

HOUSE BILL NO. 271

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE JOSEPHSON

Introduced: 1/18/22

Referred: State Affairs, Finance

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

5 (a) The membership of the authority consists of

6 (1) the commissioner of revenue and the commissioner of commerce,
7 community, and economic development; and

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

12 * **Sec. 2.** AS 44.88.030(c) is amended to read:

13 (c) Public members of the authority described in (a)(2) of this section serve
14 **staggered five-year** [AT THE PLEASURE OF THE GOVERNOR FOR TWO-

1 YEAR] terms.

2 * **Sec. 3.** AS 44.88.030 is amended by adding a new subsection to read:

3 (e) The five public members appointed under (a)(2) of this section shall
4 include at least

5 (1) one member who represents an Alaska Native tribal government;

6 (2) one member who has leadership experience financing a private
7 sector project valued at or above \$20,000,0000;

8 (3) one member with experience in socially responsible investing; and

9 (4) one member with experience in renewable energy project
10 development.

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

12 (c) The authority may appoint persons as officers it considers advisable,
13 including an executive director **confirmed by a majority of the members of the**
14 **legislature in joint session**, and may employ professional advisors, counsel, technical
15 experts, agents, and other employees it considers advisable. The executive director and
16 employees of the authority are in the exempt service under AS 39.25. **The authority**
17 **shall adopt regulations or bylaws establishing a personnel policy, including**
18 **minimum qualifications for the executive director.**

19 * **Sec. 5.** AS 44.88.085(b) is amended to read:

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

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

24 (d) Except as provided in (e) of this section, at least **30** [15] days before the
25 adoption, amendment, or repeal of a regulation, the authority shall give public notice
26 of the proposed action by publishing the notice in at least three newspapers of general
27 circulation in the state and by mailing a copy of the notice to every person who has
28 filed a request for notice of proposed regulations with the authority. The public notice
29 must include a statement of the time, place, and nature of the proceedings for the
30 adoption, amendment, or repeal of the regulation and must include an informative
31 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. 7.** AS 44.88.088(a) is amended to read:

(a) The authority shall adopt a policy for payment of a dividend from the revolving fund, the Alaska Industrial Development and Export Authority sustainable energy transmission and supply development fund (AS 44.88.660), and the Arctic infrastructure development fund (AS 44.88.810) to the state each fiscal year. The dividends for a fiscal year shall be made available by the authority before the end of that fiscal year. The authority shall notify the commissioner of revenue when the dividends for a fiscal year are available for appropriation. The amount of the dividend payable from the

(1) revolving fund for a fiscal year **must be at least** [MAY NOT BE LESS THAN 25 PERCENT NOR MORE THAN] 50 percent of the net income of the revolving fund for the base fiscal year; however, in no event, may the dividend payable from the revolving fund for a fiscal year exceed the total unrestricted net

1 income of the revolving fund for the base year;

2 (2) Alaska Industrial Development and Export Authority sustainable
3 energy transmission and supply development fund (AS 44.88.660) for a fiscal year
4 **must be at least** [MAY NOT BE LESS THAN 25 PERCENT NOR MORE THAN]
5 50 percent of the net income of the Alaska Industrial Development and Export
6 Authority sustainable energy transmission and supply development fund for the base
7 fiscal year; however, the dividend payable from the Alaska Industrial Development
8 and Export Authority sustainable energy transmission and supply development fund
9 for a fiscal year may not exceed the total unrestricted net income of the Alaska
10 Industrial Development and Export Authority sustainable energy transmission and
11 supply development fund for the base year;

12 (3) Arctic infrastructure development fund (AS 44.88.810) for a fiscal
13 year **must be at least** [MAY NOT BE LESS THAN 25 PERCENT NOR MORE
14 THAN] 50 percent of the net income of the Arctic infrastructure development fund for
15 the base fiscal year; however, the dividend payable from the Arctic infrastructure
16 development fund for a fiscal year may not exceed the total unrestricted net income of
17 the Arctic infrastructure development fund for the base year.

18 * **Sec. 8.** AS 44.88.174(a) is amended to read:

19 (a) Within 30 days after the authority adopts a resolution certifying that a
20 project in the unorganized borough is eligible for financing under AS 44.88.172 **or**
21 **adopts a resolution under AS 44.88.179(b)**, the governor shall appoint a Regional
22 Resource Advisory Council in the area of the state where the project is to be located
23 and for which a regional housing authority has been established under AS 18.55.996.
24 The purpose of a council is to assist the authority in reviewing a project that has been
25 proposed for development in its area of the state.

