

SENATE CS FOR CS FOR HOUSE BILL NO. 466(CRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered: 4/11/96
Referred: Finance

Sponsor(s): REPRESENTATIVES MOSES, Mulder

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing the Adak Reuse Authority."**

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

3 * **Section 1.** AS 30 is amended by adding a new chapter to read:

4 CHAPTER 17. ADAK REUSE AUTHORITY.

5 ARTICLE 1. ESTABLISHMENT.

6 Sec. 30.17.010. CREATION OF AUTHORITY. There is created the Adak
7 Reuse Authority. The authority is a public corporation of the state and a body corporate
8 and is an instrumentality of the Department of Commerce and Economic Development,
9 but with separate and independent legal existence.

10 Sec. 30.17.020. MEMBERSHIP OF AUTHORITY. (a) The membership of the
11 authority consists of

- 12 (1) the commissioner of commerce and economic development;
13 (2) two other persons selected by the governor who serve as the heads
14 of principal departments of the executive branch of state government; and
15 (3) four public members appointed by the governor, two of whom must

1 be residents of the area that is within the boundaries of the Aleut Corporation, a Native
2 regional corporation established under 43 U.S.C. 1606 (Alaska Native Claims Settlement
3 Act).

4 (b) If a member described in (a)(1) or (2) of this section is unable to attend a
5 meeting of the authority, the member may, by an instrument in writing filed with the
6 authority, designate a deputy or assistant to act in the member's place as a member at
7 the meeting. For purposes of this chapter, the designee is a member of the authority at
8 the meeting.

9 (c) Members of the authority described in (a)(2) and (3) of this section serve
10 two-year terms but serve at the pleasure of the governor.

11 (d) If a vacancy occurs in the membership of the authority, the governor shall
12 immediately appoint a member for the unexpired portion of the term.

13 Sec. 30.17.030. CHAIR AND VICE-CHAIR. The members of the authority
14 shall elect a chair from among themselves. A vice-chair may be elected by the authority
15 from among its other members. The vice-chair presides over all meetings in the absence
16 of the chair and has other duties that the authority may prescribe.

17 Sec. 30.17.040. MEETINGS, COMPENSATION, AND EMPLOYEES. (a) A
18 majority of the members of the authority constitutes a quorum for the transaction of
19 business or the exercise of a power or function at a meeting of the authority. Action
20 may be taken and motions and resolutions may be adopted by the authority only upon
21 an affirmative vote of a majority of the full membership of the authority. The authority
22 may meet and transact business by electronic media if (1) public notice of the time and
23 locations where the meeting will be held by electronic media has been given in the same
24 manner as if the meeting were held in a single location; (2) participants and members
25 of the public in attendance can hear and have the same right to participate in the meeting
26 as if the meeting were conducted in person; and (3) copies of pertinent reference
27 materials, statutes, regulations, and audio-visual materials are reasonably available to
28 participants and to the public. A meeting by electronic media as provided in this
29 subsection has the same legal effect as a meeting in person.

30 (b) The public members of the authority are entitled to \$100 compensation for
31 each day spent on official business of the authority and may be reimbursed by the
32 authority for actual and necessary expenses at the same rate paid to members of state

1 boards under AS 39.20.180.

2 (c) The authority may not hire employees but may contract with individuals or
3 entities to serve in capacities it considers advisable, including service as an executive
4 director, executive secretary, professional advisor, legal counsel, technical expert, agent,
5 and in other positions. A contractor hired under this subsection is not a state employee
6 for any purpose. A contract under this subsection may not exceed two years' duration.

7 (d) The authority shall keep minutes of each meeting and send a certified copy
8 to the governor and to the Legislative Budget and Audit Committee.

9 ARTICLE 2. PURPOSE AND GENERAL POWERS.

10 Sec. 30.17.100. PURPOSE OF THE AUTHORITY. The purpose of the
11 authority is to develop and implement a comprehensive reuse and redevelopment plan
12 for the territory encompassed by the Adak Naval Air Facility in a manner that will attract
13 business, create jobs, and advance the general prosperity and economic welfare of the
14 people of the state by

15 (1) administering in a manner consistent with the purpose of the authority
16 the assets transferred to the authority by the federal government, including facilities and
17 other real or personal property, located at the Adak Naval Air Facility;

18 (2) entering into necessary agreements with the federal government for
19 operation of the facilities comprising the Adak Naval Air Facility;

20 (3) operating or contracting with others to operate enterprises and other
21 facilities located at the Adak Naval Air Facility; and

22 (4) cooperating and acting in conjunction with other organizations, public
23 and private, the objects of which are the promotion and advancement of economic use
24 of the facilities located at the Adak Naval Air Facility.

