

CONFERENCE CS FOR SENATE BILL NO. 248

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE CONFERENCE COMMITTEE

Offered: 5/3/00

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

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the financing authority, payment in lieu of tax agreements,
2 and tax exemption for assets and projects of the Alaska Industrial Development
3 and Export Authority; relating to renaming and contingently repealing the rural
4 development initiative fund within the Department of Community and Economic
5 Development, and establishing the rural development initiative fund within the
6 Alaska Industrial Development and Export Authority; and providing for an
7 effective date."

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

9 * **Section 1.** The uncoded law of the State of Alaska is amended by adding a new
10 section to read:

11 INTENT. (a) The amendment to AS 29.45.030(a), made in sec. 3 of this Act, is not
12 intended to require that an interest created by a nonexclusive use agreement between the
13 Alaska Industrial Development and Export Authority and a user of an integrated transportation

1 and port facility owned by the authority be taxable if the interest would not otherwise be
2 taxable in accordance with law.

3 (b) Sections 1 and 2 of this Act are not intended to express the legislature's intent with
4 respect to the issues under appeal in Fairbanks North Star Borough Assessor's Office v.
5 Golden Heart Utilities, Inc., Case No. S-09120; 4 FA-981848 Civil.

6 * **Sec. 2.** AS 29.45.030(a) is amended to read:

7 (a) The following property is exempt from general taxation:

8 (1) municipal property, including property held by a public corporation
9 of a municipality, or state property, or land that is in the trust established by the
10 Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709, except that

11 (A) a private leasehold, contract, or other interest in the
12 property is taxable to the extent of the interest; **however, an interest created**
13 **by a nonexclusive use agreement between the Alaska Industrial**
14 **Development and Export Authority and a user of an integrated**
15 **transportation and port facility owned by the authority and initially placed**
16 **in service before January 1, 1999, is taxable only to the extent of, and for**
17 **the value associated with, those specific improvements used for lodging**
18 **purposes;**

19 (B) notwithstanding any other provision of law, property
20 acquired by an agency, corporation, or other entity of the state through
21 foreclosure or deed in lieu of foreclosure and retained as an investment of a
22 state entity is taxable; this subparagraph does not apply to federal land granted
23 to the University of Alaska under AS 14.40.380 or 14.40.390, or to other land
24 granted to the university by the state to replace land that had been granted
25 under AS 14.40.380 or 14.40.390;

26 (C) an ownership interest of a municipality in real property
27 located outside the municipality acquired after December 31, 1990, is taxable
28 by another municipality; however, a borough may not tax an interest in real
29 property located in the borough and owned by a city in that borough;

30 (2) household furniture and personal effects of members of a
31 household;

1 (3) property used exclusively for nonprofit religious, charitable,
2 cemetery, hospital, or educational purposes;

3 (4) property of a nonbusiness organization composed entirely of persons
4 with 90 days or more of active service in the armed forces of the United States whose
5 conditions of service and separation were other than dishonorable, or the property of
6 an auxiliary of that organization;

7 (5) money on deposit;

8 (6) the real property of certain residents of the state to the extent and
9 subject to the conditions provided in (e) of this section;

10 (7) real property or an interest in real property that is exempt from
11 taxation under 43 U.S.C. 1620(d), as amended;

12 (8) property of a political subdivision, agency, corporation, or other
13 entity of the United States to the extent required by federal law; except that a private
14 leasehold, contract, or other interest in the property is taxable to the extent of that
15 interest;

16 (9) natural resources in place including coal, ore bodies, mineral
17 deposits, and other proven and unproven deposits of valuable materials laid down by
18 natural processes, unharvested aquatic plants and animals, and timber.

19 * **Sec. 3.** AS 29.45.030(a) is amended to read:

20 (a) The following property is exempt from general taxation:

21 (1) municipal property, including property held by a public corporation
22 of a municipality, or state property, or land that is in the trust established by the
23 Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709, except that

24 (A) a private leasehold, contract, or other interest in the
25 property is taxable to the extent of the interest; [HOWEVER, AN INTEREST
26 CREATED BY A NONEXCLUSIVE USE AGREEMENT BETWEEN THE
27 ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AUTHORITY
28 AND A USER OF AN INTEGRATED TRANSPORTATION AND PORT
29 FACILITY OWNED BY THE AUTHORITY AND INITIALLY PLACED IN
30 SERVICE BEFORE JANUARY 1, 1999, IS TAXABLE ONLY TO THE
31 EXTENT OF, AND FOR THE VALUE ASSOCIATED WITH, THOSE

1 SPECIFIC IMPROVEMENTS USED FOR LODGING PURPOSES;]

2 (B) notwithstanding any other provision of law, property
3 acquired by an agency, corporation, or other entity of the state through
4 foreclosure or deed in lieu of foreclosure and retained as an investment of a
5 state entity is taxable; this subparagraph does not apply to federal land granted
6 to the University of Alaska under AS 14.40.380 or 14.40.390, or to other land
7 granted to the university by the state to replace land that had been granted
8 under AS 14.40.380 or 14.40.390;

