

HOUSE BILL NO. 288

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE KOTT

Introduced: 5/11/97

Referred: House Special Committee on International Trade and Tourism, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing a small and medium business export finance assistance
2 program."

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

4 * **Section 1.** AS 44 is amended by adding a new chapter to read:

5 **Chapter 90. Small and Medium Business Export Finance Assistance Program.**

6 **Sec. 44.90.010. Legislative findings.** The legislature finds that

7 (1) the exporting of goods and services from this state to international
8 markets, particularly Russia, is an important economic stimulus to the growth,
9 development, and stability of the state's businesses in both urban and rural areas, and
10 that these economic activities create needed jobs for the residents of the state;

11 (2) impediments to the entry of small and medium-sized businesses into
12 export markets have restricted growth in exports from the state;

13 (3) particularly significant impediments for many small and medium-
14 sized businesses are the lack of easily accessible information about export opportunities

1 and financing alternatives;

2 (4) there is a need for a small and medium business export finance
3 assistance program that will specialize in providing export assistance to small and
4 medium-sized businesses throughout the state by acquiring information about export
5 opportunities and financial alternatives for exporting, particularly to Russia.

6 **Sec. 44.90.020. Small and medium business export finance assistance**
7 **program authorized; purposes.** (a) A nonprofit corporation, to be known as the
8 small and medium business export finance assistance program, and branches subject
9 to its authority, may be formed under AS 10.20. Except as otherwise provided by this
10 chapter, the operation of the program is governed by AS 10.20.

11 (b) In addition to its powers under AS 10.20.011, the program shall

12 (1) assist small and medium-sized businesses in both urban and rural
13 areas in the financing of export transactions;

14 (2) provide, singly or in conjunction with other organizations,
15 information and assistance to the businesses identified in (1) of this subsection about
16 export opportunities and financing alternatives;

17 (3) provide information to and assist businesses identified in (1) of this
18 section interested in exporting products, including the opportunities available to them
19 in organizing export trading companies under 15 U.S.C. 4001 - 4053 (Export Trading
20 Company Act of 1982), for the purpose of increasing their comparative sales volume
21 and ability to export their products to foreign markets.

22 **Sec. 44.90.030. Board of directors.** (a) The program and its branches shall
23 be governed and managed by a board of 11 directors appointed by the governor. The
24 directors shall serve terms of six years.

25 (b) The directors shall be

26 (1) two representatives of state financial institutions engaged in the
27 financing of export transactions;

28 (2) the executive director of the authority;

29 (3) one representative of business from each judicial district in the
30 state; and

31 (4) one representative of the public selected from each judicial district

1 in the state.

2 (c) The representatives of businesses shall represent at least two different types
3 of businesses in different sized businesses as follows:

4 (1) one representative of a company employing fewer than 100 persons;
5 and

6 (2) one representative of a company employing between 100 and 500
7 persons.

8 (d) A vacancy on the board due to the expiration of a term or for another
9 reason shall be filled by appointment by the governor for the unexpired term.

10 (e) The directors may provide for the payment of their expenses.

11 **Sec. 44.90.040. Powers and duties.** (a) In exercising its powers under
12 AS 44.90.020(b), the program may

13 (1) provide export financial counseling to exporters in the state with
14 annual sales of \$100,000,000 or less if counseling is not available from a for-profit
15 business in the state;

16 (2) contract with the federal government and its agencies to become a
17 program administrator for federally provided country risk insurance programs and for
18 the purposes of this chapter; and

19 (3) take whatever other action may be necessary to accomplish the
20 purposes of this chapter.

21 (b) The program shall make every effort to seek funds for its continued
22 operation that do not come from the treasury of the state.

23 (c) The program may receive gifts, grants, and endowments from public or
24 private sources as may be made from time to time, in trust or by other method, for the
25 use and benefit of the purposes of the program and may spend the money or any
26 income from the money according to the terms of the gifts, grants, or endowments.

