



LAWS OF ALASKA

1990

Source

SCS CSHB 123 (2d L&C)

Chapter No.

123

AN ACT

Relating to the Alaska Industrial Development and Export Authority; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 10

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: June 14, 1990
Actual Effective Date: Sections 9 and 24 take effect
January 1, 1992; remainder of Act takes effect
June 15, 1990. Section 18 is retroactive to
August 30, 1988

AN ACT

Relating to the Alaska Industrial Development and Export Authority; and providing for an effective date.

* Section 1. AS 36.30.850(b)(8) is amended to read:

(8) acquisitions or disposals of property and other contracts relating to airports under AS 02.15.070, 02.15.090, [AND] 02.15.091, and AS 44.88;

* Sec. 2. AS 36.30.850(b) is amended by adding a new paragraph to read:

(22) contracts of the Alaska Industrial Development and Export Authority for a clean coal technology demonstration project that

(A) is attempting to develop a coal-fired electric generation project;

(B) uses technology that is capable of commercialization during the 1990's; and

(C) qualifies for federal financial participation under P.L. 99-190 as amended.

* Sec. 3. AS 44.88.010(a)(9) is amended to read:

(9) the achievement of the goal of full employment, and of establishment and continuing operation and development of industrial, manufacturing, export, small business, and business enterprises in the state [, INCLUDING, WITHOUT LIMITATION, FACILITIES FOR TRANSPORTATION, FACILITIES FOR POLLUTION CONTROL AND WASTE DISPOSAL, FACILITIES FOR

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1 THE LOCAL FURNISHING OF GAS, FACILITIES FOR WATER, FACILITIES FOR
2 INDUSTRIAL PARKS, MASS COMMUTING VEHICLES, FACILITIES FOR LOCAL DIS-
3 TRICT HEATING OR COOLING, PARKING FACILITIES, OR A STORAGE OR TRAINING
4 FACILITY RELATING TO A PLANT OR FACILITY,] will be accelerated and
5 facilitated by the creation of an instrumentality of the state with
6 powers to incur debt, to own and operate facilities, to make and
7 insure loans to finance [,] and to assist private lenders to make
8 loans to finance [,] the establishment, operation, and development of
9 industrial, manufacturing, export, small business, and business enter-
10 prises [, INCLUDING, WITHOUT LIMITATION, FACILITIES FOR TRANSPORTA-
11 TION, FACILITIES FOR POLLUTION CONTROL AND WASTE DISPOSAL, FACILITIES
12 FOR THE LOCAL FURNISHING OF GAS, FACILITIES FOR WATER, FACILITIES FOR
13 INDUSTRIAL PARKS, MASS COMMUTING VEHICLES, FACILITIES FOR LOCAL DIS-
14 TRICT HEATING OR COOLING, PARKING FACILITIES, OR A STORAGE OR TRAINING
15 FACILITY RELATING TO A PLANT OR FACILITY];

16 * Sec. 4. AS 44.88.010(c) is amended to read:

17 (c) It is further declared to be the policy of the state, in the
18 interests of promoting the health, security, and general welfare of
19 all the people of the state, and a public purpose of the state, to
20 accomplish the objectives set out in (b) of this section through the
21 provision of financial support to a [IN COOPERATION WITH] federal,
22 state, municipal, or [AND] private entity [INSTITUTIONS FOR THE PUR-
23 POSE OF INCREASING THE EXPORT OF ALASKA GOODS, TALENT, RAW MATERIALS,
24 AND SERVICES].

25 * Sec. 5. AS 44.88.060 is amended to read:

26 Sec. 44.88.060. ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AU-
27 THORITY REVOLVING FUND. The Alaska Industrial Development and Export
28 Authority revolving fund is established in the authority. The revol-
29 ving fund consists of appropriations made to the revolving fund by the

1 legislature, money or other assets transferred to the revolving fund
2 by the authority, and unrestricted payments on loans made or purchased
3 by the authority. Unless otherwise expressly stated, the accounts
4 created in this chapter are accounts in the revolving fund. The
5 authority may create additional accounts either in the revolving fund
6 or outside the revolving fund. Subject to agreements made with the
7 holders of the authority's bonds or with other persons, the authority
8 may transfer amounts in an account in the revolving fund to another
9 account in the revolving fund. Amounts deposited in the revolving
10 fund may be pledged to the payment of bonds of the authority or ex-
11 pended for the purposes of the authority under this chapter. The
12 authority has the powers and responsibilities established in AS 37.-
13 10.071 with respect to the investment of amounts held in the revolving
14 fund.

