



LAWS OF ALASKA

1978

Source

CSHB 682 (Finance)

Chapter No.

179

AN ACT

Relating to the renewable resources funds.

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

* Section 1. DECLARATION OF POLICY. It is the policy of the state to

(1) rehabilitate, enhance, and develop its renewable resources and, insofar as is consistent with sound resource management policies, develop its human resources by providing maximum opportunities for employment and a higher standard of living for its citizens; and

(2) utilize the funds set aside under ch. 11 of this title to further the (A) development of renewable resources that will contribute to a stable self-sustaining state economy, employment opportunities, and lifestyle alternatives for its citizens, and (B) commercial, traditional, and common uses of the state's renewable resources.

* Sec. 2. FINDINGS. (a) The legislature finds that Alaska has renewable resources that are not being utilized to their full potential. Many problems which confront the state, including high unemployment and unstable economy, could be mitigated by the expanded use and development of its renewable resources.

(b) It is further found that Alaska's economy has historically depended upon sporadic and non-stable development.

(c) It is further found that several key factors have contributed to the slow development of renewable resource industries, including,

(1) insufficiency of research and development financing and venture capital financing;

(2) a lack of knowledge within the business and financial communities about conditions affecting renewable resource industrial development in the state and a lack of scientific information concerning many resources; and

(3) a lack of technology appropriate to Alaska.

(d) It is further found that the state's policy of assisting the development of viable industries is best accomplished by providing assistance to the private sector to identify and demonstrate new products, markets, and technologies.

* Sec. 3. AS 37 is amended by adding a new chapter to read:

CHAPTER 12. ALASKA RENEWABLE RESOURCES CORPORATION.

Sec. 37.12.010. ALASKA RENEWABLE RESOURCES CORPORATION CREATED. There is created the Alaska Renewable Resources Corporation to carry out the purposes of this chapter. The corporation is a public corporation of the state and an instrumentality of the state within the Department of Revenue, but has a legal existence independent of and separate from the state. The exercise by the corporation of the powers conferred by this chapter is considered an essential function of the state.

Sec. 37.12.015. PURPOSES. The purposes of the corporation are to

(1) facilitate the rehabilitation, enhancement, and development of the state's renewable resources so as to strengthen the self-sustaining sectors of the state economy;

(2) sponsor research and development of technologies and innovations for the rehabilitation and enhancement of the state's renewable resources to achieve an appropriate use of the resources;

(3) identify new products, markets, and technologies for renewable resource industries in the state which will constitute an appropriate use of the resources; stimulate the research and development of these products, markets, and technologies; assist in the demonstration of their technical and economic feasibility; and assist in their introduction into commercial markets.

Sec. 37.12.020. ALLOCATION. (a) There shall be allocated to the corporation from the receipts described in AS 37.11.020 five per cent of the total receipts paid the state from mineral lease bonuses and rentals for state land and royalties derived from minerals produced on state land. Payments of the amount allocated by this section shall be made to the corporation by the Department of Revenue on a monthly basis.

(b) Fifty per cent of all actual receipts of the corporation, from whatever source except receipts from the corporation's investments, shall be deposited into the renewable resources investment fund (AS 37.11.050).

Sec. 37.12.025. BOARD OF TRUSTEES. A board of trustees of the corporation is established as its governing body.

Sec. 37.12.030. COMPOSITION OF THE BOARD OF TRUSTEES. The board of trustees consists of three members appointed by the governor and confirmed by a majority of the members of the legislature in joint session. The board shall annually elect a chairman from among its members. A chairman may not succeed himself.

Sec. 37.12.035. TERM OF OFFICE. The members of the board of trustees shall be appointed for terms of four years, and they may be reappointed. Terms shall be staggered. The initial terms shall be one member serving for two years, one member serving for three years, and one member serving for four years.

Sec. 37.12.040. REMOVAL AND VACANCIES. (a) The governor may remove a board member from office by and with the consent of a majority of the members of the legislature in joint session. A removal by the governor shall be in writing and state the reason for removal. If the legislature is not in session, the governor may suspend a member of the board. Upon suspension, a board member may not participate in board business and may not be counted for the purpose of establishing a quorum. A suspended member shall continue to receive his salary as a board member until the legislature in joint session consents to his removal. The joint session shall be held within 30 days from the date of removal if the removal occurs while the legislature is in session or within 30 days of convening of the legislature if the legislature is not in session. If the legislature refuses to consent to his removal, the board member shall be reinstated to his position.

(b) A vacancy on the board shall be promptly filled by appointment by the governor and confirmation by a majority of members of the legislature in joint session. An appointee to fill a vacancy shall hold office for the balance of the term for which his predecessor on the board was appointed. If a vacancy arises on the board while the legislature is not in session, the governor may appoint an interim board member until such time as the legislature in joint session fails to confirm the interim member's appointment.

