collection of rents or other consideration for,
8 and the other terms to be incorporated in, an agreement with respect to a
9 project;

10 (C) the assignment by the authority of its rights in a mortgage
11 or other security interest created with respect to a project to a trustee for
12 benefit of bondholders;

13 (D) the terms and conditions upon which additional bonds of
14 the authority may be issued;

15 (E) the vesting in a trustee of rights, powers, duties, funds, or
16 property in trust for the benefit of bondholders, including, without limitation,
17 the right to enforce payment, performance, and all other rights of the authority
18 or of the bondholders under a lease, contract of sale, mortgage, security
19 agreement, or trust agreement with respect to a project by appropriate judicial
20 proceeding or by taking possession of by agent or otherwise and operating a
21 project and collecting rents or other consideration and applying the same in
22 accordance with the trust agreement;

23 (2) pledge, mortgage, or assign money, leases, agreements, property,
24 or other assets of the authority either presently in hand or to be received in the future,
25 or both; and

26 (3) provide for other matters that affect the security or protection of the
27 bonds.

28 Sec. 30.17.230. VALIDITY OF PLEDGE. (a) It is the intent of the
29 legislature that a pledge made in respect of bonds issued under this chapter is
30 perfected, valid, and binding from the time the pledge is made; that the money or
31 property so pledged and thereafter received by the authority is immediately subject to

1 the lien of the pledge without physical delivery or further act; and that the lien of the
2 pledge is valid and binding against all parties having claims of any kind in tort,
3 contract, or otherwise against the authority whether or not the parties have notice.
4 Neither the resolution, trust agreement, nor any other instrument by which a pledge is
5 created need be recorded or filed under the provisions of the Uniform Commercial
6 Code to be perfected or to be valid, binding, or effective against the parties.

7 (b) This section does not affect title to or conveyances of real property, and
8 does not limit the applicability of AS 40.17.080.

9 Sec. 30.17.240. NONLIABILITY ON BONDS. (a) Neither the members of
10 the authority nor a person executing the bonds are liable personally on the bonds
11 issued by the authority or are subject to personal liability or accountability by reason
12 of the issuance of the bonds.

13 (b) The bonds issued by the authority do not constitute an indebtedness or
14 other liability of the state or of a political subdivision of the state, but shall be payable
15 solely from the income and receipts or other funds or property of the authority. The
16 authority may not pledge the faith or credit of the state or of a political subdivision of
17 the state, except the authority, to the payment of a bond, and the issuance of a bond
18 by the authority does not directly, indirectly, or contingently obligate the state or a
19 political subdivision of the state to apply money from, levy, or pledge any form of
20 taxation to the payment of the bond.

21 (c) The authority shall print the language of (b) of this section in substantial
22 form on the face of all bonds issued and in any offering circular, or statement issued
23 in connection with the bonds.

24 Sec. 30.17.250. PLEDGE OF THE STATE. The state pledges to and agrees
25 with the holders of bonds issued under this chapter and with the federal agency that
26 loans or contributes funds in respect to a project, that the state will not limit or alter
27 the rights and powers vested in the authority by this chapter to fulfill the terms of a
28 contract made by the authority with the holders or federal agency, or in any way
29 impair the rights and remedies of the holders until the bonds, together with the interest
30 on them with interest on unpaid installments of interest, and all costs and expenses in
31 connection with an action or proceeding by or on behalf of the holders, are fully met

1 and discharged. The authority may include this pledge and agreement of the state,
2 insofar as it refers to holders of bonds of the authority, in a contract with the holders,
3 and insofar as it relates to a federal agency, in a contract with the federal agency.

4 Sec. 30.17.260. EXEMPTION FROM TAXATION. (a) The real and personal
5 property of the authority and its assets, income, and receipts are declared to be the
6 property of a political subdivision of the state and are exempt from taxes and special
7 assessments of the state or a political subdivision of the state. Bonds of the authority
8 are declared to be issued by a political subdivision of the state and for an essential
9 public and governmental purpose and to be a public instrumentality, and the bonds, the
10 interest on them, the income from them, and the transfer of the bonds, and all assets,
11 income, and receipts pledged to pay or secure the payment of the bonds or interest on
12 them shall at all times be exempt from taxation by or under the authority of the state,
13 except for inheritance and estate taxes and taxes on transfers by or in contemplation
14 of death.

15 (b) This section does not affect or limit an exemption from license fees,
16 property taxes, or excise, income, or other taxes, provided under any other law, nor
17 does it create a tax exemption with respect to the interest of any business enterprise
18 or other person, other than the authority, in any property, assets, income, receipts,
19 project, or lease whether or not financed under this chapter.

