

CS FOR SENATE BILL NO. 337(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 3/31/04

Referred: Finance

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

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the powers of the Alaska Energy Authority to make grants and
2 loans, to enter into contracts, and to improve, equip, operate, and maintain bulk fuel,
3 waste energy, energy conservation, energy efficiency, and alternative energy facilities
4 and equipment; relating to the bulk fuel revolving loan fund; relating to the Alaska
5 Energy Authority's liability for the provision of technical assistance to rural utilities;
6 relating to the Alaska Energy Authority's investment of the power development fund;
7 repealing the electrical service extension fund; and providing for an effective date."

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

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

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

12 (1) to electric utilities, regional electric authorities, municipalities,
13 regional and village corporations, village councils, independent power producers, and

1 nonprofit marketing cooperatives to pay the costs of

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

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

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

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

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

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

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

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

30 (j) The authority may not enter into a loan from the power project fund for a
31 major project unless it has legislative approval of the project and the amount. An

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

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

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

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

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

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

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

26 (3) sets rates

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

31 (B) under which the power cost equalization provided in

1 **AS 42.45.070 - 42.45.110** [AS 42.45.060 - 42.45.110] is applied as a credit
 2 only against the cost of kilowatt-hours eligible for equalization assistance
 3 under AS 42.45.100 - 42.45.150 that are consumed by each customer in any
 4 month;

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

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

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

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

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

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

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

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

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

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

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

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

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

1 of either for damages, injury, or death.

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

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

5 (1) to sue and be sued;

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

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

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

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

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

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

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

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

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

1 project or any right to the capacity of it or for the security of any bonds of the
2 authority issued or to be issued for the project;

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

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

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

15 (14) to recommend to the legislature

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

19 (B) an appropriation from the general fund

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

21 or

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

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

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

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

28 **Sec. 44.83.386. Investment of fund.** The **authority** [DEPARTMENT OF
29 REVENUE] shall invest the money in the fund in **the manner provided in**
30 [ACCORDANCE WITH] AS 37.10.070, 37.10.071, and 37.10.075. The **authority**
31 **may withdraw** [DEPARTMENT OF REVENUE SHALL PROVIDE] money **from**

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

10 * **Sec. 11.** AS 42.45.060, 42.45.250(l)(1); and AS 44.25.020(5) are repealed.

11 * **Sec. 12.** AS 42.45.200 is repealed.

12 * **Sec. 13.** The uncodified law of the State of Alaska is amended by adding a new section to
 13 read:

14 TRANSITION. ELECTRICAL SERVICE EXTENSION FUND. Subject to
 15 appropriation, the money in the electrical service extension fund established in former
 16 AS 42.45.200, repealed by sec. 12 of this Act, is transferred to the general fund.

17 * **Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section to
 18 read:

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

20 * **Sec. 15.** Sections 12 and 13 of this Act take effect July 1, 2004.

21 * **Sec. 16.** Except as provided in sec. 15 of this Act, this Act takes effect immediately under
 22 AS 01.10.070(c).