

HOUSE BILL NO. 526

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Introduced: 2/22/96

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the financing authority, programs, operations, and projects of
2 the Alaska Industrial Development and Export Authority; providing an exemption
3 from the procurement code for certain projects of the authority; and providing
4 for an effective date."

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

6 * **Section 1.** AS 36.30.850(b) is amended by adding a new paragraph to read:

7 (34) contracts of the Alaska Industrial Development and Export
8 Authority related to integrated transportation and port facilities owned by the authority.

9 * **Sec. 2.** AS 44.88.159(a) is amended to read:

10 (a) The interest rate on a loan **participation purchased** [FINANCED] from
11 the proceeds of tax-exempt bonds or expected by the authority to be **purchased**
12 [FINANCED] from the proceeds of tax-exempt bonds is equal to the cost of funds to
13 the authority. In this subsection "cost of funds" means the true interest cost expressed
14 as a rate on tax-exempt bonds of the authority plus an additional percentage as

1 determined by the authority to represent the allocable expenses of operation, costs of
2 issuance, and loan servicing.

3 * **Sec. 3.** AS 44.88.159(b) is amended to read:

4 (b) The interest rate on a loan **participation purchased** [FINANCED] from
5 the proceeds of taxable bonds or expected by the authority to be **purchased**
6 [FINANCED] from the proceeds of taxable bonds is equal to the cost of funds to the
7 authority. In this subsection "cost of funds" means the true interest cost expressed as
8 a rate on taxable bonds, plus an additional percentage as determined by the authority
9 to represent the allocable expenses of operation, costs of issuance, and loan servicing
10 costs.

11 * **Sec. 4.** AS 44.88.159(e) is amended to read:

12 (e) The interest rate on a loan **participation purchased** [FINANCED] directly
13 from the assets of the authority shall be determined under the regulations adopted by
14 the authority under AS 44.88.085(g)(2)(C).

15 * **Sec. 5.** AS 44.88.205(b) is amended to read:

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

18 (1) annually review the authority's assets to determine whether assets
19 of the authority exceed an amount required to fulfill the purposes of the authority as
20 defined in this chapter; in making its review, [THE MEMBERS OF] the authority shall
21 determine whether, and to what extent, assets in excess of the amount required to
22 fulfill the purposes of the authority during at least the next fiscal year are available
23 without

24 (A) breaching any agreement entered into by the authority;

25 (B) materially impairing the operations or financial integrity of
26 the authority; or

27 (C) materially affecting the ability of the authority to fulfill the
28 authority's purposes set out in AS 44.88.070; and

29 (2) present to the legislature by January 10 of each year a complete
30 accounting of all assets of the authority and a report of the review and determination
31 made under (1) of this subsection; the accounting shall be audited by the auditor who

1 conducts the audit required by AS 44.88.200 and must include a full description of all
2 loan interest and principal payments and program receipts, including

3 (A) loan commitment fees received by or accrued to the
4 authority during the preceding fiscal year; [,] and

5 (B) all income earned on assets of the authority during that
6 period.

7 * **Sec. 6.** AS 44.88.500(a) is amended to read:

8 (a) [THE BUSINESS ASSISTANCE FUND IS ESTABLISHED IN THE
9 AUTHORITY FROM MONEY IN THE AUTHORITY'S RESERVES DESIGNATED
10 BY THE AUTHORITY FOR THE PURPOSE.] Subject to the requirements of
11 AS 44.88.500 - 44.88.599, the authority may [USE MONEY IN THE FUND]

12 (1) [TO] guarantee new business assistance loans; and

13 (2) [TO] guarantee new business assistance loans made to refinance
14 existing loans.

15 * **Sec. 7.** AS 44.88.530 is amended to read:

16 Sec. 44.88.530. APPLICABILITY OF PROVISIONS. AS 44.88.535 -
17 44.88.560 apply to

18 [(1)] new loan guarantees and refinancing guarantees under

19 AS 44.88.500 [AS 44.88.500(a)(1); AND

20 (2) DEBT REFINANCING GUARANTEES UNDER
21 AS 44.88.500(a)(2)].

22 * **Sec. 8.** AS 44.88.535 is amended to read:

23 Sec. 44.88.535. CONDITIONS OF LOAN GUARANTEE. (a) The authority
24 may guarantee a loan under AS 44.88.500 - 44.88.599 if the

25 (1) loan

26 (A) is commercially reasonable;

27 (B) contains amortization provisions satisfactory to the
28 authority;

29 (C) is secured by adequate collateral; however, the authority
30 may waive on a case-by-case basis the requirement of collateral for a loan
31 guarantee of \$100,000 [\$75,000] or less for which the proposed loan

1 amortization period does not exceed five years, but the ability to waive the
2 requirement of this subparagraph or the grant of a waiver does not prevent the
3 financial institution that holds the loan guaranteed by the authority from
4 requiring reasonable collateral for the loan;

5 (2) net cash flow from the borrower provides adequate coverage for the
6 debt service on the loan;

7 (3) term of the loan does not exceed 20 years;

8 (4) loan is originated with and serviced by a state chartered or federally
9 chartered financial institution;

10 (5) portion of the loan not guaranteed by the authority is held by the
11 originating financial institution or another [FINANCIAL] institution approved by the
12 authority;

13 (6) **proceeds of the loan will be used** [IS MADE] to **benefit** a business
14 **conducted in the** [WITH A MAJORITY INTEREST HELD BY] state [RESIDENTS];
15 and

16 (7) loan guarantee provides a benefit to the borrower.

