

SENATE BILL NO. 269

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/10/10
Referred: Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the waiver of volume cap of recovery zone economic development
2 bonds authorized by 26 U.S.C. 1400U-2 and reallocation by the Alaska Municipal Bond
3 Bank Authority of the waived volume cap; relating to the waiver of volume cap of
4 recovery zone facility bonds authorized by 26 U.S.C. 1400U-3 and reallocation by the
5 Alaska Industrial Development and Export Authority of the waived volume cap;
6 increasing the total amount of bonds and notes that the Alaska Municipal Bond Bank
7 Authority may have outstanding; relating to revenue bonds issued by the Alaska
8 Municipal Bond Bank Authority; and providing for an effective date."

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

10 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
11 to read:

12 FINDINGS AND INTENT FOR SECS. 4 AND 5 OF THIS ACT. (a) The legislature

1 finds for secs. 4 and 5 of this Act that the American Recovery and Reinvestment Act of 2009

2 (1) authorized the issuance of certain tax-advantaged bonds known as
3 recovery zone economic development bonds and recovery zone facility bonds under Division
4 B, Title I, Subtitle E, sec. 1401, P.L. 111-5 (26 U.S.C. 1400U-1 - 1400U-3); the purpose of
5 these bonds is to provide tax incentives for state and local governmental borrowing at lower
6 borrowing costs to promote job creation and economic recovery that is targeted to areas
7 particularly affected by employment declines;

8 (2) set a national volume limitation for recovery zone economic development
9 bonds of \$10 billion, and a national volume limitation for recovery zone facility bonds of \$15
10 billion under 26 U.S.C. 1400U-1(a)(4);

11 (3) authorized the United States Secretary of Treasury to allocate the national
12 volume limitation for these bonds among the states under 26 U.S.C. 1400U-1(a);

13 (4) required each state to reallocate its volume among the counties and large
14 municipalities in proportion to relative employment declines in 2008 under 26 U.S.C.
15 1400U-1(a)(3); because this requirement was non-discretionary, the Internal Revenue Service
16 performed the within-state reallocations and published them on its website under I.R.B. 2009-
17 26;

18 (5) permits a county or municipality to waive its allocation under 26 U.S.C.
19 1400U-1(a)(3); the Internal Revenue Service guidance relating to the allocation of recovery
20 zone economic development bonds and recovery zone facility bonds provides that a county or
21 large municipality may waive any portion of a volume cap allocation received for recovery
22 zone bonds; upon any such waiver, the state in which the county or large municipality is
23 located is authorized to reallocate the waived volume cap in any reasonable manner as it shall
24 determine in good faith in its discretion under I.R.B. 2009-26; the guidance further provides
25 that the states have authority to deem a waiver; in this state, the Internal Revenue Service
26 allocated the bond volume to boroughs and census areas; and

27 (6) requires the bonds to be issued before January 1, 2011 under 26 U.S.C.
28 1400U-2(b)(1) and 26 U.S.C. 1400U-3(b)(1)(B).

29 (b) It is the intent of the legislature for secs. 4 and 5 of this Act to

30 (1) define when a borough or census area to which recovery zone economic
31 development bond volume cap and recovery zone facility bond volume cap have been

1 allocated is deemed to have waived such volume cap;

2 (2) authorize the Alaska Municipal Bond Bank Authority to reallocate any
3 waived recovery zone economic development bond volume cap; and

4 (3) authorize the Alaska Industrial Development and Export Authority to
5 reallocate any waived recovery zone facility bond volume cap.

6 * **Sec. 2.** AS 44.85.180(c) is amended to read:

7 (c) Notwithstanding the provisions of (a) and (b) of this section, the total
8 amount of bond bank authority bonds and notes outstanding at any one time may not
9 exceed \$1,000,000,000 [\$750,000,000]. This subsection does not apply to

10 (1) bonds or notes issued to fund or refund bonds or notes;

11 (2) bonds, notes, commercial paper, and other obligations issued under
12 AS 44.85.086 or (a)(5) of this section.

