

**HOUSE BILL NO. 281**

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

**BY REPRESENTATIVE HAWKER**

**Introduced: 4/21/05**

**Referred: State Affairs, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act creating and relating to the Alaska Capital Projects Corporation."**

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

3 \* **Section 1.** AS 44 is amended by adding a new chapter to read:

4 **Chapter 86. Alaska Capital Projects Corporation.**

5 **Article 1. Creation, Purpose, and Powers.**

6 **Sec. 44.86.010. Creation of corporation.** (a) There is created the Alaska  
7 Capital Projects Corporation. The corporation is a public corporation and government  
8 instrumentality within the Department of Revenue, but having a legal existence  
9 independent of and separate from the state. The corporation may not be terminated as  
10 long as it has bonds, notes, or other obligations outstanding. Upon termination of the  
11 corporation, its rights and property pass to the state.

12 (b) The board of directors of the Alaska Housing Finance Corporation serves  
13 as the board of directors of the Alaska Capital Projects Corporation. The Alaska  
14 Housing Finance Corporation shall provide staff for the Alaska Capital Projects  
15 Corporation.

1           **Sec. 44.86.020. Officers; meetings; quorum.** (a) The chair of the Alaska  
 2 Housing Finance Corporation shall serve as the chair of the Alaska Capital Projects  
 3 Corporation. The powers of the Alaska Capital Projects Corporation are vested in the  
 4 board of directors, and four directors of the corporation constitute a quorum. Action  
 5 may be taken and motions and resolutions adopted by the Alaska Capital Projects  
 6 Corporation at a meeting by the affirmative vote of a majority of the directors. The  
 7 public members of the board of the Alaska Capital Projects Corporation are entitled to  
 8 per diem and expenses as provided under AS 18.56.030(e).

9           (b) The board may meet and transact business by an electronic medium if

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

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

16           (3) copies of pertinent reference materials, statutes, regulations, and  
 17 audiovisual materials are reasonably available to participants and to the public.

18           (c) A meeting by an electronic medium as provided in this section has the  
 19 same legal effect as a meeting in person.

20           (d) A director may not vote on a matter before the corporation if the director  
 21 has a conflict of interest. When abstaining from voting, the director must disclose the  
 22 reason for the abstention. A resolution of the corporation that is approved by a  
 23 majority of the directors present who are not barred from voting under this subsection  
 24 is a valid action of the corporation for all purposes.

25           **Sec. 44.86.030. Purpose and powers of the corporation.** (a) The purpose  
 26 of the Alaska Capital Projects Corporation is to promote, develop, and advance the  
 27 general prosperity and economic welfare of the people of the state by providing a  
 28 means of financing and constructing capital projects. The corporation may only  
 29 provide for the financing or construction of capital projects approved by law and in  
 30 accord with the terms of the approval.

31           (b) In furtherance of its corporate purpose, the corporation has the following

1 powers:

- 2 (1) to sue and be sued;
- 3 (2) to have a seal and alter it at pleasure;
- 4 (3) to make and alter bylaws for its organization and internal  
5 management;
- 6 (4) to adopt regulations governing the exercise of its corporate powers;
- 7 (5) to issue bonds to carry out its corporate purpose and powers,  
8 including the establishment or increase of reserves to secure or to pay the bonds or  
9 interest on them, and the payment of all other costs or expenses of the corporation  
10 incident to and necessary or convenient to carry out its corporate purpose and powers;
- 11 (6) in connection with its corporate purpose, to accept gifts, grants, or  
12 loans from, and enter into contracts or other transactions regarding them, with any  
13 person;
- 14 (7) to deposit and invest its funds, subject to agreements with  
15 bondholders;
- 16 (8) to enter into contracts with any person for the construction and  
17 financing of all or any part of a capital project, or for the security of any bonds of the  
18 corporation issued or to be issued for the project;
- 19 (9) to enter into contracts or agreements with respect to the exercise of  
20 any of its powers and do all things necessary or convenient to carry out its corporate  
21 purpose;
- 22 (10) to recommend to the legislature an appropriation from the general  
23 fund
- 24 (A) for debt service on bonds or other project purposes; or
- 25 (B) to reduce the amount of debt financing for the project;
- 26 (11) to make grants or loans to any person in connection with a capital  
27 project and enter into contracts or other transactions regarding the grants or loans.

