

SENATE BILL NO. 42

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/19/11

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the procurement of supplies, services, professional services, and**
2 **construction for the Alaska Energy Authority; establishing the Alaska Railbelt energy**
3 **fund and relating to the fund; relating to and repealing the Railbelt energy fund;**
4 **relating to the quorum of the board of the Alaska Energy Authority; relating to the**
5 **powers of the Alaska Energy Authority regarding employees and the transfer of certain**
6 **employees of the Alaska Industrial Development Export Authority to the Alaska Energy**
7 **Authority; relating to acquiring or constructing certain projects by the Alaska Energy**
8 **Authority; relating to the definition of 'feasibility study' in the Alaska Energy Authority**
9 **Act; and providing for an effective date."**

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

11 * **Section 1.** AS 36.30.015(f) is amended to read:

12 (f) The board of directors of the Alaska Housing Finance Corporation,

notwithstanding AS 18.56.088, the directors of the Alaska Energy Authority under AS 44.83.080, and the board of directors of the Knik Arm Bridge and Toll Authority under AS 19.75.111, shall adopt regulations under AS 44.62 (Administrative Procedure Act) and the board of trustees of the Alaska Retirement Management Board shall adopt regulations under AS 37.10.240 to govern the procurement of supplies, services, professional services and construction for the respective public corporation and board. The regulations must reflect competitive bidding principles and provide vendors reasonable and equitable opportunities to participate in the procurement process and must include procurement methods to meet emergency and extraordinary circumstances. Notwithstanding the other provisions of this subsection, the Alaska Housing Finance Corporation, the Alaska Energy Authority, the Knik Arm Bridge and Toll Authority, and the Alaska Retirement Management Board shall comply with AS 36.30.170(b).

* **Sec. 2.** AS 37.05.520 is amended to read:

Sec. 37.05.520. Railbelt energy fund. There is established in the general fund the Railbelt energy fund. The fund consists of money appropriated to it by the legislature and interest received on money in the fund. The department of revenue shall manage the fund. The legislature may appropriate money from the fund to capitalize the Alaska Railbelt energy fund (AS 42.45.035), or for programs, projects, and other expenditures to assist in meeting Railbelt energy needs, including projects for retrofitting state-owned buildings and facilities for energy conservation.

* **Sec. 3.** AS 39.25.110 is amended by adding a new paragraph to read:

(44) the executive director and other staff of the Alaska Energy Authority appointed under AS 44.83.040.

* **Sec. 4.** AS 42.45 is amended by adding a new section to read:

Sec. 42.45.035. Alaska Railbelt energy fund. (a) The Alaska Railbelt energy fund is established as a separate fund. The fund consists of

- (1) money appropriated to the fund by the legislature;
- (2) gifts, bequests, contributions from other sources, and federal money;
- (3) interest earned on the fund balance; and

(4) investments, to be managed by the Department of Revenue, which shall be the fiduciary of the fund under AS 37.10.071.

(b) The fund is not a dedicated fund.

(c) The authority may use money from the fund to conduct feasibility studies on, license, permit, acquire, or construct, or to make grants for power projects and electrical transmission lines and interties that serve the Railbelt region.

(d) In this section, "Railbelt region" means the service territories of the electrically interconnected electric utilities that serve Fairbanks, Wasilla, Palmer, Anchorage, the Kenai Peninsula, and other electrically interconnected communities.

* **Sec. 5.** AS 44.83.040(a) is amended to read:

(a) The chair and vice-chair of the Alaska Industrial Development and Export Authority shall serve as officers of the Alaska Energy Authority. The powers of the Alaska Energy Authority are vested in the directors, and four [THREE] directors of the authority constitute a quorum. Action may be taken and motions and resolutions adopted by the Alaska Energy Authority at a meeting by the affirmative vote of a majority of the directors. The directors of the Alaska Energy Authority serve without compensation, but they shall receive the same travel pay and per diem as provided by law for board members under AS 39.20.180.

* **Sec. 6.** AS 44.83.040 is amended by adding a new subsection to read:

(e) The authority may appoint persons as staff, including an executive director, and may employ professional advisors, counsel, technical experts, agents, and other employees. The executive director and employees of the authority are in the exempt service under AS 39.25.

* **Sec. 7.** AS 44.83.080 is amended to read:

Sec. 44.83.080. Powers of the authority. In furtherance of its corporate purposes, the authority has the following powers in addition to its other powers:

(1) to sue and be sued;

(2) to have a seal and alter it at pleasure;

(3) to make and alter bylaws for its organization and internal management;

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

1 (5) to improve, equip, operate, and maintain power projects and bulk
2 fuel, waste energy, energy conservation, energy efficiency, and alternative energy
3 facilities and equipment;

4 (6) to issue bonds to carry out any of its corporate purposes and
5 powers, including the acquisition or construction of a project to be owned or
6 leased, as lessor or lessee, by the authority, or by another person, or the
7 acquisition of any interest in a project or any right to capacity of a project, the
8 establishment or increase of reserves to secure or to pay the bonds or interest on them,
9 and the payment of all other costs or expenses of the authority incident to and
10 necessary or convenient to carry out its corporate purposes and powers;

11 (7) to sell, lease as lessor or lessee, exchange, donate, convey, or
12 encumber in any manner by mortgage or by creation of any other security interest, real
13 or personal property owned by it, or in which it has an interest, when, in the judgment
14 of the authority, the action is in furtherance of its corporate purposes;

15 (8) to accept gifts, grants, or loans from, and enter into contracts or
16 other transactions regarding them, with any person;