27 **Sec. 44.90.050. Export assistance services contract with department.** (a)
28 Notwithstanding the procurement requirements of AS 36.30 (State Procurement Code),
29 the program shall enter into a contract under this chapter with the department. The
30 contract must require the program to provide export assistance services, consistent with
31 AS 44.90.060 - 44.90.120, must have a term of two years, and must require the

1 program to aggressively seek to fund its continued operation from funds that come
 2 from the treasury of the state. The contract must also require the program to report
 3 annually to the department on its success in obtaining funding from other sources.

4 (b) Notwithstanding the procurement requirements of AS 36.30, upon
 5 expiration of the contract, any provisions within the contract applicable to the project
 6 created under AS 44.90.070 shall be automatically renewed without change if the
 7 legislature appropriates funds for administration of the program and the project.

8 (c) The provisions of the contract related to the project may be changed at any
 9 time if the executive director of the authority or the president of the program presents
 10 compelling reasons supporting the need for a contract change to the board of directors
 11 and a majority of the board of directors agrees to the changes.

12 (d) The department and program shall report annually to the Alaska Legislative
 13 Council on the progress of the project.

14 **Sec. 44.90.060. Small and medium business export finance assistance**
 15 **program fund.** The small and medium business export finance assistance program
 16 fund is created as a separate account in the general fund. The fund consists of
 17 appropriations made to the fund by the legislature and other money received by the
 18 fund. Subject to appropriation, expenditures from the fund may be used for the
 19 purposes of funding the services of the program and the project under this chapter.
 20 Only the president of the program or the president's designee may authorize
 21 expenditures from the fund. The president of the program may not withhold funds
 22 appropriated for the administration of the program and the project if the program
 23 complies with the provisions of its contract under AS 44.90.050. Funding appropriated
 24 by the state may not be used to provide services to other states or to foreign
 25 governmental entities.

26 **Sec. 44.90.070. State export assistance project.** (a) The state export
 27 assistance project is created to

28 (1) assist businesses that are relatively new to exporting and that have
 29 gross annual revenues less than \$25,000,000 with comprehensive services for designing
 30 and managing introductory export strategies and in securing financing and credit
 31 guarantees for export transactions;

1 (2) provide, in cooperation with the export promotion services offered
2 by the department, information and assistance to businesses with gross annual revenues
3 less than \$25,000,000 about the methods and procedures of structuring company
4 specific export financing and credit guarantee alternatives; and

5 (3) provide information about opportunities in organizing cooperative
6 export networks, foreign sales corporations, or export trading companies under
7 15 U.S.C. 4001 - 4053 (Export Trading Company Act of 1982) for the purpose of
8 increasing comparative sales volume and the ability to export products to foreign
9 markets.

10 (b) The project is a separate branch of the program for accounting and auditing
11 purposes.

12 (c) The project is subject to the authority of the program under AS 44.90.020
13 and is governed and managed by the program's board of directors under AS 44.99.030.

14 (d) The project shall make every effort to obtain funds that are not from the
15 treasury of the state to fund its operations.

16 **Sec. 44.90.080. Project duties and powers.** (a) When exercising its authority
17 under AS 44.90.070(a)(3), the program may

18 (1) offer comprehensive export assistance and counseling to businesses
19 that are relatively new to exporting and that have gross annual revenues less than
20 \$25,000,000; as close to 75 percent as possible of the program's new clients each year
21 must have gross annual revenues of less than \$5,000,000 at the time of their initial
22 contract; counseling may include

23 (A) helping clients obtain debt or equity financing, constructing
24 competent proposals, and assessing federal guarantee and insurance programs
25 that underwrite exporting risk;

26 (B) advising clients on their products, guarantees, and post-sales
27 service requirements necessary to compete effectively in a foreign market;

28 (C) designing a competitive strategy for a firm's products in
29 targeted markets and methods of minimizing commercial and political risks;
30 and

31 (D) securing for clients specific assistance as needed, outside

1 the program's field of expertise, by referrals to other public or private
2 organizations.