9 (C) an ownership interest of a municipality in real property
10 located outside the municipality acquired after December 31, 1990, is taxable
11 by another municipality; however, a borough may not tax an interest in real
12 property located in the borough and owned by a city in that borough;

13 (2) household furniture and personal effects of members of a
14 household;

15 (3) property used exclusively for nonprofit religious, charitable,
16 cemetery, hospital, or educational purposes;

17 (4) property of a nonbusiness organization composed entirely of persons
18 with 90 days or more of active service in the armed forces of the United States whose
19 conditions of service and separation were other than dishonorable, or the property of
20 an auxiliary of that organization;

21 (5) money on deposit;

22 (6) the real property of certain residents of the state to the extent and
23 subject to the conditions provided in (e) of this section;

24 (7) real property or an interest in real property that is exempt from
25 taxation under 43 U.S.C. 1620(d), as amended;

26 (8) property of a political subdivision, agency, corporation, or other
27 entity of the United States to the extent required by federal law; except that a private
28 leasehold, contract, or other interest in the property is taxable to the extent of that
29 interest;

30 (9) natural resources in place including coal, ore bodies, mineral
31 deposits, and other proven and unproven deposits of valuable materials laid down by

1 natural processes, unharvested aquatic plants and animals, and timber.

2 * **Sec. 4.** AS 29.45.050 is amended by adding a new subsection to read:

3 (p) A municipality may by ordinance partially or totally exempt from taxation
4 a private leasehold, contract, or other interest held by or through an applicant or
5 proposed applicant in any property, assets, project, or development project owned by
6 the Alaska Industrial Development and Export Authority under AS 44.88. Nothing in
7 this subsection prohibits a municipality from entering into an agreement and receiving
8 payments in lieu of taxes authorized under AS 44.88.140(b).

9 * **Sec. 5.** AS 44.33.765(a) is amended to read:

10 (a) The rural **economic** development initiative fund is created in the
11 department. Unless provided otherwise in the appropriation act, an appropriation to the
12 fund is retained in the fund for use under AS 44.33.765 - 44.33.775 and does not lapse
13 at the end of a fiscal year. Each year the commissioner shall request an appropriation
14 to the fund of interest and other income earned on loans or investments of the fund.
15 Money in the fund may be appropriated for costs of administering AS 44.33.765 -
16 44.33.775.

17 * **Sec. 6.** AS 44.33.770(a) is amended to read:

18 (a) The department may use money from the rural **economic** development
19 initiative fund to make a loan of up to \$100,000 to a person, or a loan of up to
20 \$200,000 to two or more persons, to be used for working capital, equipment,
21 construction, or other commercial purposes by a business located in a community with
22 a population of 5,000 or less. A person who has received a loan under this subsection
23 may not be granted another loan until after the original loan is entirely repaid.

24 * **Sec. 7.** AS 44.33.775 is amended to read:

25 **Sec. 44.33.775. Disposal of property acquired by default or foreclosure.**
26 The department shall dispose of property acquired through default or foreclosure of a
27 loan made from the rural **economic** development initiative fund. Disposal shall be
28 made in a **competitive** manner that serves the best interests of the state, and may
29 include the amortization of payments over a period of years. The commissioner shall
30 request an appropriation to the fund of proceeds from disposal of property under this
31 section.

1 * **Sec. 8.** AS 44.88.095(g) is amended to read:

2 (g) Before **July 1, 2003** [JULY 1, 2000], the authority may issue bonds in an
3 amount greater than \$10,000,000 to assist in the financing of a development project
4 under AS 44.88.172 - 44.88.177 only with legislative approval. Beginning **July 1,**
5 **2003** [JULY 1, 2000], and thereafter, without prior legislative approval, the authority
6 may not issue bonds, except refunding **and conduit revenue** bonds.

7 * **Sec. 9.** AS 44.88.140(b) is amended to read:

8 (b) **An** [THE AUTHORITY MAY ENTER INTO AGREEMENTS WITH AN]
9 applicant or proposed applicant under this chapter **and the local political subdivision**
10 **may enter into agreements** providing for payments **in lieu of taxes**, computed on a
11 formula basis or otherwise [IN LIEU OF TAXES, WHICH THE AUTHORITY MAY
12 CONSIDER APPROPRIATE]. The agreement may provide that the payments be
13 made to the **local** political subdivision [OF THE STATE IN WHICH A PROJECT OR
14 DEVELOPMENT PROJECT IS OR IS TO BE LOCATED] or to any other taxing unit
15 of the state including, without limitation, a borough, city, municipality, school district
16 or public utility district, the area of which is coterminous in whole or in part with that
17 of the **local** political subdivision.

18 * **Sec. 10.** AS 44.88.140 is amended by adding a new subsection to read:

19 (d) In this section, "local political subdivision" means the political subdivision
20 of the state in which a project or development project financed under AS 44.88.155 -
21 44.88.159 or 44.88.172 - 44.88.177 is or is to be located.