20 Sec. 30.17.270. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The
21 bonds of the authority are securities in which public officers and bodies of the state;
22 municipalities and municipal subdivisions; insurance companies and associations and
23 other persons carrying on an insurance business; banks, bankers, trust companies,
24 savings banks, savings associations, including savings and loan associations and
25 building and loan associations, investment companies, and other persons carrying on
26 banking business; administrators, guardians, executors, trustees, and other fiduciaries;
27 and other persons who are now or may afterward be authorized to invest in bonds or
28 other obligations of the state, may properly and legally invest money, including capital
29 in their control or belonging to them. Notwithstanding any other provisions of law,
30 the bonds of the authority are also securities that may be deposited with and may be
31 received by public officers and bodies of the state and municipalities and municipal

1 subdivisions for any purpose for which the deposit of bonds or other obligations of the
2 state is now or may afterward be authorized.

3 Sec. 30.17.280. ENTERPRISE DEVELOPMENT ACCOUNT. (a) The
4 enterprise development account is established in the authority. The enterprise
5 development account is a trust fund for the uses and purposes of this chapter. The
6 enterprise development account consists of money or assets appropriated or transferred
7 to the authority and other money or assets deposited in it by the authority.

8 (b) The authority may establish in the enterprise development account the
9 accounts it considers appropriate.

10 (c) Money and other assets of the enterprise development account may be used
11 to secure bonds of the authority issued to finance the purchase of loans for projects or
12 may be used to purchase participation in the loans for projects.

13 (d) A loan participation purchased by the authority with assets of the enterprise
14 development account or with proceeds of bonds secured by assets of the enterprise
15 development account

16 (1) may not be purchased unless

17 (A) the project applicant is not, or, if the applicant is not a
18 single proprietorship, all members of the business enterprise or enterprises
19 constituting the project applicant are not, in default on another loan made by
20 the state or by a public corporation of the state;

21 (B) the project applicant has, or, if the applicant is not a single
22 proprietorship, all members of the business enterprise or enterprises constituting
23 the project applicant have, paid all taxes due to the state, has satisfied financial
24 requirements for state tax cases that are under appeal, and is current on all
25 payment schedules relating to state taxes or settlement of tax disputes with the
26 state; and

27 (C) at least 20 percent of the principal amount of the loan is
28 retained by the loan originator;

29 (2) may not be purchased if the loan to be purchased exceeds the cost
30 of the project or 75 percent of the appraised value of the project, whichever is less,
31 unless the amount of the loan in excess of this limit is federally insured or guaranteed

1 or is insured by a qualified mortgage insurance company;

2 (3) may not be purchased if the participation in the loan to be
3 purchased is for a term longer than three-quarters of the authority's estimate of the life
4 of the project or 25 years from the date the loan is made, whichever is earlier;
5 however, in the case of a loan participation for a power transmission intertie, the term
6 may not be longer than 50 years from the date the loan is made;

7 (4) may be made only if the participation in the loan to be purchased
8 contains amortization provisions; the amortization provisions

9 (A) must be complete and satisfactory to the authority and
10 require periodic payments by the borrower;

11 (B) may allow the loan originator to amortize the portion of the
12 loan retained by the loan originator using a shorter amortization schedule than
13 the amortization schedule for the portion of the loan held by the authority if

14 (i) in the authority's opinion, the project financed can
15 support the increased debt service; and

16 (ii) the accelerated amortization schedule is required to
17 induce the originator to make the loan;

18 (5) may be made only if the participation in the loan to be purchased
19 is in the form and contains the terms and provisions with respect to insurance, repairs,
20 alterations, payment of taxes and assessments, default reserves, delinquency charges,
21 default remedies, acceleration of maturity, secondary liens, and other matters the
22 authority prescribes; and

23 (6) may be made only if the participation in the loan to be purchased
24 is secured as to repayment by a mortgage or other security instrument in the manner
25 the authority determines is feasible to assure timely repayment under a loan agreement
26 entered into with the borrower.

27 (e) The authority may adopt regulations for the administration of the enterprise
28 development account including provisions for fees and agreements relating to
29 application, loan commitment, servicing, and origination of loans by other lenders.

