

HOUSE BILL NO. 304

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/21/00

Referred: Community and Regional Affairs, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to issuance and sale of revenue bonds to fund drinking water
2 projects, to creation of an Alaska clean water administrative fund and an Alaska
3 drinking water administrative fund, to fees to be charged in connection with loans
4 made from the Alaska clean water fund and the Alaska drinking water fund, and
5 to clarification of the character and permissible uses of the Alaska drinking water
6 fund; amending Rule 3, Alaska Rules of Civil Procedure; and providing for an
7 effective date."

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

9 * **Section 1.** AS 37.15.560(a) is amended to read:

10 (a) For purposes of providing part of the money to be used to provide financial
11 assistance to municipalities and other qualified entities under AS 46.03.032 and
12 46.03.036 [FOR THE PURPOSES STATED IN AS 46.03.032(d)], including the costs
13 of bond issuance and administration, the issuance and sale of revenue bonds of the

1 state is authorized subject to (b) of this section. The bonds are to be issued by the
 2 state bond committee, as provided in AS 37.15.560 - 37.15.605, as part of the Alaska
 3 clean water fund **and the Alaska drinking water fund** revolving loan fund **programs**
 4 [PROGRAM] (AS 46.03.032 **and 46.03.036**), [A] public **enterprises** [ENTERPRISE]
 5 of the state. The net proceeds of the sale of the bonds, remaining after any payment
 6 of costs of issuance and administration, shall be paid into the Alaska clean water fund
 7 **or the Alaska drinking water fund respectively**. Accrued interest paid on the bonds
 8 shall be paid into the Alaska clean water fund **or the Alaska drinking water fund** for
 9 transfer to the Alaska clean water fund revenue bond redemption fund **or the Alaska**
 10 **drinking water fund revenue bond redemption fund** (AS 37.15.565) **respectively**.

11 * **Sec. 2.** AS 37.15.560(b) is amended to read:

12 (b) The state bond committee may not issue more than \$15,000,000 in revenue
 13 bonds under AS 37.15.560 - 37.15.605 during a fiscal year **for each revolving loan**
 14 **fund program referred to in (a) of this section**, excluding refunding bonds. The
 15 total unpaid principal amount of revenue bonds, including refunding bonds, but
 16 excluding refunded bonds, issued under AS 37.15.560 - 37.15.605, may not exceed
 17 \$150,000,000 **for each program**.

18 * **Sec. 3.** AS 37.15.565 is amended to read:

19 **Sec. 37.15.565. Bond redemption funds [FUND].** (a) There **are** [IS]
 20 established [A] special **funds** [FUND] of the state, known as the "Alaska clean water
 21 fund revenue bond redemption fund[,]" **and the "Alaska drinking water fund**
 22 **revenue bond redemption fund,**" which **are** [IS A] trust **funds** [FUND] for paying
 23 and securing the payment of the principal of and interest and redemption premium, if
 24 any, on the bonds and which shall be at all times completely segregated and set apart
 25 from all other funds of the state. The committee, on behalf of the state, may obligate
 26 and bind the state to set aside and pay into the bond redemption **funds** [FUND], on
 27 a monthly or other periodic basis, any part or parts of, or all of, or a fixed proportion
 28 of, or a fixed amount of the money in the Alaska clean water fund (AS 46.03.032) **or**
 29 **the Alaska drinking water fund (AS 46.03.036)** sufficient to pay the principal of and
 30 interest and redemption premium, if any, on the bonds and, if it considers it necessary,
 31 to set aside and maintain reserves for this purpose. The bond redemption **funds**

1 [FUND] shall be drawn upon only for the purpose of paying the principal of and
 2 interest and redemption premium, if any, on the bonds, together with related trustee
 3 fees, if any.

4 (b) Money in the bond redemption **funds** [FUND] may be invested in the same
 5 manner and on the same conditions as permitted for investment of money belonging
 6 to the state or held in the treasury under AS 37.10.070; however, the committee may
 7 agree with the bondholders to further limit these investments. Earnings on investments
 8 must be retained in the bond redemption **funds** [FUND].

9 (c) Separate accounts may be created in the bond redemption **funds** [FUND]
 10 for the purposes of paying and securing the bonds. The accounts may be combined
 11 for purposes of investment **and for financial support to achieve the purposes of**
 12 **AS 37.15.570(c)**.

