

SENATE CS FOR CS FOR HOUSE BILL NO. 119(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 4/15/11

Referred: Today's Calendar

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the procurement of supplies, services, professional services, and**
2 **construction for the Alaska Industrial Development and Export Authority; relating to**
3 **the definition of 'own' for the economic development account; relating to the definitions**
4 **of 'development project,' 'plant,' 'facility,' and 'project' for the Alaska Industrial**
5 **Development and Export Authority; relating to the Alaska Industrial Development and**
6 **Export Authority creating subsidiaries regarding projects financed under AS 44.88.172;**
7 **authorizing the Alaska Development and Export Authority to issue bonds to finance the**
8 **expansion, modification, and upgrading of the Skagway Ore Terminal; relating to the**
9 **operation and management of public housing projects and housing for low-income**
10 **households by the Alaska Housing Finance Corporation; relating to subsidiary**
11 **corporations of the Alaska Housing Finance Corporation; relating to harbor facility**
12 **grants; and providing for an effective date."**

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

2 * **Section 1.** AS 18.55.010 is amended to read:

3 **Sec. 18.55.010. Purpose of AS 18.55.100 - 18.55.290.** The purpose of
4 AS 18.55.100 - 18.55.290 is to remedy the acute housing shortage that exists in certain
5 localities of the state by undertaking slum clearance, **housing for low-income**
6 **households** [LOW-COST HOUSING PROJECTS], housing for persons and their
7 families engaged in national defense activities in the state, and housing projects and
8 housing for veterans and other citizens of the state and to remedy the short supply of
9 necessary public buildings by providing for the financing, construction, and
10 acquisition of public buildings for lease to the state.

11 * **Sec. 2.** AS 18.55.120 is repealed and reenacted to read:

12 **Sec. 18.55.120. Housing for low-income households.** For purposes of
13 AS 18.55.100 - 18.55.290, the corporation shall manage and operate housing for low-
14 income households with rentals fixed at the lowest rates consistent with decent, safe,
15 and sanitary dwellings.

16 * **Sec. 3.** AS 18.55.130(a) is amended to read:

17 (a) In the operation or management of **housing for low-income households**
18 [LOW-COST HOUSING PROJECTS], the corporation shall, from time to time,
19 establish rents and requirements for admission of tenants to its **housing** [LOW-COST
20 HOUSING PROJECTS] in each municipality in which **the housing** [LOW-COST
21 HOUSING PROJECTS] of the corporation **is** [ARE] located. [THE RENTS AND
22 REQUIREMENTS FOR ADMISSION ARE SUBJECT TO THE APPROVAL OF
23 THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN
24 DEVELOPMENT.]

25 * **Sec. 4.** AS 18.55.130(b) is amended to read:

26 (b) Except in the case of leased housing as provided in 42 U.S.C. 1437f, the
27 corporation shall fix the income limits for occupancy **in** [OF] its **housing for low-**
28 **income households** [LOW-COST HOUSING PROJECTS AND RENTS THAT ARE
29 APPROVED BY THE UNITED STATES DEPARTMENT OF HOUSING AND
30 URBAN DEVELOPMENT] after taking into consideration

31 (1) the family size, composition, age, physical disabilities, and other

1 factors that might affect the rent-paying ability of the family; and

2 (2) the economic factors that affect the financial stability and solvency
3 of the project.

4 * **Sec. 5.** AS 18.56.086 is amended to read:

5 **Sec. 18.56.086. Creation of subsidiaries.** The corporation may create
6 subsidiary corporations for the purpose of financing or facilitating the financing of
7 school construction, facilities for the University of Alaska, facilities for ports and
8 harbors, **the acquisition, development, management, or operation of affordable**
9 **housing**, prepayment of all or a portion of a governmental employer's share of
10 unfunded accrued actuarial liability of retirement systems, or other capital projects. A
11 subsidiary corporation may also be created for the purpose of planning, constructing,
12 and financing in-state natural gas pipeline projects or for the purpose of aiding in the
13 planning, construction, and financing of in-state natural gas pipeline projects. A
14 subsidiary corporation created under this section may be incorporated under
15 AS 10.20.146 - 10.20.166. The corporation may transfer assets of the corporation to a
16 subsidiary created under this section. A subsidiary created under this section may
17 borrow money and issue bonds as evidence of that borrowing, and has all the powers
18 of the corporation that the corporation grants to it. However, a subsidiary created for
19 the purpose of financing or facilitating the financing of prepayment of a governmental
20 employer's share of unfunded accrued actuarial liability of retirement systems may
21 borrow money and issue bonds only if the state bond rating is the equivalent of AA- or
22 better and subject to AS 37.15.903. A subsidiary corporation created for the purpose
23 of planning, constructing, and financing in-state natural gas pipeline projects or for the
24 purpose of aiding in the planning, construction, or financing of in-state natural gas
25 pipeline projects is exempt from AS 36.30, including AS 36.30.015(d) and (f). Unless
26 otherwise provided by the corporation, the debts, liabilities, and obligations of a
27 subsidiary corporation created under this section are not the debts, liabilities, or
28 obligations of the corporation.

