

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

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 5/11/04

Offered: 5/5/04

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; establishing a hydrogen energy**  
8 **partnership; relating to the Alaska Energy Authority's investment of the power**  
9 **development fund; repealing the electrical service extension fund; and providing for an**  
10 **effective date."**

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

12 \* **Section 1.** AS 41.98 is amended by adding a new section to read:

1                   **Sec. 41.98.190. Hydrogen energy partnership.** (a) There is established in the  
2 Department of Community and Economic Development the hydrogen energy  
3 partnership.

4                   (b) Members of the partnership shall be appointed by the commissioner of  
5 community and economic development to represent

- 6                               (1) the federal government;
- 7                               (2) state government;
- 8                               (3) the University of Alaska;
- 9                               (4) political subdivisions of the state;
- 10                              (5) tribal organizations of the state;
- 11                              (6) the electric utility industry;
- 12                              (7) the fossil fuel industry;
- 13                              (8) nonfossil fuel energy industry; and
- 14                              (9) private environmental conservation groups.

15                   (c) The partnership members shall serve without compensation but are entitled  
16 to transportation expenses and per diem as authorized for members of boards and  
17 commissions under AS 39.20.180.

18                   (d) The hydrogen energy partnership shall facilitate the development of a  
19 hydrogen fuel industry in Alaska by means including

- 20                              (1) meeting with hydrogen energy interests to plan hydrogen energy  
21 research and development;
- 22                              (2) proposing policy to promote federal and private industry  
23 investment in hydrogen energy research and development;
- 24                              (3) evaluating the market for hydrogen energy production;
- 25                              (4) proposing tax incentives for investment in a hydrogen energy  
26 infrastructure; and
- 27                              (5) reporting annually to the legislature on or before the 20th day of  
28 each regular session on the development of hydrogen energy production in the state.

29 \* **Sec. 2.** AS 42.45.010(b) is amended to read:

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

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

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

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

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

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

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

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

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

31 \* **Sec. 3.** AS 42.45.010 is amended by adding a new subsection to read:

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

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

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

18 \* **Sec. 5.** AS 42.45.170(a) is amended to read:

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

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

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

28 (3) sets rates

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

1 to receive; and

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

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

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

11 \* **Sec. 6.** AS 42.45.250(a) is amended to read:

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

21 \* **Sec. 7.** AS 42.45.250(e) is amended to read:

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

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

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

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

28 \* **Sec. 8.** AS 42.45.250(l) is amended by adding a new paragraph to read:

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

31 \* **Sec. 9.** AS 42.45.400 is amended by adding a new subsection to read:

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

4 \* **Sec. 10.** AS 43.40.010(a) is amended to read:

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

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

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

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

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

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

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

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

30 (ii) is at least 10 percent alcohol by volume, has been  
 31 produced from the processing of waste seafood, and was produced in a

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

5 \* **Sec. 11.** AS 43.40.010(b) is amended to read:

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

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

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

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

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

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

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

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

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

\* **Sec. 12.** AS 44.33.020 is amended by adding a new paragraph to read:

(44) provide staff support for the hydrogen energy partnership established under AS 41.98.190, and the University of Alaska shall provide assistance to the commissioner upon request.

\* **Sec. 13.** AS 44.83.080 is amended to read:

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

(1) to sue and be sued;

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

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

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

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

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

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

(8) to accept gifts, grants, or loans from, and enter into contracts or

1 other transactions regarding them, with any person;

2 (9) to deposit or invest its funds, subject to agreements with  
3 bondholders;

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

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

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

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

24 (14) to recommend to the legislature

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

28 (B) an appropriation from the general fund

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

30 or

31 (ii) to reduce the amount of debt financing for the

1 project;

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

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

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

5 \* **Sec. 14.** AS 44.83.386 is amended to read:

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

19 \* **Sec. 15.** AS 42.45.060, 42.45.250(l)(1); and AS 44.25.020(5) are repealed.

20 \* **Sec. 16.** AS 42.45.200 is repealed.

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

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

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

28 FUNDING FOR HYDROGEN ENERGY PARTNERSHIP. The commissioner of  
29 community and economic development shall seek federal and private sources of funding to  
30 cover the costs of the establishment of and operation of the hydrogen energy partnership  
31 established in sec. 3 of this Act.

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

3             CONDITIONAL EFFECT. Sections 1 and 12 of this Act take effect only if the  
4 Department of Community and Economic Development obtains sufficient funding under sec.  
5 18 of this Act.

6     \* **Sec. 20.** The uncodified law of the State of Alaska is amended by adding a new section to  
7 read:

8             RETROACTIVITY. Sections 6 and 8 of this Act are retroactive to June 1, 1984.

9     \* **Sec. 21.** If secs. 1 and 12 of this Act have not taken effect under sec. 19 of this Act by  
10 June 30, 2009, secs. 1, 12, 18, and 19 of this Act are repealed June 30, 2009.

11     \* **Sec. 22.** Sections 1 and 12 of this Act take effect 30 days after the commissioner of  
12 community and economic development notifies the revisor of statutes that sufficient funding  
13 required under sec. 18 of this Act has been obtained.

14     \* **Sec. 23.** Sections 16 and 17 of this Act take effect July 1, 2004.

15     \* **Sec. 24.** Except as provided in secs. 22 and 23 of this Act, this Act takes effect  
16 immediately under AS 01.10.070(c).