25 Sec. 30.17.110. POWERS OF THE AUTHORITY. In furtherance of its
26 corporate purposes, the authority may, in addition to other powers that it may have by
27 law,

28 (1) sue and be sued;

29 (2) have a seal and alter the seal at its pleasure;

30 (3) adopt and amend bylaws for its organization and internal
31 management;

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

1 (5) subject to AS 30.17.130(c), accept title to, or other interest in, assets
2 transferred to the authority by the federal government, including facilities and other real
3 or personal property, located at the Adak Naval Air Facility;

4 (6) lease to others a project acquired by it for the rentals and upon the
5 terms and conditions the authority may consider advisable, including, without limitation,
6 provisions for options to purchase or renew;

7 (7) issue and secure the payment of bonds, including revenue bonds;
8 provide for the rights of holders of the bonds; and purchase, hold, and dispose of bonds;

9 (8) sell, by installment sale or otherwise, exchange, donate, convey, or
10 encumber in any manner by mortgage or by creation of any other security interest, real
11 or personal property owned by it, or in which it has an interest, including a project,
12 when, in the judgment of the authority, the action is in furtherance of its corporate
13 purposes;

14 (9) accept gifts, grants, or loans from, and enter into contracts or other
15 transactions regarding them with, a federal agency or an agency or instrumentality of the
16 state, a municipality, a private organization, or other source;

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

18 (11) acquire, manage, and operate projects as the authority considers
19 necessary or appropriate to serve a public purpose;

20 (12) enter into contracts or other transactions with a federal agency, with
21 an agency or instrumentality of the state or of a municipality, or with a private
22 organization or other entity consistent with the exercise of any power under this chapter;

23 (13) charge fees or other forms of remuneration for the use or possession
24 of the projects described in (11) of this section in accordance with the agreements
25 described in (12) of this section, other agreements pertaining to the projects, covenants,
26 or representations made in bond documents pertaining to the projects, or regulations of
27 the authority pertaining to the projects.

28 Sec. 30.17.120. ADMINISTRATIVE PROCEDURE. The provisions of the
29 Administrative Procedure Act regarding the adoption of regulations under AS 44.62.040 -
30 44.62.320 apply to the authority.

31 Sec. 30.17.130. LIMITATION ON POWERS. (a) The authority has only the
32 powers expressly granted in this chapter, reasonably implied from this chapter, or

1 reasonably necessary or convenient to carry out its corporate purposes and to exercise
2 the powers expressly granted in or reasonably implied from this chapter.

3 (b) The authority does not have powers of

4 (1) eminent domain;

5 (2) taxation;

6 (3) land use planning;

7 (4) zoning;

8 (5) permitting; or

9 (6) other similar governmental powers.

10 (c) The authority may not accept transfer by the federal government of title to,
11 an interest in, control over, or responsibility for a facility or other real or personal
12 property located at the Adak Naval Air Facility unless sufficient federal or other money
13 is available to the authority to manage the property or operate the facility at a minimal
14 level for two years after the date of the transfer. The director of the office of
15 management and budget shall determine whether sufficient money is available to the
16 authority with respect to each proposed transfer subject to this subsection, and approve
17 or disapprove the proposed transfer.

18 ARTICLE 3. PROJECTS; BONDS.

19 Sec. 30.17.200. CONSIDERATION OF PROJECTS TO BE FINANCED. (a)

20 Before issuing bonds for a project under this chapter, the authority must find, on the
21 basis of all information reasonably available to it, that the

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

25 (2) project is financially sound and can be expected to produce revenue
26 adequate to repay the bonds with which it is financed; and

27 (3) scope of the project is sufficient to provide a reasonable expectation
28 of a benefit to the region and the economy of the state.

29 (b) The authority shall give fair and reasonable consideration to a project
30 presented to it for financing. When the authority determines whether to finance or assist
31 in the financing of a project, the authority shall state the reasons for its determination in
32 a written resolution upon request by a person who presented the project to the authority

1 or a person who presented opposition to the project. The authority shall base its reasons
2 on the information presented to it concerning the project and on other information
3 considered appropriate by the authority.