17 (9) to deposit or invest its funds, subject to agreements with
18 bondholders;

19 (10) to enter into contracts with the United States or any person and,
20 subject to the laws of the United States and subject to concurrence of the legislature,
21 with a foreign country or its agencies, for the construction, financing, acquisition,
22 construction, operation, and maintenance of all or any part of a power project or bulk
23 fuel, waste energy, energy conservation, energy efficiency, or alternative energy
24 facilities or equipment, either inside or outside the state, and for the sale or
25 transmission of power from a project or any right to the capacity of it or for the
26 security of any bonds of the authority issued or to be issued for the project;

27 (11) to enter into contracts with any person and with the United States,
28 and, subject to the laws of the United States and subject to the concurrence of the
29 legislature, with a foreign country or its agencies for the purchase, sale, exchange,
30 transmission, or use of power from a project, or any right to the capacity of it;

31 (12) to apply to the appropriate agencies of the state, the United States,

1 and a foreign country and any other proper agency for the permits, licenses, or
 2 approvals as may be necessary, to acquire, construct, maintain, and operate power
 3 projects in accordance with the licenses or permits, and to obtain, hold, and use the
 4 licenses and permits in the same manner as any other person or operating unit;

5 (13) to enter into contracts or agreements with respect to the exercise
 6 of any of its powers, and do all things necessary or convenient to carry out its
 7 corporate purposes and exercise the powers granted in this chapter;

8 (14) to recommend to the legislature

9 (A) the pledge of the credit of the state to guarantee repayment
 10 of all or any portion of revenue bonds issued to assist in construction of power
 11 projects;

12 (B) an appropriation from the general fund

13 (i) for debt service on bonds or other project purposes;

14 or

15 (ii) to reduce the amount of debt financing for the
 16 project;

17 (15) to carry out the powers and duties assigned to it under AS 42.45;

18 (16) to make grants or loans to any person and enter into contracts or
 19 other transactions regarding the grants or loans;

20 (17) to promote energy conservation, energy efficiency, and alternative
 21 energy through training and public education;

22 (18) to acquire power projects, whether by construction, purchase,
 23 gift, or lease;

24 (19) to perform feasibility studies, and engineering and design,
 25 with respect to power projects.

26 * **Sec. 8.** AS 44.83 is amended by adding a new section to read:

27 **Sec. 44.83.085. Creation of subsidiaries.** The authority may create one or
 28 more subsidiary corporations for the purpose of acquiring, constructing, owning,
 29 maintaining, operating, or financing power projects. A subsidiary corporation created
 30 under this section may be incorporated under AS 10.20.146 - 10.20.166. The authority
 31 may transfer assets of the authority to a subsidiary created under this section. A

1 subsidiary created under this section may borrow money and issue bonds as evidence
 2 of that borrowing, and has all the powers of the authority that the authority grants to it.
 3 Unless otherwise provided by the corporation, the debts, liabilities, and obligations of
 4 a subsidiary corporation created under this section are not the debts, liabilities, or
 5 obligations of the authority.

6 * **Sec. 9.** AS 44.83.090 is amended by adding a new subsection to read:

7 (c) In this section, "authority" includes a subsidiary corporation created under
 8 AS 44.83.085.

9 * **Sec. 10.** AS 44.83.396(a) is amended to read:

10 (a) A power project that was acquired or constructed under AS 44.83.080(18)
 11 or as part of the former energy program for Alaska is owned, and shall be
 12 administered, by the authority.

13 * **Sec. 11.** AS 44.83.396 is amended by adding a new subsection to read:

14 (f) In this section, in reference to a specific power project, "authority" means
 15 the subsidiary corporation created under AS 44.83.085, if the authority has created a
 16 subsidiary corporation under AS 44.83.085 to acquire, construct, own, operate, or
 17 finance the specific power project.

18 * **Sec. 12.** AS 44.83.990(3) is amended to read:

19 (3) "feasibility study"

20 (A) means a study conducted for the purpose of establishing the
 21 economic and environmental practicality of completing a proposed power
 22 project [UNDER FORMER AS 44.83.181];

23 (B) includes engineering and design work to meet the
 24 requirements for submission of a license application for a proposed new
 25 project to the Federal Energy Regulatory Commission;

26 * **Sec. 13.** AS 37.05.520 is repealed.

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

29 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change the
 30 heading of AS 44.83.040 from "Officers; meetings; quorum" to "Officers; meetings; quorum;
 31 employees."

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

3 TRANSITION: CERTAIN STATE EMPLOYEES. The Alaska Energy Authority and
4 the Alaska Industrial Development and Export Authority shall jointly identify the Alaska
5 Industrial Development and Export Authority employees who will be transferred as staff to
6 the Alaska Energy Authority. The transfer of employees to the Alaska Energy Authority shall
7 be completed no later than December 31, 2011.

8 * **Sec. 16.** Section 13 of this Act takes effect, if it takes effect, the day after the unexpended
9 and unobligated balance in the Railbelt energy fund (AS 37.05.520) is appropriated and
10 transferred to the Alaska Railbelt energy fund (AS 42.45.035), created by sec. 4 of this Act, or
11 is appropriated and expended on other authorized purposes. The commissioner of the
12 Department of Administration shall notify the lieutenant governor and the revisor of statutes
13 when the conditions described in this section are met.

14 * **Sec. 17.** Except as provided in sec. 16 of this Act, this Act takes effect immediately under
15 AS 01.10.070(c).