28 **Sec. 44.86.040. Tax exemption.** All property of the Alaska Capital Projects  
29 Corporation is public property devoted to an essential public and governmental  
30 function and purpose and is exempt from all taxes of the state or a political subdivision  
31 of the state. All bonds issued under this chapter are issued by a body corporate and

1 public of this state and for an essential public and governmental purpose, and the  
 2 bonds and the interest and income on and from the bonds and all income of the  
 3 corporation are exempt from taxation except for transfer, inheritance, and estate taxes.

4 **Sec. 44.86.050. Alaska capital projects revolving fund.** (a) There is  
 5 established in the Alaska Capital Projects Corporation the Alaska capital projects  
 6 revolving fund consisting of appropriations to the fund and income and assets of the  
 7 corporation deposited into the fund. Income earned on investment of the fund may be  
 8 used for any legal purpose of the corporation. The corporation may make  
 9 expenditures from the fund for payment of principal and interest on bonds issued by  
 10 the corporation, for costs of issuing bonds, and for other costs of financing capital  
 11 projects. The corporation may pledge fund assets as security for its bonds.

12 (b) The Alaska Capital Projects Corporation may contract with the Alaska  
 13 Permanent Fund Corporation to manage the Alaska capital projects revolving fund.

#### 14 **Article 2. Bonds and Financial Provisions.**

15 **Sec. 44.86.100. Bonds of the corporation.** (a) The corporation may borrow  
 16 money and may issue bonds, including bonds on which the principal and interest are  
 17 payable

18 (1) exclusively from the income and receipts or other money derived  
 19 from the project financed with the proceeds of the bonds;

20 (2) exclusively from the income and receipts or other money derived  
 21 from designated projects, whether they are financed in whole or in part with the  
 22 proceeds of the bonds;

23 (3) from its income and receipts or other assets generally, or a  
 24 designated part or parts of them; or

25 (4) from one or more revenue-producing contracts, including a contract  
 26 providing for the security of the bonds made by the corporation with any person.

27 (b) The corporation may issue bonds to pay, fund, or refund the principal of or  
 28 interest or redemption premiums on bonds issued by it, whether or not the bonds or  
 29 interest to be funded or refunded have become due.

30 (c) Bonds shall be authorized by resolution of the corporation and shall be  
 31 dated and mature as the resolution may provide, except that a bond may not mature

1 more than 50 years from the date of its issue. Bonds shall bear interest at the rates, be  
 2 in the denominations, be in the form, carry the registration privileges, be executed in  
 3 the manner, be payable in the medium of payment, at the places, and be subject to the  
 4 terms of redemption that the resolution or a subsequent resolution may provide.

5 (d) All bonds, regardless of form or character, are negotiable instruments for  
 6 all the purposes of AS 45.01 - AS 45.08, AS 45.12, AS 45.14, and AS 45.29 (Uniform  
 7 Commercial Code). All bonds may be sold at public or private sale in the manner, for  
 8 the price or prices, and at the time or times that the corporation may determine.

9 **Sec. 44.86.110. Trust agreements and capital reserve accounts.** (a) An  
 10 issue of bonds may be secured by a trust indenture or trust agreement between the  
 11 corporation and a corporate trustee that may be a trust company, bank, or national  
 12 banking association, located inside or outside the state.

13 (b) For the purpose of securing any issue of its bonds, the corporation may  
 14 establish a capital reserve account and set the required reserve amount. The  
 15 corporation shall pay into the account the proceeds of the sale of the bonds and any  
 16 other money that is available to the corporation for the purpose of the account. If  
 17 necessary, the chair of the corporation shall notify the governor and the legislature of  
 18 the sum required to restore any capital reserve account to the capital reserve account  
 19 requirement and request an appropriation of that amount. This subsection does not  
 20 create a debt or liability of the state.

21 **Sec. 44.86.120. Validity of pledge.** A pledge made by the corporation in  
 22 respect of bonds is considered perfected and is valid and binding from the time the  
 23 pledge is made. The money or property so pledged and thereafter received by the  
 24 corporation shall immediately be subject to the lien of the pledge without physical  
 25 delivery or further act. The lien of the pledge shall be valid and binding as against all  
 26 parties having claims of any kind in tort, contract, or otherwise against the  
 27 corporation, regardless of whether the parties have notice. Neither the resolution, trust  
 28 agreement, nor any other instrument by which a pledge is created need be recorded or  
 29 filed under the provisions of AS 45.01 - AS 45.08, AS 45.12, AS 45.14, and AS 45.29  
 30 (Uniform Commercial Code) to be perfected or to be valid, binding, or effective  
 31 against the parties.

1           **Sec. 44.86.130. Nonliability on bonds.** (a) Neither a director or employee of  
2 the corporation nor a person executing the bonds is liable personally on the bonds or is  
3 subject to personal liability or accountability by reason of the issuance of the bonds.