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

27 **Sec. 44.88.179. Project oversight.** (a) Before agreeing to expend more than
28 \$10,000,000 on a project, the authority shall

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

1 nature of the project;

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

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

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

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

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

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

16 (F) the project complies with applicable law;

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

23 (b) In addition to the requirements under (a) of this section, before approving a
24 project for financing of more than \$10,000,000 the authority shall

25 (1) adopt a resolution describing the project that the authority intends
26 to finance;

27 (2) obtain the approval of each Regional Resource Advisory Council
28 appointed under (d) of this section or municipality in the area in which the proposed
29 project is to be located; approval must be evidenced by a certified copy of a resolution
30 of the council or of the governing body of the municipality adopted after the council or
31 governing body conducted a public hearing on the proposed project;

1 (3) prepare a finance plan that includes

2 (A) an estimate of the total cost of the project;

3 (B) a description of the sources of money that will be used to
4 finance the total cost of the project;

5 (C) an estimate of the operational costs of the completed
6 project, as well as a description of the source of the money that is to be used to
7 pay the operational costs; and

8 (D) identification of the method of financing that minimizes the
9 cost to the state.

10 (c) In addition to the requirements under (a) and (b) of this section, before
11 issuing more than \$10,000,000 of bonds for a project, the authority shall

12 (1) find, based on all information reasonably available to it, that
13 issuance of the bonds is not expected to adversely affect the ability of the state or any
14 political subdivision of the state to market other bonds;

15 (2) obtain approval from the legislature, excluding refunding bonds;
16 refunding bonds may be issued without approval by the legislature in a principal
17 amount sufficient to provide funds for the payment of all bonds to be refunded by
18 them and, in addition, for the payment of all other amounts that the authority considers
19 appropriate in connection with the refunding, including expenses incident to the
20 redeeming, calling, retiring, or paying of the outstanding bonds, the funding of
21 reserves, and the issuance of the refunding bonds;

22 (3) submit a finance plan prepared under (b) of this section to the state
23 bond committee, the governor, and the legislature before issuing bonds or otherwise
24 incurring debt for the project; if a project requires financial assistance from the state,
25 the state financial assistance must be available before bonds are issued for the project.

26 (d) Within 30 days after the authority adopts a resolution certifying that a
27 project in the unorganized borough is eligible for financing under (b) of this section,
28 the governor shall appoint a Regional Resource Advisory Council in the area of the
29 state where the project is to be located and for which a regional housing authority has
30 been established under AS 18.55.996. The purpose of a council is to assist the
31 authority in reviewing a project that has been proposed for development in its area of

the state. A Regional Resource Advisory Council consists of five members registered to vote in the region. The governor shall appoint the members to reflect the economic and geographic diversity of the region. Council members serve three-year terms at the pleasure of the governor, except that the initial members may be appointed for less than three years so that the term of at least one of the members expires each year. The governor shall appoint a chairperson who shall call meetings as required and preside over the deliberations of the council. A majority of the council constitutes a quorum for conducting the business of the council. Members of a Regional Resource Advisory Council do not receive compensation for their services on the council, but are entitled to per diem and travel expenses authorized by law for state boards and commissions under AS 39.20.180.

* **Sec. 10.** AS 44.88 is amended by adding a new section to read:

Sec. 44.88.185. Priority of projects. When selecting projects and investments, the authority shall prioritize projects that further the state Arctic policy under AS 44.99.105 and the state energy policy under AS 44.99.115.

* **Sec. 11.** AS 44.88.210(a) is amended to read:

(a) 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 authority shall develop performance metrics to evaluate, and the report must include analysis of, the impact of the authority's activities on job creation, supported industry growth, financial and technical assistance provided to state businesses, and private investment increases.** 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 market value, a comparison of the authority's performance with the goals of the authority and the levels of bonding and investment activities anticipated in the previous year's report under (b) of this section, and any other information the members of the authority believe would be of interest to the governor, the legislature, and the public. The annual income statement and balance sheet of the authority shall be published in at least one newspaper in each judicial district. The authority may also

publish other reports it considers desirable to carry out its purpose.

* **Sec. 12.** AS 44.88.215 is repealed and reenacted to read:

Sec. 44.88.215. Records and information; public records. (a) The records or information submitted to the authority are public records under AS 40.25.110 - 40.25.220.

(b) Before accepting submission of records or information, the authority shall require a written waiver acknowledging that the submission is a public record under AS 40.25.110 - 40.25.220.

* **Sec. 13.** AS 44.88.030(b) is repealed.

* **Sec. 14.** 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. 2 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. 1 of this Act, are appointed by the governor to initial terms as follows:

- (1) one member for one year;
- (2) one member for two years;
- (3) one member for three years;
- (4) one member for four years;
- (5) one member for five years.

(c) 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. 1 - 3 of this Act.

* **Sec. 15.** This Act takes effect January 1, 2023.