29 * **Sec. 6.** AS 29.60.810 is amended to read:

30 **Sec. 29.60.810. Grant applications.** A municipality **or regional housing**
31 **authority** that owns a harbor facility may submit to the Department of Transportation

1 and Public Facilities an application for a [MUNICIPAL] harbor facility grant to be
 2 used for construction, expansion, major repair, or major maintenance of a harbor
 3 facility. The application must include information about the project requested by the
 4 department. For a proposed project to be eligible for a grant, the municipality **or**
 5 **regional housing authority** must provide evidence acceptable to the department that
 6 the

7 (1) proposed project is a capital improvement project and not part of a
 8 preventive maintenance program or regular custodial care program;

9 (2) municipality **or regional housing authority** will provide 50
 10 percent of the total project cost as matching funds for the state grant and that money
 11 received by the municipality **or regional housing authority** from the state will not be
 12 used for the matching funds except money received under

13 (A) AS 29.60.850 - 29.60.879 (community revenue sharing
 14 program); [AND]

15 (B) AS 29.60.450, AS 43.75.130, and 43.75.137 (shared
 16 fisheries business taxes);

17 **(C) AS 43.52.200 - 43.52.295 (excise tax on overnight**
 18 **accommodations on commercial passenger vessels); and**

19 **(D) a transfer agreement between the state and a**
 20 **municipality pursuant to a sale under AS 35.10.120;**

21 (3) municipality **or regional housing authority** has secured and will
 22 maintain adequate property loss insurance for the replacement cost of the harbor
 23 facility or has an adequate program of insurance;

24 (4) municipality **or regional housing authority** has a preventive
 25 maintenance plan for the harbor facility and will be adequately adhering to the
 26 preventive maintenance plan after completion of the proposed project.

27 * **Sec. 7.** AS 29.60.820 is amended to read:

28 **Sec. 29.60.820. Award of grants.** (a) The Department of Transportation and
 29 Public Facilities may award a [MUNICIPAL] harbor facility grant during a fiscal year
 30 only for a proposed project eligible under AS 29.60.810 based on a grant application
 31 filed during the immediately preceding fiscal year before February 1. The total amount

1 of grant money made available to a municipality **or regional housing authority**
 2 during a fiscal year may not exceed \$5,000,000.

3 (b) The Department of Transportation and Public Facilities shall award a grant
 4 for every proposed project eligible under AS 29.60.810 that is for repair and major
 5 maintenance of a harbor facility that was transferred by the state to a municipality **or**
 6 **regional housing authority** before grants may be made for other proposed harbor
 7 facility projects during a fiscal year. However, after the department makes a grant for
 8 the repair and major maintenance of a harbor facility under this subsection, no other
 9 grants for the repair and major maintenance of that facility may be made during the
 10 same or any other fiscal year.

11 (c) The Department of Transportation and Public Facilities shall establish
 12 priorities for the award of grants for proposed [MUNICIPAL] harbor facility projects
 13 under (b) of this section and priorities for the award of grants for other proposed
 14 harbor facility projects, with new construction projects having the lowest priority. The
 15 department shall award grants in the order of priority established. In establishing
 16 priorities, the department shall include at least the following, in the order listed:

17 (1) the extent to which the municipality **or regional housing**
 18 **authority** can demonstrate that it will have sufficient revenue to operate and maintain
 19 the harbor facility in the future without state aid;

20 (2) public safety and emergency factors;

21 (3) the amount spent by the municipality **or regional housing**
 22 **authority** on maintenance of the harbor facility;

23 (4) other options that would reduce or eliminate the need for the
 24 proposed project; and

25 (5) whether alternative harbor projects would better serve the public
 26 interest.

27 (d) The Department of Transportation and Public Facilities may suggest
 28 modifications to a project request to achieve cost savings or to better serve the public
 29 interest and, if the municipality **or regional housing authority** agrees, award the
 30 [MUNICIPAL] harbor facility grant for the proposed project as modified.

31 * **Sec. 8.** AS 29.60 is amended by adding a new section to article 7 to read:

1 **Sec. 29.60.830. Definitions.** In AS 29.60.800 - 29.60.830, "regional housing
2 authority" means a regional housing authority established under AS 18.55.996.