30 (f) The authority may enter into agreements as to the use of the money in the
31 enterprise development account including trust or custody arrangements with banks or

1 trust companies. It may also pledge, assign, or grant the agreement, interests under
2 an agreement, or interests in the enterprise development account as may be necessary
3 or appropriate to provide for payment and security for bonds of the authority issued
4 to finance the purchase by the authority of loans for projects.

5 (g) Notwithstanding any other provision of this section, the authority may
6 waive or modify the requirements of this section as it considers appropriate and
7 prudent in order to finance a project if the authority intends to own the project or in
8 order to finance a power transmission intertie project.

9 (h) The provisions of this section apply only with respect to a loan
10 participation purchased by the authority for projects under this chapter.

11 ARTICLE 4. MISCELLANEOUS PROVISIONS.

12 Sec. 30.17.300. AUDIT. The legislative auditor shall audit or shall cause to
13 have audited annually the financial records of the authority. The legislative auditor
14 may prescribe the form and content of the financial records of the authority and shall
15 have access to these records at reasonable times.

16 Sec. 30.17.310. EQUAL USE AND ACCESS. If the authority owns, leases,
17 or otherwise operates or controls, or participates in the financing of, a facility, the
18 authority shall, to the maximum extent possible, provide for equal rights of access to
19 and use of the facility by members of the public and other persons or entities upon
20 terms and conditions that are fair and reasonable. However, this section does not
21 prevent the authority from establishing fair and reasonable limitations on use of or
22 access to a facility to the extent the limitations are necessary in connection with the
23 nature of the facility or the demand for use of or access to the facility. This section
24 applies to the establishment of rates and rate structures as well as all other factors,
25 terms, and conditions relating to the use of or access to the facility, including without
26 limitation the design and location of the facility. The members of the authority shall
27 make a written finding concerning compliance of the facility with this section. A
28 written finding signed by a majority of the authority members complies with the
29 provisions of this section and shall constitute a conclusive presumption of compliance.

30 Sec. 30.17.320. SUCCESSION. The authority is dissolved one year after the
31 date of incorporation of a municipality, other than a second class city, that has an area

1 coterminous with or inclusive of the area formerly encompassed by the Adak Naval
2 Air Facility. Upon dissolution of the authority, the municipality succeeds to the assets
3 and liabilities of the authority and succeeds to the rights, powers, and duties of the
4 authority under contracts to which the authority is a party on the date of dissolution.
5 Except for this section, this chapter is not applicable to a municipality that succeeds
6 the authority.

7 Sec. 30.17.330. PURCHASE OF PROJECT AND LEASES. (a) This chapter
8 does not prevent the inclusion in a lease or other agreement relating to a project of a
9 provision granting the right to purchase the project, or to renew or extend the lease or
10 agreement, upon the terms and conditions that may be provided for in the lease or
11 agreement.

12 (b) A lease with respect to a project may provide for two or more lessees with
13 the legal relationship between themselves and the authority that the authority may
14 approve, including provisions to the effect that the obligations of the lessees under the
15 lease for payment of rental or otherwise between themselves and the authority are
16 several, joint, or joint and several and that the lessees lease the project as
17 tenants-in-common, or otherwise.

18 Sec. 30.17.340. CONFLICTS OF INTEREST. (a) A member of the authority
19 may not vote on a matter relating to a lease or contract entered into or to be entered into
20 by the authority under this chapter if the member is a party to the lease or contract or
21 has a direct ownership or equity interest in a firm, partnership, corporation, or association
22 that may be a party to the contract or lease. A matter relating to a lease or contract that
23 is approved by a majority of the members who are not barred from voting under this
24 section is a valid action of the authority for all purposes.

25 (b) Members of the authority are subject to AS 39.52 (Alaska Executive Branch
26 Ethics Act).

27 Sec. 30.17.350. OPERATION OF CERTAIN STATUTES EXCEPTED. (a) The
28 authority may not be considered to be or constitute (1) a political subdivision of the state
29 as the term is used in AS 37.10.085, (2) a municipal corporation or political subdivision
30 of the state as the terms are used in AS 29, or (3) except as provided in AS 30.17.360,
31 a state agency as the term is used in AS 37, but for all other purposes the authority
32 constitutes a political subdivision and an instrumentality of the state as provided in this

chapter.

(b) The funds, income, or receipts of the authority may not be considered to be or constitute money of the state, nor may real property in which the authority has an interest be considered land owned in fee by the state or to which the state may become entitled or in any way land belonging to the state, or state land referred to in art. VIII, Constitution of the State of Alaska.

Sec. 30.17.360. COMPLIANCE WITH EXECUTIVE BUDGET ACT; AUTHORITY FINANCES. (a) The operating budget of the authority is subject to AS 37.07 (Executive Budget Act).

