

HOUSE BILL NO. 188

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/28/05

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing the State of Alaska Capital Corporation; authorizing the issuance**
2 **of bonds by the State of Alaska Capital Corporation to finance capital improvements in**
3 **the state; and providing for an effective date."**

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

5 * **Section 1.** AS 37.15 is amended by adding new sections to read:

6 **Article 7. State of Alaska Capital Corporation.**

7 **Sec. 37.15.900. Corporation established.** There is established in the
8 Department of Revenue the State of Alaska Capital Corporation. The corporation is a
9 public corporation of the state with a separate and independent legal existence.

10 **Sec. 37.15.910. Board of the corporation; staff; meetings.** (a) The
11 members of the state bond committee (AS 37.15.110) are the members of the board of
12 directors of the State of Alaska Capital Corporation.

13 (b) The commissioner of revenue shall serve as chair of the board of directors
14 of the corporation. The powers of the corporation are vested in the directors, and three

1 directors of the corporation constitute a quorum. Action may be taken and motions
 2 and resolutions adopted by the corporation at a meeting by the affirmative vote of a
 3 majority of the directors. The directors of the corporation serve without
 4 compensation. The Department of Revenue shall provide the staff of the corporation.

5 (c) The board of directors may meet and transact business by an electronic
 6 medium if

7 (1) public notice of the time and locations where the meeting will be
 8 held by an electronic medium has been given in the same manner as if the meeting
 9 were held in a single location;

10 (2) participants and members of the public in attendance can hear and
 11 have the same right to participate in the meeting as if the meeting were conducted in
 12 person; and

13 (3) copies of pertinent reference material, statutes, regulations, and
 14 audio-visual material are reasonably available to participants and to members of the
 15 public.

16 (d) A meeting by an electronic medium as provided by (c) of this section has
 17 the same legal effect as a meeting in person.

18 **Sec. 37.15.920. Powers of the corporation.** (a) To accomplish its corporate
 19 purposes, the corporation has the following powers in addition to its other powers:

20 (1) to sue and be sued;

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

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

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

25 (5) to issue bonds to finance or refinance the construction, acquisition,
 26 refurbishing, repair, and equipping of state capital improvements, including the
 27 establishment or increase of reserves to secure or to pay the bonds or interest on them,
 28 and the payment of all other costs or expenses of the corporation incident to and
 29 necessary or convenient to carry out its corporate purposes and powers;

30 (6) to acquire property interests by lease or use agreements;

31 (7) to enter into lease or use agreements with the Department of

1 Administration or other departments of the state, political subdivisions of the state, or
 2 the federal government, as necessary, in connection with projects financed by bonds of
 3 the corporation;

4 (8) to enter into a cooperative purchasing agreement with the state
 5 bond committee for the special services that the state bond committee is authorized to
 6 obtain under AS 37.15.150, including the appointment of trustees, auditors, or escrow
 7 agents to carry out any of the powers granted by AS 37.15.900 - 37.15.985; and

8 (9) to enter into other contracts or other transactions regarding the
 9 powers granted by this section, with any person.

10 (b) Lease or use agreements authorized by this section are not lease-purchase
 11 agreements within the meaning of AS 36.30.085.

12 **Sec. 37.15.930. Bonds of the corporation.** (a) The corporation may borrow
 13 money, and may issue special limited obligation bonds of the corporation in a total
 14 principal sum not to exceed \$350,000,000, secured solely by annual appropriations
 15 that may be made by law, by the debt service reserve fund, and by other property,
 16 property interests, or security provided by the corporation. The bonds shall be issued
 17 in an amount sufficient to finance capital improvements authorized by law. The
 18 money to pay principal and interest on the bonds is subject to annual appropriation by
 19 the legislature and may be the sole consideration for lease or other use agreements for
 20 the capital improvements financed through the issuance of the bonds.

21 (b) Bonds shall be authorized by resolution of the corporation, may be issued
 22 for funding or refunding purposes, and shall be dated and shall mature as the
 23 resolution authorizing their issuance may provide, except that no bond may mature
 24 more than 40 years from the date of its issue. Bonds shall bear interest at the fixed or
 25 variable rates, be in the denominations, be in the form, either coupon or registered,
 26 carry the registration privileges, be executed in the manner, be payable in the medium
 27 of payment, at the places, and be subject to the terms of redemption that the resolution,
 28 contract, or a subsequent resolution or contract may provide.