13 * **Sec. 4.** AS 37.15.570(c) is amended to read:

14 (c) The committee may pledge to the payment of the principal of and interest
 15 on bonds issued by the committee part or all of the legally available money or other
 16 assets on hand in the Alaska clean water fund (AS 46.03.032) **or the Alaska drinking**
 17 **water fund (AS 46.03.036)**; part or all of the revenue of the Alaska clean water fund
 18 **or the Alaska drinking water fund**, including federal capitalization grants, the
 19 proceeds of loan repayments, and interest on money in the **funds** [FUND]; the
 20 proceeds of the sale of bonds; and money on hand in the bond redemption **funds**
 21 [FUND]. Revenue of the Alaska clean water fund **or the Alaska drinking water**
 22 **fund**, if so pledged, must be paid into the Alaska clean water fund **or the Alaska**
 23 **drinking water fund, respectively**. The committee may provide for the issuance of
 24 additional bonds, secured by a pledge of such money and revenue, ranking junior to,
 25 senior to, or on a parity with, outstanding bonds, upon conditions prescribed in the
 26 bond resolution. A pledge of loan repayments securing bonds may be made applicable
 27 to specific loans from the Alaska clean water fund **or the Alaska drinking water**
 28 **fund**, or, on a pooled basis, to all loan repayments received.

29 * **Sec. 5.** AS 37.15.570(d) is amended to read:

30 (d) If the committee finds it reasonably necessary, the committee may select
 31 a trustee or trustees for the holders of the bonds, or any series of them, for the

1 safeguarding and disbursement of any of the money in the bond redemption **fund**
2 [FUND] created by AS 37.15.565, or for duties with respect to the enforcement,
3 authentication, delivery, payment, and registration of the bonds as the committee may
4 determine. The committee shall fix the rights, duties, powers, and obligations of the
5 trustee or trustees.

6 * **Sec. 6.** AS 37.15.570(e) is amended to read:

7 (e) In its determination of all matters and questions relating to the issuance and
8 sale of the bonds and the fixing of their maturities, terms, conditions, and covenants
9 as provided in (a) - (d) of this section, the decisions of the committee shall be those
10 that are reasonably necessary for the best interests of the state and its inhabitants and
11 that will accomplish the most advantageous sale of the bonds, with due regard,
12 however, for the continued funding under AS 46.03.032 **and AS 46.03.036** of the
13 categories of projects identified in AS 46.03.032(d) **and 46.03.036(b)**. Decisions of
14 the committee, as expressed in a bond resolution, are final and are conclusively
15 considered to comply with the requirements of AS 37.15.560 - 37.15.605 and
16 AS 46.03.032 **and 46.03.036**.

17 * **Sec. 7.** AS 37.15.570(f) is amended to read:

18 (f) A bond resolution may provide that the bonds issued must contain a recital
19 that they are issued under AS 37.15.560 - 37.15.605 and AS 46.03.032 **or 46.03.036,**
20 **respectively**, and a bond containing this recital is conclusively considered to be valid
21 and to have been issued in conformity with AS 37.15.560 - 37.15.605 and **with**
22 AS 46.03.032 **or 46.03.036, respectively**.

23 * **Sec. 8.** AS 37.15.573 is amended to read:

24 **Sec. 37.15.573. Bond resolution.** The committee shall authorize the issuance
25 of bonds by adopting a resolution and shall prepare all other documents and
26 proceedings necessary for the issuance, sale, and delivery of the bonds or any part or
27 series of them. The bond resolution must fix the principal amount, denominations,
28 date, maturities, manner of sale, place or places of payment, rights of redemption, if
29 any, terms, form, conditions, and covenants of the bonds or each series of them. A
30 bond resolution may state terms, conditions, amounts, and other limitations on loans
31 to be made from the Alaska clean water fund (AS 46.03.032) **or the Alaska drinking**

1 **water fund (AS 46.03.036), respectively,** from the relevant bond proceeds.

2 * **Sec. 9.** AS 37.15.575 is amended to read:

3 **Sec. 37.15.575. State aid intercept.** If a municipality is in the default on the
4 payment of principal or interest on a loan from the Alaska clean water fund
5 (AS 46.03.032) **or the Alaska drinking water fund (AS 46.03.036),** the committee
6 may provide written notice of default to any state agency that is the custodian of
7 money that is payable to the municipality. If the committee determines to provide
8 notice, a separate written notice shall be given in each instance of default.
9 Notwithstanding any other provision of law, at any time after receipt of written notice
10 of default, the agency head shall withhold payment of the money from the
11 municipality. The agency head shall pay over the withheld money to the committee
12 for deposit in the Alaska clean water fund **or the Alaska drinking water fund,**
13 **respectively,** for the purpose of paying or securing the principal and interest on the
14 loan.