15 * Sec. 6. AS 44.88.080 is amended by adding a new paragraph to read:

16 (25) to make cooperative agreements with the Department of
17 Transportation and Public Facilities, acting on behalf of the inter-
18 national airports revenue fund established under AS 37.15.430, to
19 acquire, equip, operate, maintain, construct or install facilities
20 that will enhance the competitiveness of the international airports,
21 including a cooperative agreement to lend amounts from the interna-
22 tional airport revenue fund to finance the development or improvement
23 of utilities serving the airports.

24 * Sec. 7. AS 44.88.090(a) is amended to read:

25 (a) The [SUBJECT TO (g) OF THIS SECTION, THE] authority may
26 borrow money and may issue bonds, including but not limited to bonds
27 on which the principal and interest are payable

28 (1) exclusively from the income and receipts or other money
29 derived from the project or development project financed with the

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1 proceeds of the bonds or derived from the exporter or exporting trans-
2 action financed, guaranteed, or insured with the proceeds of the
3 bonds;

4 (2) exclusively from the income and receipts or other money
5 derived from designated projects or development projects or other
6 sources whether or not they are financed, insured, or guaranteed in
7 whole or in part with the proceeds of the bonds; or

8 (3) from its income and receipts or other assets generally,
9 or a designated part or parts of them.

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

11 Sec. 44.88.095. BONDING LIMITATIONS. (a) The authority may not
12 issue bonds in a 12-month period in an amount that exceeds
13 \$400,000,000.

14 (b) The authority may not issue revenue bonds, other than re-
15 funding bonds, to purchase a loan for a project under AS 44.88.155 -
16 44.88.159, to acquire a development project under AS 44.88.172 -
17 44.88.177 or to provide money to finance, guarantee, or insure an
18 exporting transaction under AS 44.88.300 - 44.88.390 in an amount
19 greater than \$50,000,000 during any 12-month period unless the issu-
20 ance is included separately in the estimates required in the report of
21 the authority under AS 44.88.210(b) and unless the legislature, by
22 law, approves the issuance.

23 (c) Before entering into a lease or other agreement under
24 AS 44.88.090(e) regarding a project for which the authority agrees to
25 issue bonds in an amount in excess of \$6,000,000, there must be filed
26 with the authority a certified copy of a resolution of the governing
27 body of the political subdivision of the state, if any, in which the
28 project is to be located, consenting to the location of the project.
29 The consent need only refer to the general nature of the project

1 ultimately to be acquired, as set out in a request of the proposed
2 project applicant. Before entering into a lease or other agreement
3 under AS 44.88.090(e) regarding a project, the authority shall find,
4 on the basis of all information reasonably available to it, that

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

8 (2) the project applicant is financially responsible;

9 (3) provision to meet increased demand upon public facili-
10 ties that might result from the project is reasonably assured; and

11 (4) the project will provide, or retain, employment reason-
12 ably related to the amount of the financing by the authority, con-
13 sidering the amount of investment per employee for comparable facili-
14 ties and other relevant factors.

15 (d) Before adopting a resolution approving a project to be
16 financed under AS 44.88.172 for which bonds must be issued, the au-
17 thority shall, on the basis of all information reasonably available to
18 it, make findings, with respect to the project, as described in
19 (c)(1) - (4) of this section, and also find that

20 (1) the project is economically and financially feasible
21 and able to produce revenue adequate to repay the bonds or loans with
22 which it is financed;

23 (2) the project complies with applicable law; and

24 (3) issuance of the bonds is not expected to adversely
25 affect the ability of the state or any political subdivision of the
26 state to market other bonds.

27 (e) Before entering into an agreement to finance or to develop a
28 proposed project financed under AS 44.88.172 for which bonds must be
29 issued, the authority shall obtain the approval of each Regional

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1 Resource Advisory Council appointed under AS 44.88.174 or municipality
2 in the area in which the proposed project is to be located. Approval
3 under this subsection must be evidenced by a certified copy of a
4 resolution of the council or of the governing body of the municipal-
5 ity. Before considering a resolution regarding the approval or re-
6 jection of the development or financing of a proposed project under
7 this subsection, a Regional Resource Advisory Council shall conduct a
8 public hearing in the region. If a proposed project is located in a
9 municipality, the governing body of the municipality shall conduct a
10 hearing on the proposed project.

11 (f) Before entering into an agreement to finance or to develop a
12 proposed project financed under AS 44.88.172 for which bonds must be
13 issued, the authority shall compile and make available to the public a
14 document that summarizes the projected economic, social, and environ-
15 mental effects of the project; and, in conjunction with the Department
16 of Fish and Game, the Department of Natural Resources, the Department
17 of Environmental Conservation, and the Department of Labor, the au-
18 thority shall conduct a public hearing on the projected effects of the
19 project.