29 (c) All bonds, regardless of form or character, shall be negotiable instruments
 30 for all the purposes of AS 45.01 - AS 45.08, AS 45.12, AS 45.14, and AS 45.29
 31 (Uniform Commercial Code).

1 (d) All bonds may be sold at public or private sale in the manner, for the price
2 or prices, and at the time or times that the corporation determines.

3 (e) The bonds issued by the corporation do not constitute an indebtedness or
4 other liability of the state or of a political subdivision of the state, other than the
5 corporation, but shall be payable solely from the income and receipts or other funds or
6 property of the corporation. The corporation may not pledge the faith or credit of the
7 state or of a political subdivision of the state, other than the corporation, to the
8 payment of a bond and the issuance of a bond by the corporation does not directly or
9 indirectly or contingently obligate the state or a political subdivision of the state to
10 apply money from, or levy or pledge any form of taxation whatever to the payment of
11 the bond. Each bond issued by the corporation shall describe the foregoing limitations
12 plainly on its face.

13 **Sec. 37.15.940. Revenue fund established.** (a) There is established as a
14 special fund of the corporation the State of Alaska Capital Corporation revenue fund,
15 into which may be paid all amounts appropriated by the legislature. These
16 appropriations represent revenue, fees, charges, and rentals derived by the corporation
17 from lease or use agreements with state agencies for capital projects financed from the
18 proceeds of bonds of the corporation. The money in the revenue fund may be
19 expended for any authorized purpose of the corporation, established by resolution of
20 the corporation, including transfer to the bond redemption fund, the construction fund,
21 or the debt service reserve fund, or to pay the expenses of the corporation.

22 (b) The commissioner of revenue shall, on behalf of the corporation, invest
23 money in the revenue fund under the authority provided in AS 37.10.070, 37.10.071,
24 and 37.10.075. The interest earned on or any profits derived from the sale of this
25 investment shall be deposited in and become a part of the revenue fund.

26 **Sec. 37.15.950. Construction fund established.** (a) There is established as a
27 capital construction fund of the corporation the State of Alaska Capital Corporation
28 construction fund, into which shall be paid the net proceeds received from the sale of
29 the bonds, less any accrued interest paid on the bonds that was deposited in the bond
30 redemption fund under AS 37.15.970(b) and less any amount deposited in the debt
31 service reserve fund under AS 37.15.960(a); and other money of the corporation

1 authorized for transfer to the construction fund by resolution of the corporation. The
 2 money in the construction fund may be used for any purpose for which bonds may be
 3 issued, including the payment of issuance and financing costs and arbitrage rebate.
 4 The corporation also may transfer money in the construction fund to the debt service
 5 reserve fund or the bond redemption fund.

6 (b) The commissioner of revenue shall, on behalf of the corporation, invest
 7 money in the construction fund under the authority provided in AS 37.10.070,
 8 37.10.071, and 37.10.075. The interest earned on or any profits derived from the sale
 9 of this investment shall be deposited in and become a part of the construction fund.

10 **Sec. 37.15.960. Debt service reserve fund established.** (a) For the purpose
 11 of securing bonds, there is established as a special fund of the corporation, the State of
 12 Alaska Capital Corporation debt service reserve fund. The corporation shall deposit
 13 bond proceeds or other money received by the corporation, or surety instruments, into
 14 the debt service reserve fund equal to the debt service reserve fund requirement set by
 15 (c) of this section.

16 (b) Except as provided in this subsection, money in the debt service reserve
 17 fund may not be withdrawn from it at any time in an amount that would reduce the
 18 balance of that fund to less than the debt service reserve fund requirement set by (c) of
 19 this section. Notwithstanding the debt service reserve fund requirement set by (c) of
 20 this section, money may be withdrawn from the debt service reserve fund for the
 21 purpose of paying, if necessary, the following:

22 (1) arbitrage rebate on earnings of the fund;

23 (2) debt service on bonds.

24 (c) Bonds secured by the debt service reserve fund may not be issued unless
 25 the debt service reserve fund has a balance equal to the least of

26 (1) the maximum annual debt service on outstanding bonds issued by
 27 the corporation;

28 (2) 125 percent of the average annual debt service on all outstanding
 29 bonds of the corporation; or

30 (3) 10 percent of the proceeds of outstanding bonds.

31 (d) In computing the amount of the debt service reserve fund requirement for

1 the purpose of (c) of this section, securities in which all or a portion of the money in
 2 the debt service reserve fund is invested shall be valued by some reasonable method
 3 established by the Department of Revenue. Valuation on a particular date shall
 4 include the amount of any interest earned or accrued to that date.

