

**HOUSE CS FOR CS FOR SENATE BILL NO. 337(FIN)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 5/5/04  
Referred: Rules

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 continuation of the motor fuel tax rate for fuel produced from the  
7 processing of lignocellulose from wood or waste seafood; relating to the Alaska Energy  
8 Authority's investment of the power development fund; repealing the electrical service  
9 extension fund; and providing for an effective date."

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

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

12 (b) **The** [SUBJECT TO AS 42.45.060, THE] authority may make loans from

1 the power project fund

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

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

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

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

20 (2) to a borrower for a power project **or for bulk fuel, waste energy,**  
21 **energy conservation, energy efficiency, or alternative energy facilities or**  
22 **equipment** if

23 (A) the loan is entered into under a leveraged lease financing  
24 arrangement;

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

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

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

2 (j) The authority may not enter into a loan from the power project fund for a  
3 major project unless it has legislative approval of the project and the amount. An  
4 appropriation for the loan that names the project constitutes approval required by this  
5 subsection. A major project is a project in which the cumulative state monetary  
6 involvement, through loans, grants, and bonds, is at least \$5,000,000 or a project for  
7 which a loan of more than \$5,000,000 has been requested.

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

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

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

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

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

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

29 (3) sets rates

30 (A) that consider the power cost equalization provided under  
31 AS 42.45.100 - 42.45.150 by subtracting from its revenue requirements for

1 electric services the power cost equalization per kilowatt-hour that it is eligible  
2 to receive; and

3 (B) under which the power cost equalization provided in  
4 **AS 42.45.070 - 42.45.110** [AS 42.45.060 - 42.45.110] is applied as a credit  
5 only against the cost of kilowatt-hours eligible for equalization assistance  
6 under AS 42.45.100 - 42.45.150 that are consumed by each customer in any  
7 month;

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

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

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

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

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

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

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

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

27 (3) may not exceed 90 percent of the wholesale price of the fuel  
28 purchased.

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

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

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

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

5 \* **Sec. 9.** AS 43.40.010(a) is amended to read:

6 (a) There is levied a tax of eight cents a gallon on all motor fuel sold or  
7 otherwise transferred within the state, except that

8 (1) the tax on aviation gasoline is four and seven-tenths cents a gallon;

9 (2) the tax on motor fuel used in and on watercraft of all descriptions is  
10 five cents a gallon;

11 (3) the tax on all aviation fuel other than gasoline is three and two-  
12 tenths cents a gallon; and

13 (4) the tax rate on motor fuel that is blended with alcohol is the same  
14 tax rate a gallon as other motor fuel; however,

15 (A) in an area and during the months in which fuel containing  
16 alcohol is required to be sold, transferred, or used in an effort to attain air  
17 quality standards for carbon monoxide as required by federal or state law or  
18 regulation, the tax rate on motor fuel that is blended with alcohol is six cents a  
19 gallon less than the tax on other motor fuel not described in (1) - (3) of this  
20 subsection;

21 (B) notwithstanding (A) of this paragraph, through June 30,  
22 2009 [2004], the tax on motor fuel sold or otherwise transferred within the  
23 state is eight cents a gallon less than the tax on other motor fuel not described  
24 in (1) - (3) of this subsection if the motor fuel

25 (i) is at least 10 percent alcohol by volume, has been  
26 produced from the processing of lignocellulose derived from wood, and  
27 was produced in a facility that processes lignocellulose from wood, but  
28 this reduction in the rate of tax applies to motor fuel sold or transferred  
29 that contains alcohol that was produced only during the first five years  
30 of the facility's processing of lignocellulose from wood; or

31 (ii) is at least 10 percent alcohol by volume, has been

1 produced from the processing of waste seafood, and was produced in a  
 2 facility that processes alcohol from waste seafood, but this reduction in  
 3 the rate of tax applies to motor fuel sold or transferred that contains  
 4 alcohol that was produced only during the first five years of the  
 5 facility's processing of alcohol from waste seafood.

6 \* **Sec. 10.** AS 43.40.010(b) is amended to read:

7 (b) There is levied a tax of eight cents a gallon on all motor fuel consumed by a  
 8 user, except that

9 (1) the tax on aviation gasoline consumed is four and seven-tenths  
 10 cents a gallon;

11 (2) the tax on motor fuel used in and on watercraft of all descriptions is  
 12 five cents a gallon;

13 (3) the tax on all aviation fuel other than gasoline is three and two-  
 14 tenths cents a gallon; and

15 (4) the tax rate on motor fuel that is blended with alcohol is the same  
 16 tax rate a gallon as other motor fuel; however,