20 (g) Without prior legislative approval, the authority may not
21 issue bonds in an amount greater than \$10,000,000 to assist in the
22 financing of a development project under AS 44.88.172 - 44.88.177.

23 * Sec. 9. AS 44.88.095(g) is repealed and reenacted to read:

24 (g) The authority may not issue bonds, other than refunding
25 bonds, without securing the prior approval of the legislature.

26 * Sec. 10. AS 44.88.105(a) is amended to read:

27 (a) For the purpose of securing one or more issues of its bonds,
28 the authority may establish one or more special funds, called "capital
29 reserve funds", and shall pay into those capital reserve funds the

1 proceeds of the sale of its bonds and other money which may be made
2 available to the authority from other sources for the purposes of the
3 capital reserve funds. A capital reserve fund may be established only
4 if the authority determines that the establishment of the fund would
5 enhance the marketability of the bonds [, AND IF THOSE COSTS OF A
6 PROJECT, AS DEFINED IN AS 44.88.900, WHICH ARE TO BE FINANCED WITH THE
7 PROCEEDS OF THE BONDS, DO NOT EXCEED \$10,000,000]. Money in a capital
8 reserve fund, except as provided in this section, may be used as
9 required only for (1) the payment of the principal of, and interest
10 on, bonds or of the sinking fund payments with respect to those bonds;
11 (2) the purchase or redemption of the bonds; or (3) the payment of a
12 redemption premium required to be paid when the bonds are redeemed
13 before maturity. However, money in a capital reserve fund may not be
14 withdrawn if the withdrawal would reduce the amount in the capital
15 reserve fund to less than the capital reserve fund requirement, except
16 for the purpose of making payment, when due, of principal, interest,
17 redemption premiums on the bonds, and sinking fund payments when other
18 money of the authority is not available for the payments. Income or
19 interest earned by, or increment to, a capital reserve fund, from the
20 investment of all or part of the fund, may be transferred by the
21 authority to other funds or accounts of the authority if the transfer
22 does not reduce the amount of the capital reserve fund below the
23 capital reserve fund requirement.

24 * Sec. 11. AS 44.88.105(d) is amended to read:

25 (d) The chairman of the authority shall annually, no later than
26 January 2, certify in writing to the governor and the legislature the
27 amount, if any, required to restore a capital reserve fund to the
28 capital reserve fund requirement. The legislature may appropriate to
29 the authority the amount certified by the chairman of the authority.

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1 The authority shall deposit the amounts appropriated under this sub-
2 section during a fiscal year in the proper capital reserve fund.
3 Nothing in this section creates a debt or liability of the state. In
4 this subsection, "capital reserve fund" means a capital reserve fund
5 that

6 (1) is created under this section on or before January 1,
7 1989; or

8 (2) secures refunding bonds if the refunding bonds are
9 issued to refund bonds that are secured by a capital reserve fund
10 created under this section on or before January 1, 1989.

11 * Sec. 12. AS 44.88.155(b) is amended to read:

12 (b) The authority may establish in the enterprise development
13 account the [A SMALL ENTERPRISE LOAN ACCOUNT, A LOAN INSURANCE AC-
14 COUNT, AND OTHER] accounts it considers appropriate.

15 * Sec. 13. AS 44.88.155(c) is amended to read:

16 (c) Money and other assets of the enterprise development account
17 may be used to secure bonds of the authority issued to finance the
18 purchase of loans for projects [AND SHALL BE HELD AND INVESTED BY THE
19 AUTHORITY IN ACCORDANCE WITH AS 37.10.071] or shall be used to pur-
20 chase loans for projects.

21 * Sec. 14. AS 44.88.155(d) is amended to read:

22 (d) A loan purchased in whole or in part by the authority with
23 assets of the enterprise development account or with proceeds of bonds
24 secured by assets of the enterprise development account, other than a
25 loan which is financed with the proceeds of bonds of the authority and
26 secured only by a project applicant or a project,

27 (1) may not exceed

28 [(A)] \$10,000,000; [OR

29 (B) \$500,000 IF THE LOAN IS PURCHASED UNDEI

1 AS 44.88.158;]

2 (2) may not exceed the cost of the project or 75 percent of
3 the appraised value of the project, whichever is less, unless the
4 amount of the loan in excess of this limit is federally insured or
5 guaranteed or is insured by a qualified mortgage insurance company;

