

SENATE BILL NO. 337

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/16/04

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the powers of the Alaska Energy Authority to make grants and
2 loans and enter into contracts; relating to the bulk fuel revolving loan fund; relating to
3 the Alaska Energy Authority's liability for the provision of technical assistance to rural
4 utilities; relating to the Alaska Energy Authority's investment of the power development
5 fund; repealing the electrical service extension fund; and providing for an effective
6 date."

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

8 * **Section 1.** AS 42.45.010(b) is amended to read:

9 (b) **The** [SUBJECT TO AS 42.45.060, THE] authority may make loans from
10 the power project fund

11 (1) to electric utilities, regional electric authorities, municipalities,
12 regional and village corporations, village councils, independent power producers, and
13 nonprofit marketing cooperatives to pay the costs of

1 (A) reconnaissance studies, feasibility studies, license and
2 permit applications, preconstruction engineering, and design of power projects;

3 (B) constructing, equipping, modifying, improving, and
4 expanding small-scale power production facilities that are designed to produce
5 less than 10 megawatts of power, [CONSERVATION FACILITIES,] bulk fuel
6 storage facilities, and transmission and distribution facilities, including energy
7 production, transmission and distribution, and waste energy, energy
8 conservation, energy efficiency, and alternative energy facilities and
9 equipment [THAT DEPEND ON FOSSIL FUEL, WIND POWER, TIDAL,
10 GEOTHERMAL, BIOMASS, HYDROELECTRIC, SOLAR, OR OTHER
11 NONNUCLEAR ENERGY SOURCES]; and

12 (C) reconnaissance studies, preconstruction engineering,
13 design, construction, equipping, modification, and expansion of potable water
14 supply including surface storage and groundwater sources and transmission of
15 water from surface storage to existing distribution systems;

16 (2) to a borrower for a power project or for bulk fuel, waste energy,
17 energy conservation, energy efficiency, or alternative energy facilities or
18 equipment if

19 (A) the loan is entered into under a leveraged lease financing
20 arrangement;

21 (B) the party that will be responsible for the power project is an
22 electric utility, regional electric authority, municipality, regional or village
23 corporation, village council, independent power producer, or nonprofit
24 marketing cooperative; and

25 (C) the borrower seeking the loan demonstrates to the authority
26 that the financing arrangement for the power project will reduce project
27 financing costs below costs of comparable public power projects.

28 * **Sec. 2.** AS 42.45.010 is amended by adding a new subsection to read:

29 (j) The authority may not enter into a loan from the power project fund for a
30 major project unless it has legislative approval of the project and the amount. An
31 appropriation for the loan that names the project constitutes approval required by this

1 subsection. A major project is a project in which the cumulative state monetary
 2 involvement, through loans, grants, and bonds, is at least \$5,000,000 or a project for
 3 which a loan of more than \$5,000,000 has been requested.

4 * **Sec. 3.** AS 42.45.020(b) is amended to read:

5 (b) **The** [SUBJECT TO AS 42.45.060, THE] authority may make loans from
 6 the rural electrification revolving loan fund to electric utilities certified under
 7 AS 42.05. A loan from the fund may be made only for the purpose of extending new
 8 electric service into an area of the state that an electric utility may serve under a
 9 certificate of public convenience and necessity issued under AS 42.05. A loan may be
 10 made from the fund to an electric utility if the utility invests the money necessary to
 11 provide one pole, one span of line, one transformer, and one service drop for each
 12 consumer for whom immediate service would be provided by the extension of electric
 13 service. However, a loan may not be made from the fund unless the extension of
 14 electric service would provide immediate service to at least three consumers.

15 * **Sec. 4.** AS 42.45.170(a) is amended to read:

16 (a) An electric utility that is not subject to rate regulation by the Regulatory
 17 Commission of Alaska under AS 42.05 may receive power cost equalization if the
 18 utility is otherwise eligible for equalization assistance under AS 42.45.100 - 42.45.150
 19 and if the utility

20 (1) files with the commission financial data necessary to determine the
 21 power cost equalization per kilowatt-hour as prescribed by the commission and that is
 22 in compliance with AS 42.45.100 - 42.45.150;

23 (2) reports monthly to the authority, within the time and in the form
 24 required, the information required in (b) of this section;

25 (3) sets rates

26 (A) that consider the power cost equalization provided under
 27 AS 42.45.100 - 42.45.150 by subtracting from its revenue requirements for
 28 electric services the power cost equalization per kilowatt-hour that it is eligible
 29 to receive; and

30 (B) under which the power cost equalization provided in
 31 **AS 42.45.070 - 42.45.110** [AS 42.45.060 - 42.45.110] is applied as a credit

1 only against the cost of kilowatt-hours eligible for equalization assistance
2 under AS 42.45.100 - 42.45.150 that are consumed by each customer in any
3 month;

4 (4) allows audits that the commission determines are necessary to
5 ensure compliance with this section; and

6 (5) furnishes its electric service customers eligible under this program
7 a notice as specified in AS 42.45.120.

8 * **Sec. 5.** AS 42.45.250(a) is amended to read:

9 (a) The bulk fuel revolving loan fund is established in the authority to assist
10 communities, **utilities providing power in communities, and fuel retailers in**
11 **communities** in purchasing bulk fuel **to generate power or supply the public with**
12 **fuel for use in communities**. A community, or a **person generating power or**
13 **selling fuel in a community** [PRIVATE INDIVIDUAL] who has written
14 endorsement from the governing body of **each** [THE] community **for which a loan**
15 **from the fund is sought**, is eligible for a loan from the bulk fuel revolving loan fund
16 for a [BULK FUEL] purchase **of an emergency supply or a semi-annual or annual**
17 **supply of bulk fuel to be used in the community**.