(c) A vacancy on the board does not impair the authority of a quorum of the board to exercise all the powers and perform all the duties of the board.

Sec. 37.12.045. QUALIFICATIONS OF BOARD MEMBERS. (a) No person may be appointed to the board who has not been a resident of the state for at least three years.

(b) No member of the board may hold any other state or federal office, position, or employment, whether elective or appointive, except as a member of the armed forces of the United States or the state.

Sec. 37.12.050. QUORUM. Two members of the board constitute a quorum for the transaction of business and the exercise of the powers and duties of the board.

Sec. 37.12.055. COMPENSATION OF BOARD MEMBERS. Board members are in the exempt service under AS.39.25 and re-

ceive an annual salary within Range 30 of the salary schedule for state employees established by AS 39.27.011.

Sec. 37.12.060. EMPLOYMENT OF PERSONNEL. The board may employ and determine the salary of an executive director. The executive director may, with the approval of the board, select and employ additional staff as necessary. The executive director and all employees of the board are in the exempt service under AS 39.25.

Sec. 37.12.065. CONFLICTS OF INTEREST. (a) Members of the board of trustees are subject to the provisions of AS 39.50.

(b) No member or employee of the board may acquire an interest, direct or indirect, in a corporation, company, association, or project owned, controlled, or invested in by the corporation. If a member or employee owns or controls such an interest, he shall immediately disclose the interest in writing to the board and refrain from participating in any manner in any activity relating to that interest.

Sec. 37.12.070. POWERS. In carrying out the corporate powers of the corporation, the board may

- (1) adopt, alter, and use a corporate seal;
- (2) prescribe, adopt, amend, and repeal bylaws;
- (3) sue and be sued in the name of the corporation;
- (4) enter into any agreements necessary to the exercise of its powers and functions;
- (5) accept grants from and contract with the federal government and the state or its political subdivisions and to that end comply with the provisions of federal, state, or local programs where necessary, except that it may not enter into any agreements whereby any permanent state or local government position is funded or partially funded in connection with a project;
- (6) accept grants and loans from other sources than those in (5) of this section to be held and used for the purposes of the corporation;
- (7) appear in behalf of the corporation before boards, commissions, departments, or other agencies of municipal, state, or federal government;
- (8) acquire, hold, use, lease, sell, or otherwise dispose of property of any kind, real, personal, or mixed, or any interest in it;
- (9) hold, as a means of securing the providing of financial assistance, patents, copyrights, trademarks, royalties, or any other evidences of protection or exclusivity issued under the laws of the United States or any state or nation;

(10) prepare, publish, and distribute technical studies, reports, bulletins and other materials it considers appropriate;

(11) invest, in such form as it considers appropriate, in projects which are economically viable and income-producing;

(12) provide grants for projects having broad public application which do not have direct income-producing potential;

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

(14) deposit funds, or invest surplus funds through the treasury division of the Department of Revenue which may invest in any investments authorized in AS 39.-35.110 so long as its investment policy is consistent with the prudent-man rule;

(15) do all acts and things necessary or desirable to carry out the purposes of the corporation.

Sec. 37.12.075. DUTIES. In carrying out the purposes of this chapter, the board shall

(1) seek to maintain the productivity of healthy renewable resources and expand the productivity of depleted or underutilized renewable resources;

(2) provide financial assistance for projects which the board finds will accomplish the purposes of the corporation as set out in sec. 15 of this chapter;

(3) promote the utilization of the state's renewable resources in the state and the development of import substitution and export markets;

(4) annually prepare long-range operating and financial plans and the budget for the forthcoming year;

(5) monitor approved projects for compliance with this chapter and provide operational and performance evaluations (post-audits) of projects receiving financial assistance and an overall assessment, expressed in qualitative and quantitative terms, of the degree to which the purposes of the corporation, as set out in sec. 15 of this chapter, have been achieved; and

(6) attempt to fund activities which will tend to maximize returns to the state and local governments and its citizens in such forms as tax revenues and resident employment and income.

Sec. 37.12.080. FINANCIAL ASSISTANCE. (a) In providing financial assistance, the board shall

(1) consider the proposals of qualified applicants only after the applicant has submitted a detailed proposal in the form prescribed by the board; no assistance may be approved by the board unless it finds, in writing, that