6 (3) may not be for a term longer than three-quarters of the
7 authority's estimate of the life of the project or 25 years from the
8 date the loan is made, whichever is earlier;

9 (4) shall contain complete amortization provisions satis-
10 factory to the authority requiring periodic payments by the borrower;

11 (5) shall be in the form and contain the terms and provi-
12 sions with respect to insurance, repairs, alterations, payment of
13 taxes and assessments, default reserves, delinquency charges, default
14 remedies, acceleration of maturity, secondary liens, and other matters
15 the authority prescribes;

16 (6) shall be secured as to repayment by a mortgage or other
17 security instrument in the manner the authority determines is feasible
18 to assure timely repayment under a loan agreement entered into with
19 the borrower;

20 (7) may not be made unless

21 (A) at least 20 [10] percent of the principal amount
22 of the loan is retained by the originator of the loan as long as
23 the loan is outstanding; or

24 (B) 100 percent of the principal amount of the loan is
25 guaranteed by the United States or an agency or instrumentality
26 of the United States;

27 (8) must be

28 (A) [AT LEAST PARTIALLY GUARANTEED BY THE UNITED
29 STATES OR AN AGENCY OR INSTRUMENTALITY OF THE UNITED STATES,

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1 SUBJECT TO THE PROVISIONS OF AS 44.88.158;

2 (B)] financed from the proceeds of bonds; or

3 (B) [(C)] expected by the authority to be financed
4 from the proceeds of bonds.

5 * Sec. 15. AS 44.88.165 is repealed and reenacted to read:

6 Sec. 44.88.165. DELINQUENT LOANS. The authority shall adopt
7 regulations to describe the circumstances under which it will discon-
8 tinue purchasing loans from a financial institution because of exces-
9 sive delinquencies among the loans previously purchased by the author-
10 ity from the financial institution. In adopting the regulations, the
11 authority must consider the authority's delinquency experience with
12 loans it purchased from all financial institutions. The authority may
13 include in the regulations other remedies it considers appropriate as
14 alternatives to the discontinuance of purchasing loans from the finan-
15 cial institution.

16 * Sec. 16. AS 44.88.172(a) is amended to read:

17 (a) The economic development account is established in the
18 revolving fund. The economic development account consists of money or
19 assets appropriated, loaned, or transferred to the authority for
20 deposit in the account [,] and other money or assets deposited in the
21 account by the authority. While money is on deposit in the economic
22 development account, the money [THE ACCOUNT] may be used only to
23 finance, acquire, manage, and operate development projects that the
24 authority intends to own and operate. The term "operate" includes
25 operation directly by the authority [,] or by an agent of the author-
26 ity.

27 * Sec. 17. AS 44.88.535(b) is amended to read:

28 (b) The authority may provide a guarantee from the fund for up
29 to 80 [70] percent of a loan that qualifies under AS 44.88.500

1 44.88.599. The ratio of the guarantee to the outstanding principal of
2 the loan may not increase over the term of the loan.

3 * Sec. 18. AS 44.88 is amended by adding a new section to read:

4 Sec. 44.88.542. DISCOUNTED LOAN PURCHASES. If the authority
5 purchases at a discount the principal amount of a loan initially
6 retained by an originating bank that is in financial distress or
7 insolvent, the authority shall transfer from reserves to the business
8 assistance fund established under AS 44.88.500 an amount representing
9 the discount. If the authority subsequently suffers a loss on a loan
10 covered by this section, an amount equal to the loss may be trans-
11 ferred from the business assistance fund to the reserves of the au-
12 thority.

13 * Sec. 19. AS 44.88.545 is amended to read:

14 Sec. 44.88.545. LIMITATIONS OF GUARANTEES WITH RESPECT TO BOR-
15 ROWERS. The authority may not provide a guarantee

16 (1) [A LOAN] of more than \$1,000,000;

17 (2) [LOANS] to an individual borrower that cumulatively
18 exceeds [EXCEED] \$1,000,000 of guaranteed indebtedness.

19 * Sec. 20. AS 44.88.560 is amended to read:

20 Sec. 44.88.560. POWERS OF THE AUTHORITY. The authority may

21 (1) adopt regulations to implement AS 44.88.500 - 44.88.-
22 599;

23 (2) establish terms and conditions for loan guarantees and
24 refinancing agreements subject to the requirements of AS 44.88.500 -
25 44.88.599;

26 (3) make and execute contracts and other instruments to
27 implement AS 44.88.500 - 44.88.599;

28 (4) charge

29 (A) one percent of the amount guaranteed for the

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1 service it provides under AS 44.88.500 - 44.88.599; and

2 (B) any other reasonable fee that the authority may
3 establish by regulation;

4 (5) acquire real or personal property by purchase, trans-
5 fer, or foreclosure when the acquisition is necessary to protect an
6 interest in the fund; and

7 (6) exercise any other power necessary to implement AS 44.
8 88.500 - 44.88.599;

9 (7) to the extent the authority considers it to be in its
10 best interest to do so, use money in the business assistance fund to
11 pay expenses relating to the liquidation of collateral securing loans
12 guaranteed by the business assistance fund.