15 * **Sec. 10.** AS 37.15.580 is amended to read:

16 **Sec. 37.15.580. Pledge of the state.** The state pledges to and agrees with the
17 holders of bonds issued by the committee under AS 37.15.560 - 37.15.605 and
18 AS 46.03.032 **or 46.03.036, respectively,** that the state will not limit or alter the rights
19 and powers vested in the committee by AS 37.15.560 - 37.15.605 and **by**
20 AS 46.03.032 **or 46.03.036, respectively,** to fulfill the terms of any contract made by
21 the committee with the holders, or in any way impair the rights and remedies of the
22 holders until the principal amount of the bonds, together with the interest on them with
23 interest on unpaid installments of interest, are fully met and discharged. The
24 committee may include this pledge and agreement of the state in a contract with the
25 holders.

26 * **Sec. 11.** AS 37.15.583(a) is amended to read:

27 (a) The owner or owners of not less than 10 percent of the aggregate principal
28 amount of any series or issue of bonds or the trustee for the owners of the bonds or
29 any series of them may, by appropriate proceedings in state court, require and compel
30 the transfer, setting aside, and payment of money and the enforcement of all of the
31 terms, conditions, and covenants as required and provided in AS 37.15.560 -

1 37.15.605, AS 46.03.032 or 46.03.036, respectively, and the bond resolution.

2 * **Sec. 12.** AS 37.15.585 is amended to read:

3 **Sec. 37.15.585. Amounts required for payments.** The committee shall,
4 before June 30 of each year or from time to time within the year, as appropriate,
5 commencing with the year in which the bonds are issued, certify to the commissioners
6 of revenue and environmental conservation the amounts required in the current fiscal
7 year and the next ensuing fiscal year by the bond resolution or resolutions to be paid
8 out of the Alaska clean water fund or the Alaska drinking water fund into the
9 respective bond redemption funds [FUND] and to be paid into and maintained in any
10 reserve fund or account or other fund or account created by the bond resolution or
11 resolutions, and shall also certify to the commissioners the last date or dates upon
12 which payments may be made.

13 * **Sec. 13.** AS 37.15.587 is amended to read:

14 **Sec. 37.15.587. Purposes and sufficiency of revenue.** The proceeds of bonds
15 may be used for the purposes described in AS 46.03.032 or 46.03.036, respectively
16 [AS 46.03.032(d)]. Bonds may not be issued unless the committee first finds that
17 revenue to be derived from repayment of loans from the Alaska clean water fund or
18 the Alaska drinking water fund, respectively, will be sufficient, together with other
19 available money, to comply with all covenants of the bond resolutions.

20 * **Sec. 14.** AS 37.15.590(b) is amended to read:

21 (b) The issuance of refunding bonds need not be authorized by the voters of
22 the state or by an act of the legislature. The committee shall adopt the resolution or
23 resolutions and prepare all other documents and proceedings necessary for the
24 issuance, exchange or sale, and delivery of the refunding bonds. All provisions of
25 AS 37.15.560 - 37.15.605, and of AS 46.03.032 and 46.03.036, respectively,
26 applicable to revenue bonds are applicable to the refunding bonds and to the issuance,
27 sale, or exchange of them, except as otherwise provided in this section.

28 * **Sec. 15.** AS 37.15.605(1) is amended to read:

29 (1) "bond redemption funds [FUND]" means the Alaska clean water
30 fund revenue bond redemption fund and the Alaska drinking water fund revenue
31 bond redemption fund established in AS 37.15.565, as applicable;

1 * **Sec. 16.** AS 37.15.605(3) is amended to read:

2 (3) "bonds" means the Alaska clean water fund revenue bonds or the
3 Alaska drinking water fund revenue bonds authorized in AS 37.15.560 - 37.15.605,
4 as applicable;

5 * **Sec. 17.** AS 37.15.605(7) is amended to read:

6 (7) "costs of issuance and administration" means all costs associated
7 with issuance and administration of Alaska clean water fund revenue bonds or the
8 Alaska drinking water fund revenue bonds, as applicable, and refunding bonds,
9 including costs of bond printing, official statements, financial advisors, travel costs,
10 rating agencies, bond insurance, letters and lines of credit for credit enhancement,
11 underwriters, legal services, paying agents, bonds registrars, bond and escrow trustees,
12 arbitrage rebate, and all other costs, including administrative costs, both direct and
13 indirect.