3 (2) sign three-year counseling agreements with its clients that provide
4 for termination if adequate funding for the project is not provided in future
5 appropriations; counseling agreements may not be renewed unless there are compelling
6 reasons for renewal, and may not be renewed for more than two additional years; a
7 counseling agreement may not be renewed more than once; the counseling agreements
8 must have mutual performance clauses that, if not met, will be grounds for releasing
9 each party, without penalty, from the provisions of the agreement; a client shall be
10 immediately released from a counseling agreement with the project, without penalty,
11 if the client wishes to switch to a private export management service and produces a
12 valid contract signed with a private export management service, or if the president of
13 the program determines there are compelling reasons to release a client from the
14 provisions of the counseling agreement;

15 (3) contract with private or public international trade education services
16 to provide project clients with training in international business; the president and
17 board of directors of the program shall decide the amount of funding allocated for
18 educational services based on the availability of resources in the operating budget of
19 the project;

20 (4) provide biennial assessments of its performance; project personnel
21 shall work with the Department of Revenue and the Department of Labor to
22 confidentially track the performance of the project's clients in increasing tax revenues
23 to the state, increasing gross sales revenues and volume of products destined to foreign
24 clients, and in creating new jobs for state citizens; a biennial report shall be prepared
25 for the governor and legislature to assess the costs and benefits to the state from
26 creating the project; the president of the program shall design an appropriate
27 methodology for biennial assessments in consultation with the department; the
28 Department of Revenue and the Department of Labor shall provide data necessary to
29 complete the biennial evaluation, if the data being requested is available from existing
30 data bases; client-specific information generated from the files of the Department of
31 Revenue and the Department of Labor for the evaluation shall be kept strictly

1 confidential by each department and the program; and

2 (5) take whatever action may be necessary to accomplish the purposes
3 stated in AS 44.90.060 - 44.90.080.

4 (b) When exercising its authority under AS 44.90.070(a), the program shall
5 encourage the authority, the federal Small Business Administration, private financial
6 institutions experienced with international trade, the division of trade and development
7 of the department, and state, federal, and private organizations that promote
8 international trade to refer persons operating or interested in operating export
9 businesses to the program in order to avoid duplicating export programs and in order
10 to screen businesses for export financing assistance resources.

11 (c) The project may not provide counseling or assistance for the importation
12 of foreign made goods into the United States.

13 (d) The project shall focus its efforts on facilitating export transactions for its
14 clients and providing the technical services appropriate to accomplish its goals, either
15 with staff or outside consultants.

16 (e) The project may not assume ownership of or take title to the goods of its
17 clients.

18 (f) The program may solicit and receive gifts, grants, and endowments from
19 public or private sources as may be made from time to time, in trust or by other
20 method, for the use and benefit of the purposes of the project and spend the money
21 and any income from the money according to the terms of the gifts, grants, or
22 endowments.

23 **Sec. 44.90.100. Emphasis on trade with Russia.** When carrying out their
24 duties and powers under this chapter, the program and the project shall tailor their
25 programs to emphasize businesses exporting goods or services to Russia.

26 **Sec. 44.90.110. Debts and use of funds.** Debts of the program are program
27 debts only and may be satisfied only from the resources of the program. Debts of the
28 project are project debts only and may be satisfied only from the resources of the
29 project. The state is not liable for the debts of the program or the project.

30 **Sec. 44.90.120. Fees for services.** The program and the project are authorized
31 to charge reasonable fees for services.

1 **Sec. 44.90.140. Regulations.** The department may adopt regulations under
2 AS 44.62 (Administrative Procedure Act) to carry out the purposes of this chapter.

3 **Sec. 44.90.190. Definitions.** In this chapter,

4 (1) "authority" means the Alaska Industrial Development and Export
5 Authority created under AS 44.88.020;

6 (2) "department" means the Department of Commerce and Economic
7 Development;

8 (3) "program" means the small and medium business export finance
9 assistance program authorized under AS 44.90.020;

10 (4) "project" means the state export assistance project created under
11 AS 44.90.070.

12 * **Sec. 2. TRANSITION.** Notwithstanding AS 44.90.030, enacted by sec. 1 of this Act,
13 two of the initial directors who are appointed to the board of directors of the small and
14 medium business export finance assistance program under AS 44.90.030 shall serve for two
15 years and two shall serve for four years.