17 (b) The authority may provide a guarantee [FROM THE FUND

18 (1)] of 80 percent of a loan [OF \$50,000 OR LESS] that qualifies under
19 AS 44.88.500 - 44.88.599. **The** [;

20 (2) FOR UP TO 80 PERCENT OF A LOAN OF MORE THAN
21 \$50,000 THAT QUALIFIES UNDER AS 44.88.500 - 44.88.599; THE] ratio of the
22 guarantee to the outstanding principal of the loan may not increase over the term of
23 the loan.

24 (c) The authority may [NOT] guarantee the payment of interest on the
25 guaranteed portion of a loan **for the time and in the manner established by the**
26 **authority by regulation.**

27 * **Sec. 9.** AS 44.88.540 is amended to read:

28 Sec. 44.88.540. LIMITATIONS OF GUARANTEES [FROM THE FUND].

29 The authority may not **issue a total of more than** [GUARANTEE]

30 (1) [A TOTAL OF MORE THAN] \$50,000,000 of **loan guarantees**
31 [LOANS];

1 (2) [MORE THAN] \$25,000,000 of loan guarantees [LOANS] in
2 which the amount of the loan guarantee exceeds \$500,000.

3 * **Sec. 10.** AS 44.88.550(a) is amended to read:

4 (a) The maximum interest rate that may be charged by a financial
5 institution on a loan guaranteed by the authority is two and three-quarters percentage
6 points above the prime rate.

7 * **Sec. 11.** AS 44.88.560 is amended to read:

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

9 (1) adopt regulations to implement AS 44.88.500 - 44.88.599;

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

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

14 (4) charge

15 (A) one percent of the amount guaranteed for the service it
16 provides under AS 44.88.500 - 44.88.599; and

17 (B) any other reasonable fee that the authority may establish by
18 regulation;

19 (5) acquire real or personal property by purchase, transfer, or
20 foreclosure when the acquisition is necessary to protect the authority's [AN] interest
21 [IN THE FUND];

22 (6) exercise any other power necessary to implement AS 44.88.500 -
23 44.88.599; and

24 (7) to the extent the authority considers it to be in its best interest to
25 do so, use money [IN THE BUSINESS ASSISTANCE FUND] to pay expenses
26 relating to the liquidation of collateral securing loans guaranteed by the authority
27 [BUSINESS ASSISTANCE FUND].

28 * **Sec. 12.** AS 44.88.900(3) is amended to read:

29 (3) "development project" has the meaning given to "project" in (9)(A)
30 and (D) - (F) [, (D), AND (E)] of this section;

31 * **Sec. 13.** AS 44.88.900(7) is repealed and reenacted to read:

1 (7) "loan participation" means the purchase of a portion of a loan from
2 a financial institution if the financial institution has obtained a commitment from the
3 authority to purchase the portion of that loan before the financial institution has
4 disbursed money as part of the loan to the borrower;

5 * **Sec. 14.** AS 44.88.900(9) is amended to read:

6 (9) "project" means

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

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

16 (C) commercial activity by a **business** [SMALL] enterprise;

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

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

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

26 * **Sec. 15.** AS 44.88.500(b), 44.88.542, 44.88.599(1), and 44.88.900(14) are repealed.

27 * **Sec. 16.** The following are repealed:

28 (1) Sections 1 and 2, ch. 27, SLA 1993; and

29 (2) Section 4, ch. 162, SLA 1988, as amended by sec. 4, ch. 25, SLA 1991,
30 as amended by sec. 4, ch. 27, SLA 1993.

31 * **Sec. 17.** (a) The Alaska Industrial Development and Export Authority (AIDEA) may

1 issue bonds to finance the expansion, improvement, and modification of the existing port
2 facilities owned by AIDEA with respect to the DeLong Mountain transportation system and
3 to finance the construction of new facilities to be owned by AIDEA related to the DeLong
4 Mountain transportation system, or may finance these projects by other means available to
5 AIDEA. The principal amount of the bonds and other financing provided by AIDEA may not
6 exceed \$60,000,000.

7 (b) Subsection (a) of this section constitutes the legislative approval required by
8 AS 44.88.095(g).

9 * **Sec. 18.** (a) Upon approval of the Alaska Industrial Development and Export Authority
10 (AIDEA), AIDEA may acquire the Snettisham hydroelectric project and related assets from
11 the Alaska Power Administration.

12 (b) AIDEA may issue bonds to finance the acquisition of the Snettisham hydroelectric
13 project and related assets, or may finance the acquisition by other means available to AIDEA.
14 The principal amount of the bonds and other financing provided by AIDEA to finance the
15 acquisition of the Snettisham hydroelectric project may not exceed \$100,000,000.

16 (c) To secure bonds issued under (b) of this section, AIDEA may establish a capital
17 reserve fund with respect to those bonds under AS 44.88.105. If AIDEA establishes a capital
18 reserve fund as provided in this subsection, the executive director of AIDEA shall annually,
19 no later than January 2 of each year, certify in writing to the governor and the legislature the
20 amount, if any, required to restore the capital reserve fund to the capital reserve fund
21 requirement as defined in AS 44.88.105(h). The legislature may appropriate to AIDEA the
22 amount so certified by the executive director of AIDEA. AIDEA shall deposit the amounts
23 appropriated under this subsection during a fiscal year in the capital reserve fund. Nothing
24 in this section creates a debt or liability of the state.

25 (d) Subsection (b) of this section grants the legislative approval required by
26 AS 44.88.095(g).

27 * **Sec. 19.** This Act takes effect immediately under AS 01.10.070(c).