17 (A) in an area and during the months in which fuel containing  
 18 alcohol is required to be sold, transferred, or used in an effort to attain air  
 19 quality standards for carbon monoxide as required by federal or state law or  
 20 regulation, the tax rate on motor fuel that is blended with alcohol is six cents a  
 21 gallon less than the tax on other motor fuel not described in (1) - (3) of this  
 22 subsection;

23 (B) notwithstanding (A) of this paragraph, through June 30,  
 24 2009 [2004], the tax on motor fuel consumed by a user within the state is eight  
 25 cents a gallon less than the tax on other motor fuel not described in (1) - (3) of  
 26 this subsection if the motor fuel

27 (i) is at least 10 percent alcohol by volume, has been  
 28 produced from the processing of lignocellulose derived from wood, and  
 29 was produced in a facility that processes lignocellulose from wood, but  
 30 this reduction in the rate of tax applies to motor fuel consumed by a  
 31 user that contains alcohol that was produced only during the first five

1 years of the facility's processing of lignocellulose from wood; or

2 (ii) is at least 10 percent alcohol by volume, has been  
3 produced from the processing of waste seafood, and was produced in a  
4 facility that processes alcohol from waste seafood, but this reduction in  
5 the rate of tax applies to motor fuel consumed by a user that contains  
6 alcohol that was produced only during the first five years of the  
7 facility's processing of alcohol from waste seafood.

8 \* **Sec. 11.** AS 44.83.080 is amended to read:

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

11 (1) to sue and be sued;

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

13 (3) to make and alter bylaws for its organization and internal  
14 management;

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

16 (5) to improve, equip, operate, and maintain power projects **and bulk**  
17 **fuel, waste energy, energy conservation, energy efficiency, and alternative energy**  
18 **facilities and equipment**;

19 (6) to issue bonds to carry out any of its corporate purposes and  
20 powers, including the establishment or increase of reserves to secure or to pay the  
21 bonds or interest on them, and the payment of all other costs or expenses of the  
22 authority incident to and necessary or convenient to carry out its corporate purposes  
23 and powers;

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

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

30 (9) to deposit or invest its funds, subject to agreements with  
31 bondholders;

1 (10) to enter into contracts with the United States or any person and,  
 2 subject to the laws of the United States and subject to concurrence of the legislature,  
 3 with a foreign country or its agencies, for the **construction**, financing, operation, and  
 4 maintenance of all or any part of a power project **or bulk fuel, waste energy, energy**  
 5 **conservation, energy efficiency, or alternative energy facilities or equipment**,  
 6 either inside or outside the state, and for the sale or transmission of power from a  
 7 project or any right to the capacity of it or for the security of any bonds of the  
 8 authority issued or to be issued for the project;

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

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

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

21 (14) to recommend to the legislature

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

25 (B) an appropriation from the general fund

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

27 or

28 (ii) to reduce the amount of debt financing for the  
 29 project;

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

31 **(16) to make grants or loans to any person and enter into contracts**

1 **or other transactions regarding the grants or loans.**

2 \* **Sec. 12.** AS 44.83.386 is amended to read:

3 **Sec. 44.83.386. Investment of fund.** The **authority** [DEPARTMENT OF  
4 REVENUE] shall invest the money in the fund in **the manner provided in**  
5 [ACCORDANCE WITH] AS 37.10.070, 37.10.071, and 37.10.075. The **authority**  
6 **may withdraw** [DEPARTMENT OF REVENUE SHALL PROVIDE] money **from**  
7 [IN] the fund [TO THE AUTHORITY] only after costs have been incurred or amounts  
8 in the fund have been otherwise obligated under contracts for the acquisition and  
9 construction of a project. [AMOUNTS THAT HAVE BEEN OBLIGATED, BUT  
10 FOR WHICH COSTS HAVE NOT YET BEEN INCURRED, MAY BE  
11 SEGREGATED BY THE DEPARTMENT OF REVENUE OR TRANSFERRED TO  
12 THE AUTHORITY ONLY WITH THE PRIOR APPROVAL OR AGREEMENT OF  
13 THE COMMISSIONER OF REVENUE. INCOME RECEIVED ON MONEY THAT  
14 IS SEGREGATED OR TRANSFERRED UNDER THIS SECTION MUST BE  
15 DEPOSITED IN THE GENERAL FUND.]

16 \* **Sec. 13.** AS 42.45.060, 42.45.250(l)(1); and AS 44.25.020(5) are repealed.

17 \* **Sec. 14.** AS 42.45.200 is repealed.

18 \* **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section to  
19 read:

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

23 \* **Sec. 16.** The uncodified law of the State of Alaska is amended by adding a new section to  
24 read:

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

26 \* **Sec. 17.** Sections 14 and 15 of this Act take effect July 1, 2004.

27 \* **Sec. 18.** Except as provided in sec. 17 of this Act, this Act takes effect immediately under  
28 AS 01.10.070(c).