14 * **Sec. 18.** AS 46.03.034 is repealed and reenacted to read:

15 **Sec. 46.03.034. Alaska clean water administrative fund.** (a) The Alaska
16 clean water administrative fund is established as a separate fund that is distinct from
17 other money or funds in the treasury. The fund is composed of two accounts, the

18 (1) Alaska clean water administrative operating account; and

19 (2) Alaska clean water administrative income account.

20 (b) The legislature may appropriate to the Alaska clean water administrative
21 operating account the annual balance of the Alaska clean water administrative income
22 account.

23 (c) The department shall administer the Alaska clean water administrative
24 fund.

25 (d) The Alaska clean water administrative operating account may be used to
26 pay for the department's operational and administrative costs necessary to manage the
27 Alaska clean water fund and the Alaska clean water administrative fund and for such
28 other purposes permitted by federal law.

29 (e) Money received in payment of fees charged by the department under the
30 authority of AS 46.03.035 and earnings on the Alaska clean water administrative fund
31 shall be deposited in the Alaska clean water administrative income account.

1 * **Sec. 19.** AS 46.03 is amended by adding a new section to read:

2 **Sec. 46.03.035. Fees charged for loans made from the Alaska clean water**
3 **fund.** The department may charge and collect reasonable fees in connection with
4 making and servicing loans made by the department under the authority of
5 AS 46.03.032. The department shall by regulation specify the rates and amounts of
6 such fees.

7 * **Sec. 20.** AS 46.03.036 is repealed and reenacted to read:

8 **Sec. 46.03.036. Alaska drinking water fund.** (a) The Alaska drinking water
9 fund is established as a separate fund that is distinct from other money or funds in the
10 treasury. The fund shall be administered by the department. The Alaska drinking
11 water fund consists of the following items, all of which shall be deposited into the
12 fund upon receipt:

13 (1) the proceeds and accrued interest received from the sale of revenue
14 bonds issued under AS 37.15.560 - 37.15.605 and secured by the Alaska drinking
15 water fund;

16 (2) money appropriated by the legislature, including federal
17 capitalization grants;

18 (3) loan repayments; and

19 (4) interest received from loan repayments and interest received from
20 investment of money in the Alaska drinking water fund.

21 (b) Except as otherwise limited by federal law, the department may use money
22 in the Alaska drinking water fund to

23 (1) provide financial assistance to municipalities for municipal drinking
24 water system projects, including projects to plan, design, build, construct, or
25 rehabilitate a public drinking water collection, storage, treatment, or distribution
26 system;

27 (2) earn interest on the amounts deposited in the fund;

28 (3) pay the costs of administering the fund and conducting activities
29 under this section and AS 37.15.560 - 37.15.605, including the "costs of issuance and
30 administration" as defined in AS 37.15.605;

31 (4) to pay and secure the payment of the principal of and interest on

1 revenue bonds issued by the state and to pay the costs of issuance and administration
2 of the bonds, so long as the proceeds of the bond sale are deposited in the Alaska
3 drinking water fund;

4 (5) to pay

5 (A) into the bond redemption fund (AS 37.15.565), and into any
6 other bond redemption fund or account created by a relevant bond resolution,
7 the amount certified by the state bond committee under AS 37.15.585; and

8 (B) the costs of the state bond committee in conducting
9 activities under this section and AS 37.15.560 - 37.15.605, including the costs
10 of issuance and administration as defined in AS 37.15.605.

11 (c) Repayment of loans shall be secured in a manner that the department
12 determines is feasible to assure prompt repayment under a loan agreement entered into
13 with the borrower.

14 (d) Separate accounts may be created in the Alaska drinking water fund. The
15 accounts may be combined for purposes of investment.

16 (e) The department may adopt regulations necessary to implement the Alaska
17 drinking water fund in a manner consistent with federal law.

18 (f) A municipality wishing to borrow money from the Alaska drinking water
19 fund shall demonstrate to the satisfaction of the department that it

20 (1) has sufficient legal authority to incur the debt for which it is
21 applying; and

22 (2) will establish and maintain a dedicated source of revenue or other
23 acceptable revenue source for repayment of the loan and sufficient reserves for the
24 loan as may be necessary.

