

SENATE BILL NO. 350

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY SENATOR GARY STEVENS

Introduced: 2/16/04

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the four dam pool joint action agency; and providing for an effective**
2 **date."**

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

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

5 (c) The agency is a body corporate and politic and an instrumentality of the
6 public utilities that form the agency, but has a separate and independent legal
7 existence from the public utilities. A debt, obligation, or liability of the agency does
8 not constitute a debt, obligation, or liability of a public utility or the state. A liability
9 incurred by the agency shall be satisfied exclusively from the assets or revenue of the
10 agency, and a creditor of the agency or any other person does not have any right of
11 action or claim against a public utility or the state, because of a debt, obligation, or
12 liability of the agency. The agency has the powers of a public utility under AS 42.05
13 and the immunities of a public utility. In addition to the powers granted to the agency
14 under AS 42.45.300 and this section, the agency has the power

1 (1) to adopt bylaws of the agency;
 2 (2) to sue and be sued;
 3 (3) to carry out the authorized purposes of the agency;
 4 (4) subject to (e) of this section, to issue revenue bonds and other
 5 obligations that are not obligations of either the state or the public utilities that are
 6 parties to the agency agreement to provide financing to carry out the authorized
 7 purposes of the agency; [AND]

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

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

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

17 (h) An agency formed by, and that continues to include, one or more
 18 municipal public utilities is a political subdivision for purposes of AS 38.05.810, **and**
 19 **functions as a political subdivision in the acquisition and operation of the power**
 20 **project under the agreement authorized by this section.**

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

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

26 (k) Notwithstanding (j) of this section, the project and related assets may be
 27 transferred in connection with a foreclosure or other enforcement of a lien or security
 28 interest to a party holding a lien or security interest acquired under (c)(6) of this
 29 section without legislative approval. A party obtaining a property interest under this
 30 subsection may transfer that interest without the approval of the legislature.

31 * **Sec. 4.** This Act takes effect immediately under AS 01.10.070(c).