THE STATE of ALASKA
GOVERNOR BILL WALKER

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Tax Credit Bond Legislation
SB 176
SECTIONAL ANALYSIS

FOR SENATE RESOURCES

Section 1:

Exempts the bond corporation created in Sec. 2, and any overriding royalty interests negotiated under Sec. 11, from the procurement code.

Section 2:

Establishes the Alaska Tax Credit Certificate Bond Corporation within DOR. *[Largely patterned after Alaska Pension Obligation Bond Corporation, AS 37.16]*

37.18.010 Creates the corporation.

37.18.020 Establishes the board of directors, all of whom are state department commissioners.

37.18.030 Authorizes the corporation to issue bonds up to $1 billion and contract for associated services.

37.18.040 Authorizes the corporation to have a reserve fund which will hold funds to be used for purchases of certain tax credits, as well as funds appropriated for the purpose of interest and principal payments to bond holders.

37.18.050 Authorizes the corporation to set the terms of bonds to be issued; authorization expires December 31, 2021.

37.18.060 Corporation must adopt a resolution to approve the issuance of bonds.

37.18.070 Gives certain enforcement rights to certain bond holders.

37.18.080 Bonds may not be issued unless the discount rate by which tax credits are purchased is at least 1.5% greater than the total interest cost of the bonds.

37.18.090 Corporation may refund bonds prior to the maturity date.

37.18.100 Bonds are legal instruments.

37.18.800 This chapter shall be liberally construed to carry out its purposes.

37.18.810 Corporation may adopt regulations necessary to implement this chapter.

37.18.900 Definitions.

Section 3:

Amends the Gas Storage Credit in the corporate income tax statutes to enable purchase of any credits via the bond program.

Section 4:

Amends the LNG Storage Credit in the corporate income tax statutes to enable purchase of any credits via the bond program.

Section 5:

Amends the Refinery Infrastructure Credit in the corporate income tax statutes to enable purchase of any credits via the bond program.

Sections 6-9:

Amends various provisions of AS 43.55.028, the tax credit purchase fund.

Section 6:

.028(e) The department may either use the tax credit fund money, or money disbursed from the bond program, to purchase tax credits. Written to maximize flexibility and retain the existing program and procedures.

Section 7:

.028(g) Clarifies that the current $70 million per company per year cap, with the associated "haircut", does not apply to purchases via the bond program.

Section 8:

.028(i) Adds definitions for "money disbursed to the commissioner," and "total interest cost."

Section 9:

.028(j) Clarifies that if a company has an outstanding liability to the state, this can be offset against a payment via the bond program as well as via traditional purchase.

Section 10:

Adds new subsections to AS 43.55.028 specific to the bond purchase program

.028(k) New subsection authorizing the department to negotiate a purchase of all credits held by a company, and describing how the holder of credits indicates their desire to participate in the program. This subsection contemplates that if a holder of credits existing at the time of a bond issuance declines to participate in the program, such holder is precluded from submitting such existing credits for purchase in connection with future bond issuances. This provision does not preclude such holder from submitting credits claimed after a bond issuance for purchase in connection with a future bond issuance.

.028(l) New subsection describes how the department calculates a purchase when using money disbursed to the commissioner from bond proceeds. This calculation includes the mechanism by which the department estimates the assumed cash flow to a company via the current purchase process from the oil and gas fund based on assumed future annual appropriations and the assumed prorated share of each year's funds. From this estimate, a purchase offer can be calculated based on the discount rate determined in (m).

.028(m) New subsection establishing a base discount rate of 10%, with four methods to reduce this to a number equal to total interest cost + 1.5%.

1. For a seismic credit, the company has waived the 10 year confidentiality period for the data;
2. The company has agreed to an overriding royalty interest (ORRI) agreement with the Department of Natural Resources;
3. The company has committed reinvest the entire amount received within an Alaska oil and gas project within 24 months; or
4. The credit is against the corporate income tax, primarily impacting refinery infrastructure credits.

.028(n) New subsection clarifying that the amount of a credit in excess of the discounted amount purchased retains no value and cannot be used against taxes or sold.

Section 11:

Authorizes the Department of Natural Resources to negotiate Overriding Royalty Interests (ORRI) in the proceeds of future oil production. These are then valued, and a determination is made whether the incremental value received by the state warrants the approval of the lower discount rate for purposes of credit purchase. The form of the interest and the payment amount are set in statute.

Section 12:

Authorizes DNR and DOR to adopt regulations to implement this act

Section 13:

Authorizes retroactive application of regulations.

Section 14:

Immediate effective date.