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CS FOR HOUSE BILL NO. 124(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVE CARRICK

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Alaska Industrial Development and Export Authority; and**
2 **providing for an effective date."**

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

4 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 SHORT TITLE. This Act may be known as the AIDEA Accountability Act.

7 * **Sec. 2.** AS 44.88.030(a) is amended to read:

8 (a) The membership of the authority consists of

9 (1) the commissioner of revenue and the commissioner of commerce,
10 community, and economic development; [AND]

11 (2) five public members appointed by the governor **and confirmed by**
12 **a majority of the members of the legislature in joint session**, each of whom has
13 expertise in private sector business or industry, or both, and possesses demonstrated
14 leadership skills;

(3) one public member, appointed by the president of the senate, who is a former legislator or meets the qualifications in (2) of this subsection; and
(4) one public member, appointed by the speaker of the house of representatives, who is a former legislator or meets the qualifications in (2) of this subsection.

* **Sec. 3.** AS 44.88.030(c) is amended to read:

(c) Public members of the authority described in **(a)(2) - (4)** [(a)(2)] of this section serve **staggered three-year** [AT THE PLEASURE OF THE GOVERNOR FOR TWO-YEAR] terms.

* **Sec. 4.** AS 44.88.050(c) is amended to read:

(c) The authority may appoint persons as officers it considers advisable, including an executive director, and may employ professional advisors, counsel, technical experts, agents, and other employees it considers advisable. The executive director and employees of the authority are in the exempt service under AS 39.25. **The authority shall adopt regulations or bylaws establishing a personnel policy, including minimum qualifications for the executive director.**

* **Sec. 5.** AS 44.88.080(1) is amended to read:

(1) **subject to AS 44.88.225,** to sue and be sued;

* **Sec. 6.** AS 44.88.085(b) is amended to read:

(b) The authority may adopt regulations [UNDER THIS SECTION BY MOTION OR] by resolution [OR IN ANY OTHER MANNER PERMITTED BY ITS BYLAWS].

* **Sec. 7.** AS 44.88.085(d) is amended to read:

(d) Except as provided in (e) of this section, at least **30** [15] days before the adoption, amendment, or repeal of a regulation, the authority shall give public notice of the proposed action by publishing the notice in at least three newspapers of general circulation in the state and by mailing a copy of the notice to every person who has filed a request for notice of proposed regulations with the authority. The public notice must include a statement of the time, place, and nature of the proceedings for the adoption, amendment, or repeal of the regulation and must include an informative summary of the subject of the proposed action. On the date and at the time and place

designated in the notice, the authority shall give each interested person or an authorized representative of the person, or both, the opportunity to present statements, arguments, or contentions orally or in writing and shall give each member [MEMBERS] of the public an opportunity to present oral statements, arguments, or contentions for not less than two minutes [A TOTAL PERIOD OF AT LEAST ONE HOUR]. The authority shall consider all relevant matter presented to it before taking the proposed action on the regulation, and shall publish written responses to public comments. At a hearing under this subsection, the authority may continue or postpone the hearing to a time and place determined by the authority and announced at the hearing before taking the action to continue or postpone the hearing. The authority shall publish written justification when adopting, amending, or repealing a regulation. A regulation adopted, amended, or repealed by the authority may vary from the informative summary specified in this subsection if the subject matter of the action taken on the regulation remains the same and if the original notice of the proposed action was written so as to assure that members of the public are reasonably notified of the subject matter of the proposed action in order for them to determine whether their interests could be affected by the authority's proposed action on that subject.

* **Sec. 8.** AS 44.88 is amended by adding a new section to read:

Sec. 44.88.107. Limit on value of funds and accounts. The aggregate value of all funds and accounts in the authority may not exceed \$3,000,000,000, adjusted annually for inflation on July 1 of each year based on the percentage increase in the Consumer Price Index for all urban consumers for urban Alaska during the previous calendar year, as determined by the United States Department of Labor, Bureau of Labor Statistics. On June 30 of each fiscal year, the amount of unexpended and unobligated money required to reduce the aggregate value of all funds and accounts in the authority to that amount lapses into the general fund. Money that lapses under this section is not payment of a dividend under AS 44.88.088.

* **Sec. 9.** AS 44.88 is amended by adding a new section to read:

Sec. 44.88.179. Project oversight. Before agreeing to expend more than \$100,000,000 on a project, adjusted annually for inflation on July 1 of each year based

on the percentage increase in the Consumer Price Index for all urban consumers for urban Alaska during the previous calendar year, as determined by the United States Department of Labor, Bureau of Labor Statistics, the authority shall

(1) unless the project is to be located in the unorganized borough, obtain a certified copy of a resolution of the governing body of the political subdivision of the state, if any, in which the project is to be located, consenting to the location of the project; the consent need only refer to the general nature of the project;

(2) find, based on all information reasonably available to it, that

(A) the project and its development under this chapter will be economically advantageous to the state and the general public welfare and will contribute to the economic growth of the state;

(B) the project applicant, if any, is financially responsible;

(C) provisions to meet increased demand on public facilities that might result from the project are reasonably assured;

(D) the project will provide or retain employment reasonably related to the amount of the financing by the authority, if any, considering the amount of investment for each employee for comparable facilities and other relevant factors;

(E) the project is economically and financially feasible and able to produce revenue adequate to repay the bonds or loans, if any, with which it is financed; and

(F) the project complies with applicable law;

(3) compile and make available to the public a document that summarizes the projected economic, social, and environmental effects of the project; and, in conjunction with the Department of Fish and Game, the Department of Natural Resources, the Department of Environmental Conservation, and the Department of Labor and Workforce Development, the authority shall conduct a public hearing on the projected effects of the project;

(4) obtain an independent feasibility study of the project from a contractor approved by the Legislative Budget and Audit Committee;

(5) submit a report that includes the documents and findings required

under (1) - (4) of this section to the senate secretary and the chief clerk of the house of representatives and notify the legislature that the report is available; and

(6) obtain legislative approval by law.