(b) To further ensure effective budgetary decision making by the legislature, the authority shall

(1) annually review the authority's assets to determine whether assets of the authority exceed an amount required to fulfill the purposes of the authority as defined in this chapter; in making its review, the members of the authority shall determine whether, and to what extent, assets in excess of the amount required to fulfill the purposes of the authority during at least the next fiscal year are available without

(A) breaching an agreement entered into by the authority;

(B) materially impairing the operations or financial integrity of the authority; or

(C) materially affecting the ability of the authority to fulfill the authority's purposes; and

(2) present to the legislature by January 10 of each year a complete accounting of all assets of the authority and a report of the review and determination made under (1) of this subsection; the accounting shall be audited by the auditor who conducts the audit required by AS 30.17.300, including income earned on assets of the authority during that period.

Sec. 30.17.370. REPORTS AND PUBLICATIONS. By January 10 of each year, the authority shall publish a report for distribution to the governor, legislature, and the public. The authority shall notify the legislature that the report is available. The report shall be written in easily understandable language. The report must include a financial statement audited by an independent outside auditor, a statement of the authority's investments under this chapter, including an appraisal of the investments at

1 market value, a comparison of the authority's performance with the goals of the
2 authority, and other information the members of the authority believe would be of
3 interest to the governor, the legislature, and the public. The annual income statement and
4 balance sheet of the authority shall be published in at least one newspaper circulating in
5 each judicial district. The authority may also publish other reports it considers desirable
6 to carry out its purposes.

7 ARTICLE 5. GENERAL PROVISIONS.

8 Sec. 30.17.900. DEFINITIONS. In this chapter,

9 (1) "authority" means the Adak Reuse Authority created by this chapter;

10 (2) "bonds" means bonds or other obligations issued under this chapter;

11 (3) "business enterprise" means a single proprietorship, cooperative,
12 corporation, firm, partnership, or other association of persons organized in any manner,
13 for any credit worthy business purpose;

14 (4) "facility" means real property, whether above or below mean high
15 water, or an interest in it, and the buildings, improvements, and structures constructed
16 or to be constructed on or in it, and may include fixtures, machinery, and equipment on
17 it or in it, and tangible personal property, regardless of whether the tangible personal
18 property is attached to or connected with real property, if the owner has agreed not to
19 remove the tangible personal property permanently from the state for the period the
20 authority sets; "facility" does not include work in process or stock in trade;

21 (5) "federal agency" means the United States and any officer, department,
22 agency or instrumentality of the United States;

23 (6) "lease" includes, when used as a noun, an interest in, or when used
24 as a verb, the transfer of an interest in, property less than fee simple title, including,
25 when used as a noun, agreements to use or occupy property;

26 (7) "person" includes a corporation, company, partnership, firm,
27 association, organization, business trust, society, state or agency or subdivision of the
28 state, municipality of the state, a resource development authority, as well as a natural
29 person;

30 (8) "project" means

31 (A) a facility used or intended for use in connection with making,
32 processing, preparing, transporting, or producing goods, products, or substances

1 of any kind or nature or in connection with developing or using a natural
2 resource, or extracting, smelting, transporting, converting, assembling, or
3 producing minerals, raw materials, chemicals, compounds, alloys, fibers,
4 commodities and materials, products, or substances of any kind or nature;

5 (B) a facility used or intended for use in connection with a
6 business enterprise;

7 (C) commercial activity by a small enterprise;

8 (D) a facility demonstrating technological advances of new
9 methods and procedures and prototype commercial applications for the
10 exploration, development, production, transportation, conversion, and use of
11 energy resources;

12 (E) infrastructure for a new tourism destination facility or for the
13 expansion of a tourism destination facility;

14 (F) a facility, other than a facility described in (D) of this
15 paragraph, for the generation, transmission, development, transportation,
16 conversion, or use of energy resources;

17 (9) "project applicant" means a business enterprise or enterprises
18 proposing to

19 (A) use or occupy a project; or

20 (B) agree to permit others to use or occupy a project;

21 (10) "real property" means land and rights and interests in land, including
22 interests less than full title such as easements, uses, leases, and licenses.

23 * **Sec. 2. INITIAL TERMS.** Notwithstanding AS 30.17.020, enacted in sec. 1 of this Act,
24 the initial term of one member appointed under (a)(2) of that section, and the initial terms of two
25 members appointed under (a)(3) of that section, shall be one year.