

**SENATE BILL NO. 222**

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/17/96

Referred: STA, TRA, FIN

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the financing authority, programs, operations, and projects  
2 of the Alaska Industrial Development and Export Authority; providing an  
3 exemption from the procurement code for certain projects of the authority; and  
4 providing 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 44.88.095(g) is amended to read:

10 (g) Without prior legislative approval, the authority may not issue bonds **in an**  
11 **amount greater than \$10,000,000 to assist in the financing of a development**  
12 **project under AS 44.88.172 - 44.88.177** [, EXCEPT REFUNDING BONDS].

13 \* **Sec. 3.** AS 44.88.159(a) is amended to read:

14 (a) The interest rate on a loan **participation purchased** [FINANCED] from the

1 proceeds of tax-exempt bonds or expected by the authority to be **purchased**  
2 [FINANCED] from the proceeds of tax-exempt bonds is equal to the cost of funds to  
3 the authority. In this subsection "cost of funds" means the true interest cost expressed  
4 as a rate on tax-exempt bonds of the authority plus an additional percentage as  
5 determined by the authority to represent the allocable expenses of operation, costs of  
6 issuance, and loan servicing.

7 \* **Sec. 4.** AS 44.88.159(b) is amended to read:

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

15 \* **Sec. 5.** AS 44.88.159(e) is amended to read:

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

19 \* **Sec. 6.** AS 44.88.205(b) is amended to read:

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

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

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

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

31 (C) materially affecting the ability of the authority to fulfill the

1 authority's purposes set out in AS 44.88.070; and  
2 (2) present to the legislature by January 10 of each year a complete  
3 accounting of all assets of the authority and a report of the review and determination  
4 made under (1) of this subsection; the accounting shall be audited by the auditor who  
5 conducts the audit required by AS 44.88.200 and must include a full description of all  
6 loan interest and principal payments and program receipts, including  
7 (A) loan commitment fees received by or accrued to the  
8 authority during the preceding fiscal year, and  
9 (B) all income earned on assets of the authority during that  
10 period.

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

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

16 (1) [TO] guarantee new **business assistance** loans; and  
17 (2) [TO] guarantee **new business assistance** loans made to refinance  
18 existing loans.

19 \* **Sec. 8.** AS 44.88.530 is amended to read:

20 Sec. 44.88.530. APPLICABILITY OF PROVISIONS. AS 44.88.535 -  
21 44.88.560 apply to

22 [(1)] new loan guarantees **and refinancing guarantees** under  
23 **AS 44.88.500** [AS 44.88.500(a)(1); AND

24 (2) DEBT REFINANCING GUARANTEES UNDER  
25 AS 44.88.500(a)(2)].

26 \* **Sec. 9.** AS 44.88.535 is amended to read:

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

29 (1) loan  
30 (A) is commercially reasonable;  
31 (B) contains amortization provisions satisfactory to the

1 authority;

2 (C) is secured by adequate collateral; however, the authority  
3 may waive on a case-by-case basis the requirement of collateral **in the manner**  
4 **and under requirements established by the authority by regulation** [FOR  
5 A LOAN GUARANTEE OF \$75,000 OR LESS FOR WHICH THE  
6 PROPOSED LOAN AMORTIZATION PERIOD DOES NOT EXCEED FIVE  
7 YEARS], but the ability to waive the requirement of this subparagraph or the  
8 grant of a waiver does not prevent the financial institution that holds the loan  
9 guaranteed by the authority from requiring reasonable collateral for the loan;

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

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

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

15 (5) portion of the loan not guaranteed by the authority is held by the  
16 originating financial institution or another [FINANCIAL] institution approved by the  
17 authority;

18 (6) **proceeds of the loan will be used to benefit a business conducted**  
19 **in the state** [IS MADE TO A BUSINESS WITH A MAJORITY INTEREST HELD  
20 BY STATE RESIDENTS]; and

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

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

23 (1)] of 80 percent of a loan [OF \$50,000 OR LESS] that qualifies under  
24 AS 44.88.500 - 44.88.599;

25 [(2) FOR UP TO 80 PERCENT OF A LOAN OF MORE THAN  
26 \$50,000 THAT QUALIFIES UNDER AS 44.88.500 - 44.88.599;] the ratio of the  
27 guarantee to the outstanding principal of the loan may not increase over the term of  
28 the loan.

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

1 \* **Sec. 10.** AS 44.88.540 is amended to read:

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

3 The authority may not issue [GUARANTEE]

4 (1) a total of more than \$50,000,000 of loan guarantees [LOANS];

5 (2) **a total of** more than \$25,000,000 of loan guarantees [LOANS] in

6 which the amount of the loan guarantee exceeds \$500,000.

7 \* **Sec. 11.** AS 44.88.550(a) is amended to read:

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

11 \* **Sec. 12.** AS 44.88.560 is amended to read:

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

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

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

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

18 (4) charge

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

21 (B) any other reasonable fee that the authority may establish by  
22 regulation;

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

26 (6) exercise any other power necessary to implement AS 44.88.500 -  
27 44.88.599; and

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

1 \* **Sec. 13.** AS 44.88.900(3) is amended to read:

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

4 \* **Sec. 14.** AS 44.88.900(7) is repealed and reenacted to read:

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

9 \***Sec. 15.** AS 44.88.900(9) is amended to read:

10 (9) "project" means

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

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

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

21 (D) a plant or facility demonstrating technological advances of  
22 new methods and procedures and prototype commercial applications for the  
23 exploration, development, production, transportation, conversion, and use of  
24 energy resources;

25 (E) infrastructure for a new tourism destination facility or for  
26 the expansion of a tourism destination facility;

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

30 \* **Sec. 16.** AS 44.88.500(b), 44.88.542, 44.88.599(1), and 44.88.900(14) are repealed.

31 \* **Sec. 17.** The following are repealed:

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

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

4 \* **Sec. 18.** (a) The Alaska Industrial Development and Export Authority (AIDEA) may  
5 issue bonds to finance the expansion, improvement, and modification of the existing port  
6 facilities owned by AIDEA with respect to the DeLong Mountain transportation system and  
7 to finance the construction of new facilities to be owned by AIDEA related to the DeLong  
8 Mountain transportation system, or may finance these projects by other means available to  
9 AIDEA. The principal amount of the bonds and other financing provided by AIDEA may not  
10 exceed \$60,000,000.

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

13 \* **Sec. 19.** (a) Upon approval of the Alaska Industrial Development and Export Authority  
14 (AIDEA), AIDEA may acquire the Snettisham hydroelectric project and related assets from  
15 the Alaska Power Administration.

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

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

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

31 \* **Sec. 20.** This Act takes effect immediately under AS 01.10.070(c).