- (A) the proposed project, if successful, will further the purposes of the corporation as set out in sec. 15 of this chapter;
 - (B) the application contains an adequate plan for project implementation, including, when applicable, a complete business, financial and marketing plan for commercial activities;
 - (C) sufficient capital is not available from other sources on reasonable terms;
 - (D) the applicant has agreed that if new renewable resource industrial activity results from the proposed project, his best efforts will be employed to keep that activity in the state for a minimum period of time specified by the board;
 - (E) the applicant demonstrates that sufficient technical and business expertise to accomplish the objectives of the proposed project is available;
 - (F) all costs, including additional governmental cost, associated with and ancillary to the project and future obligations generated by the project have been identified, including any necessary operating, maintenance, or other support costs for the life of the project;
 - (G) potential resource use conflicts that may result from the proposed project are identified and evaluated, and when necessary, plans to mitigate or resolve those conflicts and to preserve for the future options for the use of the state's renewable resources are included in the application;
- (2) use the financial mechanism most appropriate to the conditions of the applicant and the proposed project and which will most effectively utilize the funds available; grants may be made by the board of up to 90 per cent of the total project costs for the following purposes:
- (A) projects for the applied research and development of products, technologies, or innovations for the rehabilitation, enhancement, or development of the state's renewable resources;
 - (B) projects for the demonstration, on a one-time basis, of the economic or technical feasibility of a new product, market, or technology involving a renewable resource; or
 - (C) projects for the rehabilitation, enhancement, or development of a common-property resource where the benefits from the project cannot be captured by any single economic unit;
- (3) in evaluating projects, consider the preferences and priorities of the residents of the region in which the project is to be located;
- (4) require investments made by the corporation to be secured by means determined to be appropriate by the board.

(b) The board may not

(1) invest or otherwise provide assistance of more than five per cent of the resources of the corporation or \$1,500,000, whichever is less, in a single project or applicant unless the legislature has approved the investment by concurrent resolution;

(2) invest in more than 49 per cent of the outstanding corporate stock or other corporate obligations issued by an applicant unless the legislature has approved the investment by concurrent resolution;

(3) make a loan for a period in excess of 30 years unless the legislature has approved the loan by concurrent resolution;

(4) assume the responsibility for management of any project in which it has invested and may not exercise voting rights for that purpose or for any other purpose which is within the scope of managerial control; or

(5) provide funds to any state agency unless that expenditure is included in the corporation's annual budget;

(6) allocate to grants more than 10 per cent of the annual appropriation of the corporation.

(c) Nothing in this section prevents the board from taking such action and exercising such rights as it considers necessary for the protection of its financial interests in the event of

(1) actual or threatened default on any of the board's investments;

(2) actual or threatened insolvency of a project in which the board has made an investment; or

(3) any other immediate or actual circumstance or event which jeopardizes an investment made by the board.

(d) Projects for which financial assistance is granted shall comply with all applicable provisions of law.

Sec. 37.12.085. ELIGIBILITY FOR FINANCIAL ASSISTANCE. The board may provide financial assistance if it finds that an applicant is qualified to receive assistance. An applicant is qualified if

(1) he has submitted a proposal to the board in accordance with sec. 80(a)(1) of this chapter;

(2) he is a resident of the state for three years or, if the applicant is a partnership, corporation, or other association, the majority interest is beneficially owned by residents of the state and a majority of the owners are residents of the state; and

(3) his projects which have previously received financial assistance from the corporation, if any, have complied with all requirements of that assistance and have

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performed with sufficient success or promise to warrant further aid.

Sec. 37.12.090. REPORTS AND PUBLICATIONS. (a) The board shall prepare and distribute in non-technical language materials describing the purposes and activities of the corporation.

(b) The board shall publish an annual report for the governor, the legislature, and the public at the time of submitting its annual budget request. Each annual report shall include financial statements and audit reports, a statement detailing the sources from which the corporation received money, a statement detailing the investments made by the corporation, a summary and evaluation of the data required by sec. 75(5) and (6) of this chapter, a list of public facilities required by or complementary to the corporation's investment activity, and any other information that the board of trustees believes would be of interest to the recipients of the report.

Sec. 37.12.095. BUDGET AND APPROPRIATIONS. (a) The corporation may expend money only as appropriated by the legislature. The corporation is subject to the Executive Budget Act (AS 37.07) except as provided in (b) and (c) of this section.

(b) The budget of the corporation shall include the categories and amounts of proposed financial assistance broken down by financing mechanism and resource sector affected and all funds received by the corporation whether through allocations made by this chapter, appropriation, or otherwise. The total amount of the corporation's operating budget shall be specified separately in its budget and be appropriated from the general fund.

(c) The unexpended and unobligated portion of the appropriations, other than appropriations for operating expenses, does not lapse into the general fund at the end of a fiscal year, but remains available for appropriation as provided in this section in subsequent fiscal years.

Sec. 37.12.100. ANNUAL AUDIT. The corporation shall have its financial record audited annually by an independent outside auditor. The legislative auditor may prescribe the form and content of the financial record of the corporation and shall have access to these records at any time.

