

CS FOR SENATE BILL NO. 222(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered: 3/18/96

Referred: TRA, FIN

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

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 Authority
8 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 **to**
11 **assist in the financing of a development project under AS 44.88.172 - 44.88.177**
12 **[, 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 the
3 authority. In this subsection "cost of funds" means the true interest cost expressed as a
4 rate on tax-exempt bonds of the authority plus an additional percentage as determined
5 by the authority to represent the allocable expenses of operation, costs of issuance, and
6 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 this
11 subsection "cost of funds" means the true interest cost expressed as a rate on taxable
12 bonds, plus an additional percentage as determined by the authority to represent the
13 allocable expenses of operation, costs of issuance, and loan servicing costs.

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

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

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

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

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

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

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

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

31 (2) present to the legislature by January 10 of each year a complete
32 accounting of all assets of the authority and a report of the review and determination

1 made under (1) of this subsection; the accounting shall be audited by the auditor who
2 conducts the audit required by AS 44.88.200 and must include a full description of all
3 loan interest and principal payments and program receipts, including

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

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

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

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

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

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

16 * **Sec. 8.** AS 44.88.530 is amended to read:

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

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

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

23 * **Sec. 9.** AS 44.88.535(a) is amended to read:

24 (a) The authority 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 authority;

28 (C) is secured by adequate collateral; however, the authority may
29 waive on a case-by-case basis the requirement of collateral **in the manner and**
30 **under requirements established by the authority by regulation** [FOR A
31 LOAN GUARANTEE OF \$75,000 OR LESS FOR WHICH THE PROPOSED
32 LOAN AMORTIZATION PERIOD DOES NOT EXCEED FIVE YEARS], but

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

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

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

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

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

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

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

16 * **Sec. 10.** AS 44.88.535(b) is amended to read:

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;

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 the
23 loan.

24 * **Sec. 11.** AS 44.88.540 is amended to read:

25 Sec. 44.88.540. LIMITATIONS OF GUARANTEES [FROM THE FUND]. The
26 authority may not issue a total of [GUARANTEE]

27 (1) [A TOTAL OF] more than \$50,000,000 of loan guarantees
28 [LOANS];

29 (2) more than \$25,000,000 of loan guarantees [LOANS] in which the
30 amount of the loan guarantee exceeds \$500,000.

31 * **Sec. 12.** AS 44.88.550(a) is amended to read:

32 (a) The maximum interest rate that may be charged by a financial institution

1 on a loan guaranteed by the authority is two and three-quarters percentage points above
2 the prime rate.

3 * **Sec. 13.** AS 44.88.560 is amended to read:

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

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

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

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

10 (4) charge

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

13 (B) any other reasonable fee that the authority may establish by
14 regulation;

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

18 (6) exercise any other power necessary to implement AS 44.88.500 -
19 44.88.599; and

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

24 * **Sec. 14.** AS 44.88.900(3) is amended to read:

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

27 * **Sec. 15.** AS 44.88.900(7) is repealed and reenacted to read:

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

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

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(9) "project" means

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

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

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

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

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

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

* **Sec. 17.** Section 4, ch. 162, SLA 1988, as amended by sec. 4, ch. 25, SLA 1991, and sec. 4, ch. 27, SLA 1993, is amended to read:

Sec. 4. AS 44.88.500 - 44.88.599 are repealed July 1, **1999** [1996].

* **Sec. 18.** AS 44.88.500(b), 44.88.542, 44.88.599(1), and 44.88.900(14) are repealed.

* **Sec. 19.** Sections 1 and 2, ch. 27, SLA 1993, are repealed.

* **Sec. 20.** TRANSITION. On the effective date of this Act, assets of the business assistance fund (AS 44.88.500(a)) shall be transferred to the Alaska Industrial Development and Export Authority revolving fund (AS 44.88.060).

* **Sec. 21.** (a) The Alaska Industrial Development and Export Authority (AIDEA) may issue bonds to finance the expansion, improvement, and modification of the existing port facilities owned by AIDEA with respect to the DeLong Mountain transportation system and to finance the construction of new facilities to be owned by AIDEA related to the DeLong Mountain

1 transportation system, or may finance these projects by other means available to AIDEA. The
2 principal amount of the bonds and other financing provided by AIDEA may not exceed
3 \$60,000,000.

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

6 * **Sec. 22.** (a) Upon approval of the Alaska Industrial Development and Export Authority
7 (AIDEA), AIDEA may acquire the Snettisham hydroelectric project and related assets from the
8 Alaska Power Administration.

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

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

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

24 * **Sec. 23.** This Act takes effect immediately under AS 01.10.070(c).