13 * **Sec. 3.** AS 44.85.410(4) is amended to read:

14 (4) "municipal bond" means a bond or note or evidence of debt that
15 constitutes

16 (A) a general obligation bond that is a direct and general
17 obligation of a political subdivision of the state, all the taxable property within
18 which is subject to taxation to pay the bond, note, or evidence of debt, and the
19 interest without limitation, as to rate or amount generally to the extent
20 permitted by law or to avoid a default as provided for second class cities under
21 AS 29.45.590;

22 (B) a revenue bond [, EXCEPT A REVENUE BOND FOR
23 ELECTRICAL GENERATION PURPOSES OTHER THAN DIESEL-
24 POWERED GENERATION,] issued by a municipality, a solid waste
25 management authority, or a port authority that pledges the revenue of a
26 revenue-producing capital improvement and that is payable solely from the
27 revenue of the revenue-producing capital improvement;

28 (C) a general obligation bond or revenue bond combined or
29 additionally secured;

30 (D) a bond of a borough issued as a general obligation of a
31 service area under AS 29.47.440 or former AS 29.58.340; or

1 (E) an obligation of a municipality secured only by

2 (i) special assessments on benefited property;

3 (ii) tax increments and a letter of credit or equal
4 security; or

5 (iii) a lease for equipment or building improvements [IF
6 THE STATE IS NOT A LESSEE];

7 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 WAIVER AND REALLOCATION OF RECOVERY ZONE ECONOMIC
10 DEVELOPMENT BOND VOLUME CAP. (a) A borough in the state that has received an
11 allocation of recovery zone economic development bond volume cap under 26 U.S.C. 1400U-
12 1 - 1400U-2, as amended, may waive all or part of its allocation at any time.

13 (b) A borough in the state that has received an allocation of recovery zone economic
14 development bond volume cap under 26 U.S.C. 1400U-1 - 1400U-2, as amended, is deemed
15 to have waived the unused portion of its recovery zone economic development bond volume
16 cap as of the close of business June 30, 2010.

17 (c) The recovery zone economic development bond volume cap for a census area in
18 the state that has received an allocation of recovery zone economic development bond volume
19 cap under 26 U.S.C. 1400-1 - 1400U-2, as amended, is deemed waived as of the close of
20 business June 30, 2010.

21 (d) All recovery zone economic development bond volume cap that has been waived
22 or deemed waived under this section lapses to the Alaska Municipal Bond Bank Authority
23 (AS 44.85.020). The Alaska Municipal Bond Bank Authority is authorized to reallocate all
24 such waived recovery zone economic development bond volume cap.

25 (e) All issuers of recovery zone economic development bonds authorized by 26
26 U.S.C. 1400U-1 - 1400U-2, as amended, must at the time of issuance, notify the Alaska
27 Municipal Bond Bank Authority in writing of the principal amount of the recovery zone
28 economic development bonds being issued and the date of issuance.

29 (f) The Alaska Municipal Bond Bank Authority may designate any bonds it issues
30 under AS 44.85 as recovery zone economic development bonds authorized by 26 U.S.C.
31 1400U-1 - 1400U-2, as amended. In connection with issuing recovery zone economic

1 development bonds, the Alaska Municipal Bond Bank Authority may designate areas within
 2 Alaska as recovery zones and may apply recovery zone economic development bond volume
 3 cap it has received under this section to the bonds. The Alaska Municipal Bond Bank
 4 Authority may reallocate recovery zone economic development bond volume cap to other
 5 issuers of bonds within the state and may authorize those issuers to designate areas as
 6 recovery zones for purposes of using the recovery zone economic development bond volume
 7 cap it allocates to those issuers.

8 (g) The Alaska Municipal Bond Bank Authority may use or to reallocate waived
 9 recovery zone economic development bond volume cap under this section in such manner as
 10 it considers most likely to achieve the efficient use of all the waived recovery zone economic
 11 development volume cap and taking into consideration job creation and economic recovery in
 12 areas of the state particularly affected by employment declines. The Alaska Municipal Bond
 13 Bank Authority shall give priority to projects within a borough or census area that received an
 14 allocation of recovery zone economic development bond volume cap under 26 U.S.C. 1400U-
 15 1 - 1400U-2, as amended.