18 * **Sec. 6.** AS 42.45.250(e) is amended to read:

19 (e) Loans made from the bulk fuel revolving loan fund to one borrower in any
20 fiscal year [ARE NOT SUBJECT TO AS 42.45.060 AND]

21 (1) may not exceed \$300,000;

22 (2) shall be repaid in one year or less; and

23 (3) may not exceed 90 percent of the wholesale price of the fuel
24 purchased.

25 * **Sec. 7.** AS 42.45.250(l) is amended by adding a new paragraph to read:

26 (3) "person" has the meaning given in AS 01.10.060; "person" includes
27 a corporation, a cooperative, a joint venture, and a governmental entity.

28 * **Sec. 8.** AS 42.45.400 is amended by adding a new subsection to read:

29 (c) This section does not create a duty in tort, and may not be the basis for an
30 action against the state, the authority, or the officers, employees, agents, or contractors
31 of either for damages, injury, or death.

1 * **Sec. 9.** AS 44.83.080 is amended to read:

2 **Sec. 44.83.080. Powers of the authority.** In furtherance of its corporate
3 purposes, the authority has the following powers in addition to its other powers:

4 (1) to sue and be sued;

5 (2) to have a seal and alter it at pleasure;

6 (3) to make and alter bylaws for its organization and internal
7 management;

8 (4) to adopt regulations governing the exercise of its corporate powers;

9 (5) to improve, equip, operate, and maintain power projects **and bulk**
10 **fuel, waste energy, energy conservation, energy efficiency, and alternative energy**
11 **facilities and equipment**;

12 (6) to issue bonds to carry out any of its corporate purposes and
13 powers, including the establishment or increase of reserves to secure or to pay the
14 bonds or interest on them, and the payment of all other costs or expenses of the
15 authority incident to and necessary or convenient to carry out its corporate purposes
16 and powers;

17 (7) to sell, lease as lessor or lessee, exchange, donate, convey, or
18 encumber in any manner by mortgage or by creation of any other security interest, real
19 or personal property owned by it, or in which it has an interest, when, in the judgment
20 of the authority, the action is in furtherance of its corporate purposes;

21 (8) to accept gifts, grants, or loans from, and enter into contracts or
22 other transactions regarding them, with any person;

23 (9) to deposit or invest its funds, subject to agreements with
24 bondholders;

25 (10) to enter into contracts with the United States or any person and,
26 subject to the laws of the United States and subject to concurrence of the legislature,
27 with a foreign country or its agencies, for the **construction**, financing, operation, and
28 maintenance of all or any part of a power project **or bulk fuel, waste energy, energy**
29 **conservation, energy efficiency, or alternative energy facilities or equipment**,
30 either inside or outside the state, and for the sale or transmission of power from a
31 project or any right to the capacity of it or for the security of any bonds of the

1 authority issued or to be issued for the project;

2 (11) to enter into contracts with any person and with the United States,
3 and, subject to the laws of the United States and subject to the concurrence of the
4 legislature, with a foreign country or its agencies for the purchase, sale, exchange,
5 transmission, or use of power from a project, or any right to the capacity of it;

6 (12) to apply to the appropriate agencies of the state, the United States,
7 and to a foreign country and any other proper agency for the permits, licenses, or
8 approvals as may be necessary, and to maintain and operate power projects in
9 accordance with the licenses or permits, and to obtain, hold, and use the licenses and
10 permits in the same manner as any other person or operating unit;

11 (13) to enter into contracts or agreements with respect to the exercise
12 of any of its powers, and do all things necessary or convenient to carry out its
13 corporate purposes and exercise the powers granted in this chapter;

14 (14) to recommend to the legislature

15 (A) the pledge of the credit of the state to guarantee repayment
16 of all or any portion of revenue bonds issued to assist in construction of power
17 projects;

18 (B) an appropriation from the general fund

19 (i) for debt service on bonds or other project purposes;

20 or

21 (ii) to reduce the amount of debt financing for the
22 project;

23 (15) to carry out the powers and duties assigned to it under AS 42.45;

24 **(16) to make grants or loans to any person and enter into contracts**
25 **or other transactions regarding the grants or loans.**

26 * **Sec. 10.** AS 44.83.386 is amended to read:

27 **Sec. 44.83.386. Investment of fund.** The **authority** [DEPARTMENT OF
28 REVENUE] shall invest the money in the fund in **the manner provided in**
29 [ACCORDANCE WITH] AS 37.10.070, 37.10.071, and 37.10.075. The **authority**
30 **may withdraw** [DEPARTMENT OF REVENUE SHALL PROVIDE] money **from**
31 [IN] the fund [TO THE AUTHORITY] only after costs have been incurred or amounts

1 in the fund have been otherwise obligated under contracts for the acquisition and
2 construction of a project. [AMOUNTS THAT HAVE BEEN OBLIGATED, BUT
3 FOR WHICH COSTS HAVE NOT YET BEEN INCURRED, MAY BE
4 SEGREGATED BY THE DEPARTMENT OF REVENUE OR TRANSFERRED TO
5 THE AUTHORITY ONLY WITH THE PRIOR APPROVAL OR AGREEMENT OF
6 THE COMMISSIONER OF REVENUE. INCOME RECEIVED ON MONEY THAT
7 IS SEGREGATED OR TRANSFERRED UNDER THIS SECTION MUST BE
8 DEPOSITED IN THE GENERAL FUND.]

9 * **Sec. 11.** AS 42.45.060, 42.45.200, and 42.45.250(*I*)(1) are repealed.

10 * **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 RETROACTIVITY. Sections 5 and 7 of this Act are retroactive to June 1, 1984.

13 * **Sec. 13.** This Act takes effect immediately under AS 01.10.070(c).