CS FOR HOUSE BILL NO. 495(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 3/3/04
Referred: Rules

Sponsor(s): REPRESENTATIVES WILLIAMS, Foster, Ogg, Lynn

A BILL

FOR AN ACT ENTITLED

"An Act allowing a joint action agency to encumber property interests for security purposes; declaring certain joint action agencies to be political subdivisions for certain purposes; restricting the sale of property of the joint action agency; allowing the joint action agency to transfer property to security interest holders under a security interest or to other parties without legislative approval; and providing for an effective date."

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

*** Section 1.** AS 42.45.310(c) is amended to read:

(c) The agency is a body corporate and politic and an instrumentality of the public utilities that form the agency, but has a separate and independent legal existence from the public utilities. A debt, obligation, or liability of the agency does not constitute a debt, obligation, or liability of a public utility or the state. A liability incurred by the agency shall be satisfied exclusively from the assets or revenue of the agency, and a creditor of the agency or any other person does not have any right of

action or claim against a public utility or the state, because of a debt, obligation, or liability of the agency. The agency has the powers of a public utility under AS 42.05 and the immunities of a public utility. In addition to the powers granted to the agency under AS 42.45.300 and this section, the agency has the power

(1) to adopt bylaws of the agency;

(2) to sue and be sued;

(3) to carry out the authorized purposes of the agency;

(4) subject to (e) of this section, to issue revenue bonds and other obligations that are not obligations of either the state or the public utilities that are parties to the agency agreement to provide financing to carry out the authorized purposes of the agency; [AND]

(5) in addition to the powers of eminent domain in AS 42.05.631, to exercise the powers of eminent domain and a declaration of taking to acquire land or materials within the boundaries of the power project purchased by the agency from the Alaska Energy Authority under the procedures set out in AS 09.55.240 - 09.55.460 to carry out the authorized purposes of a joint action agency**; and**

(6) to use facilities, projects, and related assets owned, leased, or operated by the joint action agency as security for bonds, notes, mortgages, credit enhancement devices, or other obligations.

*** Sec. 2.** AS 42.45.310(h) is amended to read:

(h) An agency formed by, and that continues to include, one or more municipal public utilities is a political subdivision for purposes of AS 38.05.810**, and functions as a political subdivision in the acquisition and ownership of the power project under the agreement authorized by this section. Except as provided in this subsection, the agency is not a political subdivision of the state**.

*** Sec. 3.** AS 42.45.310 is amended by adding new subsections to read:

(j) The agency may not sell a project owned by the agency to any purchaser without the approval of the legislature in advance of the effective date of the sale, except that a sale made to a public utility that is a party to the agreement does not require legislative approval.

(k) Notwithstanding (j) of this section, the project and related assets may be

transferred in connection with a foreclosure or other enforcement of a lien or security interest to a party holding a lien or security interest acquired under (c)(6) of this section or to another party without legislative approval. A party obtaining a property interest under this subsection may transfer that interest without legislative approval.

*** Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to read:

LEGISLATIVE AUTHORIZATION TO AMEND MEMORANDUM OF UNDERSTANDING REGARDING SALE OF FOUR DAM POOL HYDROELECTRIC PROJECT. Notwithstanding the restriction imposed by sec. 15(a), ch. 60, SLA 2000, the memorandum of understanding that authorizes the sale of the four dam pool hydroelectric project may be amended consistent with the provisions of AS 42.45.310(j) and (k), added by sec. 3 of this Act, if sec. 3 of this Act becomes effective.

*** Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).