4 (c) The authority may not issue bonds to finance or assist in financing a project
5 unless the authority has received legislative approval to do so for a specified project.

6 Sec. 30.17.210. BONDS OF THE AUTHORITY. (a) Subject to the provisions
7 of AS 30.17.200, the authority may borrow money and may issue revenue bonds,
8 including bonds on which the principal and interest are payable

9 (1) exclusively from the income and receipts or other money derived
10 from the project financed with the proceeds of the bonds;

11 (2) exclusively from the income and receipts or other money derived
12 from designated projects whether or not they are financed in whole or in part with the
13 proceeds of the bonds; or

14 (3) from the income and receipts or assets generally, or a designated part
15 or parts of them, of the authority or of any other person.

16 (b) Bonds issued under this chapter shall be authorized by resolution of the
17 authority, and shall be dated and shall mature as the resolution may provide, except that
18 a bond may not mature more than 40 years from the date of its issuance. The bonds
19 shall bear interest at the rate or rates, be in the denominations, be in the form, either
20 coupon or registered, carry the registration privileges, be executed in the manner, be
21 payable in the medium of payment, at the place or places, and be subject to the terms
22 of redemption that the resolution or a subsequent resolution may provide.

23 (c) Bonds issued under this chapter, regardless of form or character, shall be
24 negotiable instruments for the purposes of the Uniform Commercial Code.

25 (d) Bonds issued under this chapter may be sold at public or private sale in the
26 manner, for the price or prices, and at the time or times that the authority may determine.

27 (e) The superior court shall have jurisdiction to hear and determine suits, actions,
28 or proceedings relating to the authority, including suits, actions, or proceedings brought
29 to foreclose or otherwise enforce a mortgage, pledge, assignment, or security interest or
30 brought by or for the benefit or security of a holder of its bonds or by a trustee for or
31 other representative of the holders.

32 (f) Before issuing bonds for a project under this chapter, the authority shall

1 submit to the state bond committee a description of the bond issue and an independent
2 economic feasibility analysis of the project and expected revenue. This information may
3 be contained in a preliminary prospectus, offering circular, or official statement relating
4 to the bond issue. Bonds may not be issued under this chapter unless the state bond
5 committee finds, based upon the information submitted by the authority under this
6 subsection and other information that is reasonably available to the committee, that the
7 project revenue can be reasonably expected to be adequate for payment of the principal
8 and interest on the bonds to be issued if the bonds are to be secured by project revenue
9 alone, and in any event that issuance of the bonds by the authority would not be
10 expected to adversely affect the ability of the state or its political subdivisions to market
11 bonds.

12 Sec. 30.17.220. TRUST INDENTURES AND TRUST AGREEMENTS. In the
13 discretion of the authority, an issue of bonds may be secured by a trust indenture or trust
14 agreement between the authority and a corporate trustee, which may be a trust company,
15 bank, or national banking association, with corporate trust powers, located inside or
16 outside the state, or by a secured loan agreement or other instrument or under a
17 resolution giving powers to a corporate trustee, after this in this section referred to as
18 "trust agreement," by means of which the authority may

19 (1) make and enter into the covenants and agreements with the trustee
20 or the holders of the bonds that the authority determines necessary or desirable,
21 including, without limitation, covenants, provisions, limitations, and agreements as to

22 (A) the application, investment, deposit, use, and disposition of
23 the proceeds of the bonds of the authority or of money or other property of the
24 authority or in which it has an interest;

25 (B) the fixing and collection of rents or other consideration for,
26 and the other terms to be incorporated in, an agreement with respect to a project;

27 (C) the assignment by the authority of its rights in a mortgage or
28 other security interest created with respect to a project to a trustee for benefit of
29 bondholders;

30 (D) the terms and conditions upon which additional bonds of the
31 authority may be issued;

32 (E) the vesting in a trustee of rights, powers, duties, funds, or

1 property in trust for the benefit of bondholders, including, without limitation, the
2 right to enforce payment, performance, and all other rights of the authority or of
3 the bondholders under a lease, contract of sale, mortgage, security agreement, or
4 trust agreement with respect to a project by appropriate judicial proceeding or
5 by taking possession of by agent or otherwise and operating a project and
6 collecting rents or other consideration and applying the same in accordance with
7 the trust agreement;

8 (2) pledge, mortgage, or assign money, leases, agreements, property, or
9 other assets of the authority either presently in hand or to be received in the future, or
10 both; and

11 (3) provide for other matters that affect the security or protection of the
12 bonds.