13 * Sec. 21. AS 44.88.900(4) is repealed and reenacted to read:

14 (4) "development project" has the meaning given to "proj-
15 ect" in (9)(A) of this section;

16 * Sec. 22. AS 44.88.900(9) is amended to read:

17 (9) "project" means

18 (A) a plant or facility used or intended for use

19 [(i)] in connection with making, processing, pre-
20 paring, transporting, or producing in any manner, goods
21 products, or substances of any kind or nature or in connec-
22 tion with developing or utilizing a natural resource, or
23 extracting, smelting, transporting, converting, assembling
24 or producing in any manner, minerals, raw materials, chemi-
25 cals, compounds, alloys, fibers, commodities and materials
26 products, or substances of any kind or nature;

27 [(ii)] AS AN INDUSTRIAL PARK; IN CONNECTION WITH
28 TRANSPORTATION; FOR THE PREVENTION, LIMITATION OR CONTROL OF
29 POLLUTION; FOR THE DISPOSAL OF SEWAGE OR SOLID WASTE; FOR

1 THE LOCAL FURNISHING OF GAS; FOR THE FURNISHING OF WATER; AS
2 OR IN CONNECTION WITH MASS COMMUTING VEHICLES; FOR LOCAL
3 DISTRICT HEATING OR COOLING; AS A PARKING FACILITY; OR AS A
4 STORAGE OR TRAINING FACILITY DIRECTLY RELATED TO A PLANT OR
5 FACILITY DESCRIBED IN THIS PARAGRAPH;]

6 (B) a plant or facility used or intended for use in
7 connection with a business enterprise;

8 (C) commercial activity by a small enterprise;

9 (D) a plant or facility demonstrating technological
10 advances of new methods and procedures and prototype commercial
11 applications for the exploration, development, production, trans-
12 portation, conversion, and use of energy resources;

13 * Sec. 23. AS 44.88.090(g), 44.88.090(i), 44.88.105(e), 44.88.105(g),
14 44.88.157, 44.88.158, 44.88.159(c), 44.88.160, 44.88.172(b), 44.88.172(c),
15 44.88.175, 44.88.176, 44.88.212(a), and 44.88.900(3) are repealed.

16 * Sec. 24. AS 44.88.095(b) is repealed.

17 * Sec. 25. The Alaska Industrial Development and Export Authority may
18 issue bonds to finance the acquisition, design, and construction of a
19 multi-bay aircraft maintenance facility located at Anchorage International
20 Airport, to be owned by the authority. The principal amount of the bonds
21 may not exceed \$50,000,000. This section grants the legislative approval
22 required by AS 44.88.095.

23 * Sec. 26. The Alaska Industrial Development and Export Authority may
24 issue bonds to finance the acquisition, design, and reconstruction of a
25 public use ore terminal in Skagway to be owned by the authority. The
26 principal amount of the bonds may not exceed \$25,000,000. This section
27 grants the legislative approval required by AS 44.88.095.

28 * Sec. 27. The Alaska Industrial Development and Export Authority may
29 issue bonds to finance the acquisition, design, and construction of

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1 improvements to the Ballyhoo dock in Unalaska to be owned by the authority.
2 The principal amount of the bonds may not exceed \$10,000,000. This section
3 grants the legislative approval required by AS 44.88.095.

4 * Sec. 28. The Alaska Industrial Development and Export Authority is
5 authorized, as required by AS 44.88.095, to issue bonds for the Healy
6 cogeneration project in a principal amount not to exceed \$85,000,000.

7 * Sec. 29. Before bonds authorized in secs. 25 - 28 of this Act are
8 issued, the Alaska Industrial Development and Export Authority shall comply
9 with the requirements of AS 44.88.173.

10 * Sec. 30. Section 18 of this Act is retroactive to August 30, 1988.

11 * Sec. 31. Sections 9 and 24 of this Act take effect January 1, 1992.

12 * Sec. 32. Sections 1 - 8, 10 - 23, and 25 - 30 of this Act take effect
13 immediately under AS 01.10.070(c).