16 (h) The Alaska Municipal Bond Bank Authority may reallocate recovery zone
 17 economic development bond volume cap allocations from a census area to political
 18 subdivisions located within the census area. Before making such a reallocation, the Alaska
 19 Municipal Bond Bank Authority shall consult with all political subdivisions within the census
 20 area having legal authority to issue such bonds regarding the need for reallocation of volume
 21 cap.

22 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
 23 read:

24 **WAIVER AND REALLOCATION OF RECOVERY ZONE FACILITY BOND**
 25 **VOLUME CAP.** (a) A borough in the state that has received an allocation of recovery zone
 26 facility bond volume cap under 26 U.S.C. 1400U-1 and 1400U-3, as amended, may waive all
 27 or part of its allocation at any time.

28 (b) A borough in the state that has received an allocation of recovery zone facility
 29 bond volume cap under 26 U.S.C. 1400U-1 and 1400U-3, as amended, is deemed to have
 30 waived the unused portion of its recovery zone facility bond volume cap as of the close of
 31 business June 30, 2010.

1 (c) The recovery zone facility bond volume cap for a census area in the state that has
2 received an allocation of recovery zone facility bond volume cap under 26 U.S.C. 1400U-1
3 and 1400U-3, as amended, is deemed waived as of the close of business June 30, 2010.

4 (d) All recovery zone facility bond volume cap that has been waived or deemed
5 waived under this section lapses immediately to the Alaska Industrial Development and
6 Export Authority (AS 44.88). The Alaska Industrial Development and Export Authority is
7 authorized to reallocate all such waived recovery zone facility bond volume cap.

8 (e) All issuers of recovery zone facility bonds authorized by 26 U.S.C. 1400U-1 and
9 1400U-3, as amended, must at the time of issuance, notify the Alaska Industrial Development
10 and Export Authority in writing of the principal amount of the recovery zone facility bonds
11 being issued and the date of issuance.

12 (f) The Alaska Industrial Development and Export Authority may designate any
13 bonds it issues under AS 44.88 as recovery zone facility bonds authorized by 26 U.S.C.
14 1400U-1 and 1400U-3, as amended. In connection with issuing recovery zone facility bonds,
15 the Alaska Industrial Development and Export Authority may designate areas within Alaska
16 as recovery zones and may apply recovery zone facility bond volume cap it has received
17 under this section to the bonds. The Alaska Industrial Development and Export Authority may
18 reallocate recovery zone facility bond volume cap to other issuers of bonds within the state
19 and may authorize those issuers to designate areas as recovery zones for purposes of using the
20 recovery zone facility bond volume cap it allocates to those issuers.

21 (g) The Alaska Industrial Development and Export Authority may use or reallocate
22 waived recovery zone facility bond volume cap under this section in such manner as it
23 considers most likely to achieve the efficient use of all the waived recovery zone facility bond
24 volume cap and taking into consideration job creation and economic recovery in areas of the
25 state particularly affected by employment declines. The Alaska Industrial Development and
26 Export Authority shall give priority to projects within a borough or census area that received
27 an allocation of recovery zone facility bond volume cap under 26 U.S.C. 1400U-1 and
28 1400U-3, as amended.

29 (h) The Alaska Industrial Development and Export Authority may use or reallocate
30 waived recovery zone facility bond volume cap according to regulations adopted by the
31 Alaska Industrial Development and Export Authority, which may include regulations

1 requiring the use of documents prepared by the Alaska Industrial Development and Export
2 Authority for that purpose and may include regulations establishing one or more deadlines for
3 usage of the waived recovery zone facility bond volume cap by the applicant. The Alaska
4 Industrial Development and Export Authority may grant an application in whole or in part or
5 may reject an application entirely after taking into consideration the factors established in (g)
6 of this section.

7 (i) Before making a reallocation under this section, the Alaska Industrial
8 Development and Export Authority shall charge and collect a fee for reallocating waived
9 recovery zone facility bond volume cap under this section. The fee must be an amount
10 sufficient to reimburse the Alaska Industrial Development and Export Authority for
11 administrative and contract expenses associated with the reallocation but may not exceed one
12 percent of the amount of the reallocation.

13 * **Sec. 6.** This Act takes effect immediately under AS 01.10.070(c).