13 Sec. 30.17.230. VALIDITY OF PLEDGE. (a) It is the intent of the legislature
14 that a pledge made in respect of bonds issued under this chapter is perfected, valid, and
15 binding from the time the pledge is made; that the money or property so pledged and
16 thereafter received by the authority is immediately subject to the lien of the pledge
17 without physical delivery or further act; and that the lien of the pledge is valid and
18 binding against all parties having claims of any kind in tort, contract, or otherwise
19 against the authority whether or not the parties have notice. Neither the resolution, trust
20 agreement, nor any other instrument by which a pledge is created need be recorded or
21 filed under the provisions of the Uniform Commercial Code to be perfected or to be
22 valid, binding, or effective against the parties.

23 (b) This section does not affect title to or conveyances of real property, and does
24 not limit the applicability of AS 40.17.080.

25 Sec. 30.17.240. NONLIABILITY ON BONDS. (a) Neither the members of the
26 authority nor a person executing the bonds are liable personally on the bonds issued by
27 the authority or are subject to personal liability or accountability by reason of the
28 issuance of the bonds.

29 (b) The bonds issued by the authority do not constitute an indebtedness or other
30 liability of the state or of a political subdivision of the state, but shall be payable solely
31 from the income and receipts or other funds or property of the authority. The authority
32 may not pledge the faith or credit of the state or of a political subdivision of the state,

1 except the authority, to the payment of a bond, and the issuance of a bond by the
2 authority does not directly, indirectly, or contingently obligate the state or a political
3 subdivision of the state to apply money from, levy, or pledge any form of taxation to the
4 payment of the bond.

5 (c) The authority shall print the language of (b) of this section in substantial
6 form on the face of all bonds issued and in any offering circular, or statement issued in
7 connection with the bonds.

8 Sec. 30.17.250. PLEDGE OF THE STATE. The state pledges to and agrees
9 with the holders of bonds issued under this chapter and with the federal agency that
10 loans or contributes funds in respect to a project, that the state will not limit or alter the
11 rights and powers vested in the authority by this chapter to fulfill the terms of a contract
12 made by the authority with the holders or federal agency, or in any way impair the rights
13 and remedies of the holders until the bonds, together with the interest on them with
14 interest on unpaid installments of interest, and all costs and expenses in connection with
15 an action or proceeding by or on behalf of the holders, are fully met and discharged.
16 The authority may include this pledge and agreement of the state, insofar as it refers to
17 holders of bonds of the authority, in a contract with the holders, and insofar as it relates
18 to a federal agency, in a contract with the federal agency.

19 Sec. 30.17.260. EXEMPTION FROM TAXATION. (a) The real and personal
20 property of the authority and its assets, income, and receipts are declared to be the
21 property of a political subdivision of the state and are exempt from taxes and special
22 assessments of the state or a political subdivision of the state. Bonds of the authority are
23 declared to be issued by a political subdivision of the state and for an essential public
24 and governmental purpose and to be a public instrumentality, and the bonds, the interest
25 on them, the income from them, and the transfer of the bonds, and all assets, income,
26 and receipts pledged to pay or secure the payment of the bonds or interest on them shall
27 at all times be exempt from taxation by or under the authority of the state, except for
28 inheritance and estate taxes and taxes on transfers by or in contemplation of death.

29 (b) This section does not affect or limit an exemption from license fees, property
30 taxes, or excise, income, or other taxes, provided under any other law, nor does it create
31 a tax exemption with respect to the interest of any business enterprise or other person,
32 other than the authority, in any property, assets, income, receipts, project, or lease

1 whether or not financed under this chapter.

2 Sec. 30.17.270. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The
3 bonds of the authority are securities in which public officers and bodies of the state;
4 municipalities and municipal subdivisions; insurance companies and associations and
5 other persons carrying on an insurance business; banks, bankers, trust companies, savings
6 banks, savings associations, including savings and loan associations and building and
7 loan associations, investment companies, and other persons carrying on banking business;
8 administrators, guardians, executors, trustees, and other fiduciaries; and other persons
9 who are now or may afterward be authorized to invest in bonds or other obligations of
10 the state, may properly and legally invest money, including capital in their control or
11 belonging to them. Notwithstanding any other provisions of law, the bonds of the
12 authority are also securities that may be deposited with and may be received by public
13 officers and bodies of the state and municipalities and municipal subdivisions for any
14 purpose for which the deposit of bonds or other obligations of the state is now or may
15 afterward be authorized.