22 * **Sec. 11.** AS 44.88 is amended by adding new sections to read:

23 **Article 6A. Rural Development Initiative Fund.**

24 **Sec. 44.88.600. Rural development initiative fund.** The rural development
25 initiative fund is created in the authority outside of the revolving fund. The rural
26 development initiative fund is a fund for the uses and purposes of AS 44.88.600 -
27 44.88.620. The rural development initiative fund consists of money or assets
28 appropriated or transferred to the authority for the purposes of this section, and of loan
29 repayments, interest, or other income earned on loans or investments of the fund. In
30 addition, the authority may deposit other assets into the fund if the total value of those
31 deposits does not exceed \$2,000,000. The authority, in its discretion, may transfer

1 money or other assets from the rural development initiative fund to the revolving
2 fund.

3 **Sec. 44.88.610. Rural development loans.** (a) The authority may use money
4 from the rural development initiative fund to make a loan of up to \$100,000 to a
5 person, or a loan of up to \$200,000 to two or more persons, to be used for working
6 capital, equipment, construction, or other commercial purposes by a business located
7 in a community with a population of 5,000 or less. A person who has received a loan
8 under this subsection may not be granted another loan until after the original loan is
9 entirely repaid.

10 (b) The authority shall require collateral for each loan made under this section
11 and shall require that a reasonable amount of money from other nonstate sources be
12 committed for use on any project or enterprise for which money from a loan will be
13 used. The authority by regulation may establish other conditions for loans. The
14 authority shall by regulation establish rates of interest that are not less than six percent
15 a year and terms of repayment for loans made under this section.

16 **Sec. 44.88.620. Disposal of property acquired by default or foreclosure.**
17 The authority shall dispose of property acquired through default or foreclosure of a
18 loan made from the rural development initiative fund. Disposal shall be made in a
19 competitive manner that serves the best interests of the state, and may include the
20 amortization of payments over a period of years. Proceeds from the disposal of
21 property under this section shall be deposited into the fund.

22 * **Sec. 12.** AS 44.33.765, 44.33.770, and 44.33.775 are repealed.

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

25 **TRANSITIONAL PROVISIONS.** (a) Notwithstanding the repeal of AS 44.33.765,
26 44.33.770, and 44.33.775 by sec. 12 of this Act, regulations in effect immediately before the
27 effective date of sec. 12 of this Act that were issued or adopted under authority of
28 AS 44.33.765, 44.33.770, or 44.33.775 remain in effect and may be implemented and
29 enforced by the Alaska Industrial Development and Export Authority to implement the
30 provisions of AS 44.88.600 - 44.88.620, enacted by sec. 11 of this Act, until the Alaska
31 Industrial Development and Export Authority adopts regulations to implement AS 44.88.600 -

1 44.88.620.

2 (b) Wherever in AS 44.88.600 - 44.88.620 there is a reference to regulations adopted
3 under a section of law and there are no regulations adopted under that section because
4 previous regulations adopted under AS 44.33.765 - 44.33.775 are being enforced under (a) of
5 this section, the reference shall be construed to refer to the previously adopted regulations
6 until the Alaska Industrial Development and Export Authority adopts regulations to implement
7 AS 44.88.600 - 44.88.620.

8 (c) Contracts, rights, liabilities and obligations created by or under AS 44.33.765,
9 44.33.770, or 44.33.775, repealed by sec. 12 of this Act, and in effect on the day before the
10 effective date of sec. 12 of this Act, remain in effect notwithstanding this Act's taking effect.

11 (d) Amounts retained in the rural economic development initiative fund for use under
12 AS 44.33.765 - 44.33.775 lapse into the general fund on the effective date of sec. 12 of this
13 Act.

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

16 **RETROACTIVITY OF SECTION 2.** Section 2 of this Act is retroactive to January 1,
17 1999.

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

20 **CONDITIONAL EFFECT OF SECTIONS 12 AND 13.** Sections 12 and 13 of this Act
21 take effect only if the Alaska Industrial Development and Export Authority purchases loans
22 and other assets of the rural economic development initiative fund (AS 44.33.765) as an
23 investment for the Alaska Industrial Development and Export Authority.

24 * **Sec. 16.** Section 8 of this Act takes effect June 30, 2000.

25 * **Sec. 17.** If secs. 12 and 13 of this Act take effect under sec. 15 of this Act, secs. 12 and
26 13 of this Act take effect on the day after the effective date of the purchase of the rural
27 economic development initiative fund loans and other assets by the Alaska Industrial
28 Development and Export Authority. The executive director of the Alaska Industrial
29 Development and Export Authority shall certify the effective date of the purchase to the
30 lieutenant governor and the revisor of statutes.

31 * **Sec. 18.** Sections 1, 2, and 14 of this Act take effect immediately under AS 01.10.070(c).

1 * **Sec. 19.** Section 3 of this Act takes effect July 1, 2004.

2 * **Sec. 20.** Except as provided in secs. 16 - 19 of this Act, this Act takes effect July 1,
3 2000.