5 (e) The commissioner of revenue shall annually, no later than January 30,
 6 make and deliver to the governor and the legislature a certificate stating the sum, if
 7 any, required to restore the debt service reserve fund to the debt service reserve fund
 8 requirement set by (c) of this section. The legislature may appropriate the amount
 9 requested, which shall be deposited by the corporation in the debt service reserve fund.
 10 Nothing in this section creates a debt or liability of the state.

11 (f) The Department of Revenue shall, on behalf of the corporation, invest the
 12 money in the debt service reserve fund in accordance with AS 37.10.070, 37.10.071,
 13 and 37.10.075. Money in the debt service reserve fund shall be transferred to the bond
 14 redemption fund at any time if necessary to pay principal of and interest and
 15 redemption premium, if any, on the bonds.

16 **Sec. 37.15.970. Bond redemption fund established.** (a) There is established
 17 as a special fund of the corporation the State of Alaska Capital Corporation bond
 18 redemption fund, for paying and securing the payment of the principal of and interest
 19 and redemption premium, if any, on the bonds and which shall be at all times
 20 completely segregated and set apart from all other funds of the corporation.

21 (b) Accrued interest paid on the bonds shall be deposited in the bond
 22 redemption fund. As provided by resolution of the corporation, amounts also may be
 23 transferred from the revenue fund to the bond redemption fund and expended to pay
 24 debt service, or reduce the outstanding principal of the bonds. Payment for these
 25 purposes may be according to the order of priority established by resolution of the
 26 corporation.

27 **Sec. 37.15.980. Refunding bonds.** (a) The bonds or any part of them may be
 28 refunded at or before their maturity by the issuance of refunding bonds of the
 29 corporation if, in the opinion of the board of directors of the corporation, refunding is
 30 advantageous to and in the best interests of the corporation.

31 (b) The issuance of refunding bonds need not be authorized by an act of the

1 legislature, and the board of directors of the corporation shall adopt the resolution or
 2 resolutions and prepare all other documents and proceedings necessary for the
 3 issuance, exchange or sale, and delivery of the refunding bonds. All provisions of
 4 AS 37.15.910 - 37.15.985 applicable to bonds are applicable to the refunding bonds
 5 and to the issuance, sale, or exchange of them, except as otherwise provided in this
 6 section.

7 (c) Refunding bonds may be issued in a principal amount sufficient to provide
 8 money for the payment of all bonds to be refunded by them and, in addition, for the
 9 payment of all expenses incident to the calling, retiring, or paying of the outstanding
 10 bonds and the issuance of the refunding bonds. These expenses include the difference
 11 in amount between the par value of the refunding bonds and any amount less than par
 12 for which the refunding bonds are sold, any amount necessary to be made available for
 13 the payment of interest upon the refunding bonds from the date of sale of them to the
 14 date of payment of the bonds to be refunded or to the date upon which the bonds to be
 15 refunded will be paid pursuant to the call of them or agreement with the holders of
 16 them, and the premium, if any, necessary to be paid in order to call or retire the
 17 outstanding bonds and the interest accruing on them to the date of the call or
 18 retirement.

19 **Sec. 37.15.985. Annual audit of corporation.** The corporation shall have its
 20 financial records audited annually by a certified public accountant. The legislative
 21 auditor may prescribe the form and content of the financial records of the corporation
 22 and shall have access to these records at any time.

23 **Sec. 37.15.990. Definitions.** In AS 37.15.900 - 37.15.990,

24 (1) "bond redemption fund" means the State of Alaska Capital
 25 Corporation bond redemption fund established in AS 37.15.970;

26 (2) "bonds" means the special limited obligation bonds, notes, or other
 27 evidences of indebtedness authorized in AS 37.15.930;

28 (3) "construction fund" means the State of Alaska Capital Corporation
 29 construction fund established in AS 37.15.950;

30 (4) "corporation" means the State of Alaska Capital Corporation
 31 established in AS 37.15.900;

1 (5) "debt service reserve fund" means the State of Alaska Capital
2 Corporation debt service reserve fund established in AS 37.15.960;

3 (6) "lease or use agreement" is an agreement that secures or is related
4 to bonds of the corporation and is not a lease-purchase agreement for purposes of
5 AS 36.30.085;

6 (7) "revenue fund" means the State of Alaska Capital Corporation
7 revenue fund established in AS 37.15.940.

8 * **Sec. 2.** This Act takes effect June 30, 2005.