16 Sec. 30.17.280. ENTERPRISE DEVELOPMENT ACCOUNT. (a) The
17 enterprise development account is established in the authority. The enterprise
18 development account is a trust fund for the uses and purposes of this chapter. The
19 enterprise development account consists of money or assets appropriated or transferred
20 to the authority and other money or assets deposited in it by the authority.

21 (b) The authority may establish in the enterprise development account the
22 accounts it considers appropriate.

23 (c) Money and other assets of the enterprise development account may be used
24 to secure bonds of the authority issued to finance the purchase of loans for projects or
25 may be used to purchase participation in the loans for projects.

26 (d) A loan participation purchased by the authority with assets of the enterprise
27 development account or with proceeds of bonds secured by assets of the enterprise
28 development account

29 (1) may not be purchased unless

30 (A) the project applicant is not, or, if the applicant is not a single
31 proprietorship, all members of the business enterprise or enterprises constituting
32 the project applicant are not, in default on another loan made by the state or by

1 a public corporation of the state;

2 (B) the project applicant has, or, if the applicant is not a single
3 proprietorship, all members of the business enterprise or enterprises constituting
4 the project applicant have, paid all taxes due to the state, has satisfied financial
5 requirements for state tax cases that are under appeal, and is current on all
6 payment schedules relating to state taxes or settlement of tax disputes with the
7 state; and

8 (C) at least 20 percent of the principal amount of the loan is
9 retained by the loan originator;

10 (2) may not be purchased if the loan to be purchased exceeds the cost
11 of the project or 75 percent of the appraised value of the project, whichever is less,
12 unless the amount of the loan in excess of this limit is federally insured or guaranteed
13 or is insured by a qualified mortgage insurance company;

14 (3) may not be purchased if the participation in the loan to be purchased
15 is for a term longer than three-quarters of the authority's estimate of the life of the
16 project or 25 years from the date the loan is made, whichever is earlier; however, in the
17 case of a loan participation for a power transmission intertie, the term may not be longer
18 than 50 years from the date the loan is made;

19 (4) may be made only if the participation in the loan to be purchased
20 contains amortization provisions; the amortization provisions

21 (A) must be complete and satisfactory to the authority and require
22 periodic payments by the borrower;

23 (B) may allow the loan originator to amortize the portion of the
24 loan retained by the loan originator using a shorter amortization schedule than the
25 amortization schedule for the portion of the loan held by the authority if

26 (i) in the authority's opinion, the project financed can
27 support the increased debt service; and

28 (ii) the accelerated amortization schedule is required to
29 induce the originator to make the loan;

30 (5) may be made only if the participation in the loan to be purchased is
31 in the form and contains the terms and provisions with respect to insurance, repairs,
32 alterations, payment of taxes and assessments, default reserves, delinquency charges,

1 default remedies, acceleration of maturity, secondary liens, and other matters the
2 authority prescribes; and

3 (6) may be made only if the participation in the loan to be purchased is
4 secured as to repayment by a mortgage or other security instrument in the manner the
5 authority determines is feasible to assure timely repayment under a loan agreement
6 entered into with the borrower.

7 (e) The authority may adopt regulations for the administration of the enterprise
8 development account including provisions for fees and agreements relating to application,
9 loan commitment, servicing, and origination of loans by other lenders.

10 (f) The authority may enter into agreements as to the use of the money in the
11 enterprise development account including trust or custody arrangements with banks or
12 trust companies. It may also pledge, assign, or grant the agreement, interests under an
13 agreement, or interests in the enterprise development account as may be necessary or
14 appropriate to provide for payment and security for bonds of the authority issued to
15 finance the purchase by the authority of loans for projects.

16 (g) Notwithstanding any other provision of this section, the authority may waive
17 or modify the requirements of this section as it considers appropriate and prudent in
18 order to finance a project if the authority intends to own the project or in order to
19 finance a power transmission intertie project.

20 (h) The provisions of this section apply only with respect to a loan participation
21 purchased by the authority for projects under this chapter.