* **Sec. 10.** AS 44.88.180(a) is amended to read:

(a) A member of the authority may not vote on a resolution of the authority relating to a lease or contract to be entered into by the authority under this chapter if the member is a party to the lease or contract or has a direct or indirect ownership or equity interest in a firm, partnership, corporation, or association that may be a party to the contract or lease. A resolution of the authority that is approved by a majority of the members who are not barred from voting under this subsection is a valid action of the authority for all purposes.

* **Sec. 11.** AS 44.88.205 is amended to read:

Sec. 44.88.205. 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 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 any 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 set out in AS 44.88.070; and

(2) by January 10 of each year, make available 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, submit the accounting and report to the senate secretary and the chief clerk of

1 the house of representatives, and notify the legislature that the accounting and
2 report are available; the accounting shall be audited by the auditor who conducts the
3 audit required by AS 44.88.200 and must include a full description of all loan interest
4 and principal payments and program receipts, including

5 (A) loan commitment fees received by or accrued to the
6 authority during the preceding fiscal year; and

7 (B) all income earned on assets of the authority during that
8 period.

9 * **Sec. 12.** AS 44.88.210(a) is amended to read:

10 (a) By January 10 of each year, the authority shall publish a report for
11 distribution to the governor, the legislature, and the public, submit the report to the
12 senate secretary and the chief clerk of the house of representatives, and [. THE
13 AUTHORITY SHALL] notify the legislature that the report is available. The
14 authority shall develop performance metrics to evaluate, and the report must
15 include analysis of, the effect of the authority's activities on job creation,
16 supported industry growth, financial and technical assistance provided to state
17 businesses, and private investment increases. The report shall be written in easily
18 understandable language. The report must include a financial statement audited by an
19 independent outside auditor, the findings from the authority's annual audit, a
20 statement of the authority's investments under this chapter, including an appraisal of
21 the investments at market value, a comparison of the authority's performance with the
22 goals of the authority and the levels of bonding and investment activities anticipated in
23 the previous year's report under (b) of this section, a list of all actions taken at each
24 meeting of the authority since the previous year's annual report, and any other
25 information the members of the authority believe would be of interest to the governor,
26 the legislature, and the public. The annual income statement and balance sheet of the
27 authority shall be published in at least one newspaper in each judicial district. The
28 authority may also publish other reports it considers desirable to carry out its purpose.

29 * **Sec. 13.** AS 44.88.215 is repealed and reenacted to read:

30 **Sec. 44.88.215. Records and information.** (a) Except as provided under (b) of
31 this section, information in the possession of the authority is public and open to public

inspection at reasonable times.

(b) The authority may by regulation designate and withhold public disclosure of matters of a privileged or proprietary nature. Those matters include personnel records, communications with and work product of legal counsel, and proprietary information relating to investment decisions.

(c) If a legislator has a valid legislative purpose for reviewing information in possession of the authority and agrees to maintain confidentiality of the information, the authority may not prevent a legislator from reviewing the information even if the information is withheld from public disclosure under (b) of this section.

* **Sec. 14.** AS 44.88 is amended by adding a new section to read:

Sec. 44.88.225. Attorney general lawsuit approval. (a) The authority shall obtain approval in writing from the attorney general before filing a lawsuit.

(b) If the attorney general approves a lawsuit, the attorney general shall notify the senate secretary and the chief clerk of the house of representatives of the approval in writing. The notification must describe the lawsuit and explain the reasons for the approval.

(c) This section does not require approval from the attorney general for the authority to respond to a lawsuit filed against the authority.

* **Sec. 15.** AS 44.88.380 is repealed.

* **Sec. 16.** The uncodified law of the State of Alaska is amended by adding a new section to read:

MEMBERS OF THE ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AUTHORITY: TRANSITION. (a) The terms of the members of the Alaska Industrial Development and Export Authority, other than the commissioner of revenue and the commissioner of commerce, community, and economic development, expire on the date the legislature has confirmed at least two members appointed by the governor under (b) of this section.

(b) Notwithstanding AS 44.88.030(c), as amended by sec. 3 of this Act, members of the Alaska Industrial Development and Export Authority appointed by the governor under AS 44.88.030(a), as amended by sec. 2 of this Act, are appointed by the governor to initial terms as follows:

- (1) two members for one year;
- (2) two members for two years;
- (3) one member for three years.

(c) The president of the senate and the speaker of the house of representatives shall appoint public members of the Alaska Industrial Development and Export Authority under AS 44.88.030(a), as amended by sec. 2 of this Act, on or before the 30th day of the First Regular Session of the Thirty-Fifth Alaska State Legislature.

(d) Nothing in this section prevents the appointment of a person whose term expires under (a) of this section as a member of the Alaska Industrial Development and Export Authority if the person meets the qualifications under AS 44.88.030, as amended by secs. 2 and 3 of this Act.

* **Sec. 17.** This Act takes effect January 1, 2027.