Sec. 37.12.105. COOPERATION WITH OTHER AGENCIES. All departments, agencies, and public corporations of the state shall provide information, services and facilities to the corporation on its request. The corporation shall reimburse the department, agency, or corporation for expenses reasonably incurred on the corporation's behalf.

Sec. 37.12.110. TAX EXEMPTION. The corporation is exempt from all taxes and assessments in the state. All security instruments issued by the corporation, their transfer, and their income are exempt from all taxes and assessments in the state.

Sec. 37.12.115. TECHNICAL ASSISTANCE. (a) The corporation may provide financing for pre-investment activities including feasibility studies, when, in its opinion, the proposed project is of high priority and the financing is not available from other sources on reasonable terms and conditions. Amounts so advanced may form a part of a later investment if the enterprise or project is financed by the corporation.

(b) The corporation may provide funding for technical and management advice and assistance to qualified applicants as it considers necessary in the circumstances.

Sec. 37.12.120. PUBLIC ACCESS TO INFORMATION. Information in the possession of the corporation is a public record, except that information which discloses the particulars of the business or affairs of a private enterprise or investor is confidential and is not a public record. Confidential information may be disclosed only for the purposes of an official law enforcement investigation or when its production is required in a court proceeding. These restrictions do not prohibit the publication of statistics presented in a manner that prevents the identification of reports, items, persons, or enterprises.

Sec. 37.12.125. DEFINITIONS. In this chapter, unless the context otherwise requires,

(1) "applicant" means a person making application to the corporation for financial assistance;

(2) "board" means the Board of Trustees of the Alaska Renewable Resources Corporation;

(3) "corporation" means the Alaska Renewable Resources Corporation;

(4) "project" means products, markets, innovation, or technological developments for the rehabilitation, enhancement, or development of renewable resources and includes applied research for those products, markets, or technological developments;

(5) "rehabilitation, enhancement, and development" means any activity or program which improves the health and well-being of a renewable resource or renewable resource population leading to an increase in the quality or productivity of the resource and to an increase in the benefits derived from the resource to the citizens of the state;

(6) "renewable resource" means non-human living organisms; natural components of the environment, including the air, land, and water; and energy systems which are naturally recurring or replenished.

* Sec. 4. AS 37.11.040 is amended to read:

Sec. 37.11.040. FUND BALANCES. Unappropriated or otherwise unencumbered balances remaining in the Alaska renewable resources development fund at the close of each fiscal year shall be transferred to the Alaska renewable resources investment fund.

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- * Sec. 5. AS 37.11.050 is amended to read:

Sec. 37.11.050. ALASKA RENEWABLE RESOURCES INVESTMENT FUND. There is established as a separate fund the Alaska renewable resources investment fund. Funds apportioned by sec. 60 of this chapter for deposit in the investment fund are to be held perpetually in trust for the benefit of both present and future generations of Alaskans.

- * Sec. 6. AS 37.11.060 is amended to read:

Sec. 37.11.060. FUND PRINCIPAL. Unappropriated or otherwise unencumbered balances remaining in the Alaska renewable resources development fund at the close of each fiscal year shall be deposited in the investment fund. These deposits shall be considered fund principal and shall be invested in perpetuity in accordance with sec. 90 of this chapter.

- * Sec. 7. AS 37.11.070 is amended to read:

Sec. 37.11.070. UTILIZATION OF FUND INCOME. (a) Income received from investment of investment fund principal shall not be held in trust, but shall be used to provide funding for capital and operating appropriations for the rehabilitation, enhancement and development of renewable resources programs. The primary purpose of the programs shall be to restore the renewable resources of the state for common beneficial uses.

(b) Plans for expenditures from fund income shall be prepared in detail by the cooperative efforts of the Departments of Natural Resources, Fish and Game, Environmental Conservation, and Commerce and Economic Development, and shall be submitted by the governor in accordance with the Executive Budget Act (AS 37.07) as part of his annual budget presentation to the legislature. Not less than 80 per cent of the total plan submitted each year shall be apportioned for direct capital expenditures or investments.

- * Sec. 8. AS 37.11.080 is amended to read:

Sec. 37.11.080. PROTECTION OF PRINCIPAL. A transaction involving investment fund principal which results in an actual dollar loss of principal shall be reimbursed in full from fund income before any additional income is expended.

- * Sec. 9. AS 37.11 is amended by adding a new section to read:

Sec. 37.11.090. INVESTMENTS. Investment responsibility for the Alaska renewable resources investment fund shall reside with the treasury division of the Department of Revenue. The treasury division may invest the Alaska renewable resources investment fund in any investments authorized in AS 39.35.110 so long as its investment policy is consistent with the prudent-man rule.

- * Sec. 10. AS 44.66.010(a) is amended by adding a new paragraph to read:

(6) Alaska Renewable Resources Corporation
(AS 37.12.010) -- June 30, 1982.