22 ARTICLE 4. MISCELLANEOUS PROVISIONS.

23 Sec. 30.17.300. AUDIT. The legislative auditor shall audit or shall cause to
24 have audited annually the financial records of the authority. The legislative auditor may
25 prescribe the form and content of the financial records of the authority and shall have
26 access to these records at reasonable times.

27 Sec. 30.17.310. EQUAL USE AND ACCESS. If the authority owns, leases, or
28 otherwise operates or controls, or participates in the financing of, a facility, the authority
29 shall, to the maximum extent possible, provide for equal rights of access to and use of
30 the facility by members of the public and other persons or entities upon terms and
31 conditions that are fair and reasonable. However, this section does not prevent the
32 authority from establishing fair and reasonable limitations on use of or access to a facility

1 to the extent the limitations are necessary in connection with the nature of the facility or
2 the demand for use of or access to the facility. This section applies to the establishment
3 of rates and rate structures as well as all other factors, terms, and conditions relating to
4 the use of or access to the facility, including without limitation the design and location
5 of the facility. The members of the authority shall make a written finding concerning
6 compliance of the facility with this section. A written finding signed by a majority of
7 the authority members complies with the provisions of this section and shall constitute
8 a conclusive presumption of compliance.

9 Sec. 30.17.320. SUCCESSION. The authority is dissolved one year after the
10 date of incorporation of a municipality, other than a second class city, that has an area
11 coterminous with or inclusive of the area formerly encompassed by the Adak Naval
12 Air Facility. Upon dissolution of the authority, the municipality succeeds to the assets
13 and liabilities of the authority and succeeds to the rights, powers, and duties of the
14 authority under contracts to which the authority is a party on the date of dissolution.
15 Except for this section, this chapter is not applicable to a municipality that succeeds
16 the authority.

17 Sec. 30.17.330. PURCHASE OF PROJECT AND LEASES. (a) This chapter
18 does not prevent the inclusion in a lease or other agreement relating to a project of a
19 provision granting the right to purchase the project, or to renew or extend the lease or
20 agreement, upon the terms and conditions that may be provided for in the lease or
21 agreement.

22 (b) A lease with respect to a project may provide for two or more lessees with
23 the legal relationship between themselves and the authority that the authority may
24 approve, including provisions to the effect that the obligations of the lessees under the
25 lease for payment of rental or otherwise between themselves and the authority are
26 several, joint, or joint and several and that the lessees lease the project as
27 tenants-in-common, or otherwise.

28 Sec. 30.17.340. CONFLICTS OF INTEREST. (a) A member of the authority
29 may not vote on a matter relating to a lease or contract entered into or to be entered into
30 by the authority under this chapter if the member is a party to the lease or contract or
31 has a direct ownership or equity interest in a firm, partnership, corporation, or association
32 that may be a party to the contract or lease. A matter relating to a lease or contract that

1 is approved by a majority of the members who are not barred from voting under this
2 section is a valid action of the authority for all purposes.

3 (b) Members of the authority are subject to AS 39.52 (Alaska Executive Branch
4 Ethics Act).

5 Sec. 30.17.350. OPERATION OF CERTAIN STATUTES EXCEPTED. (a) The
6 authority may not be considered to be or constitute (1) a political subdivision of the state
7 as the term is used in AS 37.10.085, (2) a municipal corporation or political subdivision
8 of the state as the terms are used in AS 29, or (3) except as provided in AS 30.17.360,
9 a state agency as the term is used in AS 37, but for all other purposes the authority
10 constitutes a political subdivision and an instrumentality of the state as provided in this
11 chapter.

12 (b) The funds, income, or receipts of the authority may not be considered to be
13 or constitute money of the state, nor may real property in which the authority has an
14 interest be considered land owned in fee by the state or to which the state may become
15 entitled or in any way land belonging to the state, or state land referred to in art. VIII,
16 Constitution of the State of Alaska.

17 Sec. 30.17.360. COMPLIANCE WITH EXECUTIVE BUDGET ACT;
18 AUTHORITY FINANCES. (a) The operating budget of the authority is subject to
19 AS 37.07 (Executive Budget Act).