25 (g) Allocation of Alaska drinking water fund loans shall be made in
26 accordance with a priority list developed by the department, using criteria specified in
27 regulations adopted by the department.

28 (h) Before making a loan from the Alaska drinking water fund, the department
29 shall, by regulation, specify

30 (1) standards for the eligibility of borrowers and the type of projects
31 to be financed with loans;

- 1 (2) loan term and interest rate policies for loans made from the fund;
 2 (3) standards regarding the technical and economic viability and
 3 revenue of self-sufficiency of eligible projects;
 4 (4) collateral or other security required for loans;
 5 (5) terms of loans; and
 6 (6) other relevant criteria, standards, or procedures.

7 (i) Except as necessary to comply with the covenants of a bond resolution
 8 under AS 37.15.573, a loan made by the department shall be made according to the
 9 standards, criteria, and procedures, established by regulations under this section. A
 10 loan made from the Alaska drinking water fund may be subject to the state aid
 11 intercept provisions of AS 37.15.575.

12 (j) The department shall also prepare reports and notices, including notices of
 13 default, required by the state bond committee in conjunction with bonds issued under
 14 AS 37.15.560 - 37.15.605.

15 (k) Regulations adopted by the department under this section that would affect
 16 issuance or repayment of revenue bonds under AS 37.15.560 - 37.15.605 may not be
 17 inconsistent with those statutes or with regulations adopted by the state bond
 18 committee under those statutes. To the extent that regulations adopted by the
 19 department are inconsistent with AS 37.15.560 - 37.15.605, with regulations adopted
 20 by the state bond committee under those statutes, or with the covenants of a bond
 21 resolution adopted under AS 37.15.573, the provisions of AS 37.15.560 - 37.15.605,
 22 the regulations adopted under those statutes, and the covenants of the bond resolution
 23 govern.

24 * **Sec. 21.** AS 46.03.038 is repealed and reenacted to read:

25 **Sec. 46.03.038. Alaska drinking water administrative fund.** (a) The Alaska
 26 drinking water administrative fund is established as a separate fund that is distinct from
 27 other money or funds in the state treasury. The fund is composed of two accounts, the

28 (1) Alaska drinking water administrative operating account; and

29 (2) Alaska drinking water administrative income account.

30 (b) The legislature may appropriate to the Alaska drinking water administrative
 31 operating account the annual balance of the Alaska drinking water administrative

1 income account.

2 (c) The department shall administer the Alaska drinking water administrative
3 fund.

4 (d) The Alaska drinking water administrative operating account may be used
5 to pay for the department's operational and administrative costs necessary to manage
6 the Alaska drinking water fund and the Alaska drinking water administrative fund and
7 for such other purposes permitted by federal law.

8 (e) Money received in payment of fees charged by the department under the
9 authority of AS 46.03.039 and earnings on the Alaska drinking water administrative
10 fund shall be deposited in the Alaska drinking water administrative income account.

11 * **Sec. 22.** AS 46.03 is amended by adding a new section to read:

12 **Sec. 46.03.039. Fees charged for loans made from the Alaska drinking**
13 **water fund.** The department may charge and collect reasonable fees in connection
14 with making and servicing loans made by the department under the authority of
15 AS 46.03.036. The department shall by regulation specify the rates and amounts of
16 such fees.

17 * **Sec. 23.** The uncodified law of the State of Alaska is amended by adding a new section
18 to read:

19 **INDIRECT COURT RULE AMENDMENT.** (a) The provisions of sec. 11 of this Act
20 have the effect of changing Rule 3, Alaska Rules of Civil Procedure, by limiting, to the
21 Superior Court for the State of Alaska, First Judicial District at Juneau, the venue district in
22 which a proceeding under AS 37.15.583(a) may be commenced and conducted.

23 (b) Section 11 of this Act takes effect only if (a) of this section receives the two-thirds
24 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

25 * **Sec. 24.** The uncodified law of the State of Alaska is amended by adding a new section
26 to read:

27 **TRANSITION: REGULATIONS.** The respective state agencies may proceed to adopt
28 any regulations necessary to implement their duties under this Act. The regulations take effect
29 under AS 44.62 (Administrative Procedure Act), but not before the effective date of secs. 1 -
30 22 of this Act.

31 * **Sec. 25.** Section 24 of this Act takes effect immediately under AS 01.10.070(c).