4           (b) The bonds issued by the corporation do not constitute an indebtedness or  
5 other liability of the state or of a political subdivision of the state, except the  
6 corporation, but are payable solely from the income and receipts or other funds or  
7 property of the corporation. The corporation may not pledge the faith or credit of the  
8 state or of a political subdivision of the state, except the corporation, to the payment of  
9 a bond, and the issuance of a bond by the corporation does not directly or indirectly or  
10 contingently obligate the state or a political subdivision of the state to apply money  
11 from or levy or pledge any form of taxation whatsoever to the payment of the bond.

12           **Sec. 44.86.140. Pledge of the state.** The state pledges to and agrees with the  
13 holders of bonds issued under this chapter that the state will not limit or alter the rights  
14 and powers vested in the corporation by this chapter to fulfill the terms of a contract  
15 made by the corporation with the bondholders or in any way impair the rights and  
16 remedies of the bond holders until the bonds, together with the interest on them with  
17 interest on unpaid installments of interest, and all costs and expenses in connection  
18 with an action or proceeding by or on behalf of the bond holders, are fully met and  
19 discharged. The corporation is authorized to include this pledge and agreement of the  
20 state in a contract with the holders of bonds of the corporation.

21           **Sec. 44.86.150. Bonds legal investments for fiduciaries.** The bonds of the  
22 corporation are securities in which all public officers and bodies of the state and all  
23 municipalities and municipal subdivisions, all insurance companies and associations  
24 and other persons carrying on any insurance business, all banks, trust companies,  
25 financial institutions, investment companies and other persons carrying on a banking  
26 business, all administrators, guardians, executors, trustees and other fiduciaries, and all  
27 other persons who are now or may hereafter be authorized to invest in bonds or other  
28 obligations of the state, may properly and legally invest funds including capital in their  
29 control or belonging to them. Notwithstanding any other provisions of law, the bonds  
30 of the corporation are also securities that may be deposited with and may be received  
31 by all public officers and bodies of this state and all municipalities and municipal

1 subdivisions for any purpose for which the deposit of bonds or other obligations of the  
2 state is now or may hereafter be authorized.

3 **Article 3. Miscellaneous and General Provisions.**

4 **Sec. 44.86.200. Annual audit.** The corporation shall have its financial  
5 records audited annually by a certified public accountant. The legislative auditor may  
6 prescribe the form and content of the financial records of the corporation and shall  
7 have access to these records at any time.

8 **Sec. 44.86.210. Limitations on issuance of bonds by the corporation.** The  
9 corporation may not issue bonds except after 60 days notification of its intent to issue  
10 bonds is given to the governor and to the legislature, if the legislature is in session, or  
11 to the Legislative Budget and Audit Committee, if the legislature is not in session.

12 **Sec. 44.86.220. Insurance requirements in construction contracts.** In  
13 requesting bids and awarding construction contracts under this chapter the corporation  
14 may not require a contractor to obtain workers' compensation, general liability, or  
15 other required insurance from a particular insurer, agent, or broker and may not agree  
16 to provide insurance to a contractor who is awarded a construction contract.

17 **Sec. 44.86.230. Appropriations and reports.** (a) Notwithstanding any other  
18 provision in this chapter, the corporation is subject to the provisions of AS 37.07  
19 (Executive Budget Act).

20 (b) The corporation shall, by the 15th day of each regular legislative session,  
21 prepare a report detailing, for each capital project, project status, original estimated  
22 costs, and projected costs, particularly highlighting any costs in excess of the original  
23 cost estimates submitted for each project when that project was originally approved by  
24 the legislature. The corporation shall notify the legislature that the report is available.

25 **Sec. 44.86.240. Public records; open meetings.** The provisions of  
26 AS 40.25.110 - 40.25.120, AS 44.62.310, and 44.62.312 apply to the corporation. The  
27 corporation shall publish a proposed agenda of its meetings and afford the public an  
28 opportunity to be heard in accordance with AS 44.62.312.

29 **Sec. 44.86.300. Definitions.** In this chapter, unless the context requires  
30 otherwise,

31 (1) "bonds" means bonds, notes, or other obligations of the corporation

1 issued under this chapter;

2 (2) "corporation" means the Alaska Capital Projects Corporation;

3 (3) "person" includes a public agency in addition to the entities set out  
4 in AS 01.10.060(a).

5 \* **Sec. 2.** AS 44.99.030(a) is amended by adding a new paragraph to read:

6 (14) Alaska Capital Projects Corporation.