20 (b) To further ensure effective budgetary decision making by the legislature, the
21 authority shall

22 (1) annually review the authority's assets to determine whether assets of
23 the authority exceed an amount required to fulfill the purposes of the authority as defined
24 in this chapter; in making its review, the members of the authority shall determine
25 whether, and to what extent, assets in excess of the amount required to fulfill the
26 purposes of the authority during at least the next fiscal year are available without

27 (A) breaching an agreement entered into by the authority;

28 (B) materially impairing the operations or financial integrity of
29 the authority; or

30 (C) materially affecting the ability of the authority to fulfill the
31 authority's purposes; and

32 (2) present to the legislature by January 10 of each year a complete

1 accounting of all assets of the authority and a report of the review and determination
2 made under (1) of this subsection; the accounting shall be audited by the auditor who
3 conducts the audit required by AS 30.17.300, including income earned on assets of the
4 authority during that period.

5 Sec. 30.17.370. REPORTS AND PUBLICATIONS. By January 10 of each
6 year, the authority shall publish a report for distribution to the governor, legislature, and
7 the public. The authority shall notify the legislature that the report is available. The
8 report shall be written in easily understandable language. The report must include a
9 financial statement audited by an independent outside auditor, a statement of the
10 authority's investments under this chapter, including an appraisal of the investments at
11 market value, a comparison of the authority's performance with the goals of the
12 authority, and other information the members of the authority believe would be of
13 interest to the governor, the legislature, and the public. The annual income statement and
14 balance sheet of the authority shall be published in at least one newspaper circulating in
15 each judicial district. The authority may also publish other reports it considers desirable
16 to carry out its purposes.

17 ARTICLE 5. GENERAL PROVISIONS.

18 Sec. 30.17.900. DEFINITIONS. In this chapter,

19 (1) "authority" means the Adak Reuse Authority created by this chapter;
20 (2) "bonds" means bonds or other obligations issued under this chapter;
21 (3) "business enterprise" means a single proprietorship, cooperative,
22 corporation, firm, partnership, or other association of persons organized in any manner,
23 for any credit worthy business purpose;

24 (4) "facility" means real property, whether above or below mean high
25 water, or an interest in it, and the buildings, improvements, and structures constructed
26 or to be constructed on or in it, and may include fixtures, machinery, and equipment on
27 it or in it, and tangible personal property, regardless of whether the tangible personal
28 property is attached to or connected with real property, if the owner has agreed not to
29 remove the tangible personal property permanently from the state for the period the
30 authority sets; "facility" does not include work in process or stock in trade;

31 (5) "federal agency" means the United States and any officer, department,
32 agency or instrumentality of the United States;

1 (6) "lease" includes, when used as a noun, an interest in, or when used
2 as a verb, the transfer of an interest in, property less than fee simple title, including,
3 when used as a noun, agreements to use or occupy property;

4 (7) "person" includes a corporation, company, partnership, firm,
5 association, organization, business trust, society, state or agency or subdivision of the
6 state, municipality of the state, a resource development authority, as well as a natural
7 person;

8 (8) "project" means

9 (A) a facility used or intended for use in connection with making,
10 processing, preparing, transporting, or producing goods, products, or substances
11 of any kind or nature or in connection with developing or using a natural
12 resource, or extracting, smelting, transporting, converting, assembling, or
13 producing minerals, raw materials, chemicals, compounds, alloys, fibers,
14 commodities and materials, products, or substances of any kind or nature;

15 (B) a facility used or intended for use in connection with a
16 business enterprise;

17 (C) commercial activity by a small enterprise;

18 (D) a facility demonstrating technological advances of new
19 methods and procedures and prototype commercial applications for the
20 exploration, development, production, transportation, conversion, and use of
21 energy resources;

22 (E) infrastructure for a new tourism destination facility or for the
23 expansion of a tourism destination facility;

24 (F) a facility, other than a facility described in (D) of this
25 paragraph, for the generation, transmission, development, transportation,
26 conversion, or use of energy resources;

27 (9) "project applicant" means a business enterprise or enterprises
28 proposing to

29 (A) use or occupy a project; or

30 (B) agree to permit others to use or occupy a project;

31 (10) "real property" means land and rights and interests in land, including
32 interests less than full title such as easements, uses, leases, and licenses.

1 * **Sec. 2.** INITIAL TERMS. Notwithstanding AS 30.17.020, enacted in sec. 1 of this Act,
2 the initial term of one member appointed under (a)(2) of that section, and the initial terms of two
3 members appointed under (a)(3) of that section, shall be one year.