3 * **Sec. 9.** AS 36.30.015(f) is amended to read:

4 (f) The board of directors of the Alaska Housing Finance Corporation,
5 notwithstanding AS 18.56.088, **the membership of the Alaska Industrial**
6 **Development and Export Authority, notwithstanding AS 44.88.085,** and the board
7 of directors of the Knik Arm Bridge and Toll Authority under AS 19.75.111, shall
8 adopt regulations under AS 44.62 (Administrative Procedure Act) and the board of
9 trustees of the Alaska Retirement Management Board shall adopt regulations under
10 AS 37.10.240 to govern the procurement of supplies, services, professional services,
11 and construction for the respective public corporation and board. The regulations must
12 reflect competitive bidding principles and provide vendors reasonable and equitable
13 opportunities to participate in the procurement process and must include procurement
14 methods to meet emergency and extraordinary circumstances. Notwithstanding the
15 other provisions of this subsection, the Alaska Housing Finance Corporation, **the**
16 **Alaska Industrial Development and Export Authority,** the Knik Arm Bridge and
17 Toll Authority, and the Alaska Retirement Management Board shall comply with
18 AS 36.30.170(b).

19 * **Sec. 10.** AS 36.30.990(1) is amended to read:

20 (1) "agency"

21 (A) means a department, institution, board, commission,
22 division, authority, public corporation, the Alaska Pioneers' Home, the Alaska
23 Veterans' Home, or other administrative unit of the executive branch of state
24 government;

25 (B) does not include

26 (i) the University of Alaska;

27 (ii) the Alaska Railroad Corporation;

28 (iii) the Alaska Housing Finance Corporation;

29 (iv) a regional Native housing authority created under
30 AS 18.55.996 or a regional electrical authority created under
31 AS 18.57.020;

1 (v) the Department of Transportation and Public
 2 Facilities, in regard to the repair, maintenance, and reconstruction of
 3 vessels, docking facilities, and passenger and vehicle transfer facilities
 4 of the Alaska marine highway system;

5 (vi) the Alaska Aerospace Corporation;

6 (vii) the Alaska Retirement Management Board;

7 (viii) the Alaska Seafood Marketing Institute;

8 (ix) the Alaska children's trust and the Alaska
 9 Children's Trust Board;

10 **(x) the Alaska Industrial Development and Export**

11 **Authority;**

12 * **Sec. 11.** AS 44.88.172(a) is amended to read:

13 (a) The economic development account is established in the revolving fund.
 14 The economic development account consists of money or assets appropriated, loaned,
 15 or transferred to the authority for deposit in the account and other money or assets
 16 deposited in the account by the authority. While money is on deposit in the economic
 17 development account, the money may be used only to finance, acquire, manage, and
 18 operate development projects that the authority intends to own and operate. In this
 19 subsection,

20 (1) "operate" includes operation directly by the authority, by an agent
 21 of the authority, or by a person as determined under an agreement between the
 22 authority and other owners of the development project;

23 (2) "own" includes ownership by the authority of all or a percentage of
 24 a development project, **or all or a percentage of the shares of a corporation or**
 25 **membership in a limited liability company for which the development project is**
 26 **the sole asset of the corporation or limited liability company.**

27 * **Sec. 12.** AS 44.88 is amended by adding a new section to read:

28 **Sec. 44.88.178. Creation of subsidiaries.** The authority may create one or
 29 more subsidiary corporations for the purpose of acquiring, constructing, owning,
 30 operating, or financing a project financed under AS 44.88.172. A subsidiary
 31 corporation created under this section may be incorporated under AS 10.20.146 -

1 10.20.166. The authority may transfer assets of the authority to a subsidiary created
 2 under this section. A subsidiary created under this section may borrow money and
 3 issue bonds as evidence of that borrowing, and has all the powers of the authority that
 4 the authority grants to it. Unless otherwise provided by the authority, the debts,
 5 liabilities, and obligations of a subsidiary corporation created under this section are not
 6 the debts, liabilities, or obligations of the authority.

7 * **Sec. 13.** AS 44.88.900(3) is amended to read:

8 (3) "development project" has the meaning given to "project" in (9)(A)
 9 and (D) - (H) [(9)(A) AND (D) - (F)] of this section;

10 * **Sec. 14.** AS 44.88.900(8) is amended to read:

11 (8) "plant" or "facility" means real property, whether above or below
 12 mean high water, or an interest in it, and the buildings, improvements and structures
 13 constructed or to be constructed on or in it, and may include roads, fixtures,
 14 machinery, and equipment on it or in it, and tangible personal property, regardless of
 15 whether the tangible personal property is attached to or connected with real property,
 16 if the owner has agreed not to remove the tangible personal property permanently from
 17 the state for the period the authority sets; "plant" or "facility" does not include work in
 18 process or stock in trade;

19 * **Sec. 15.** AS 44.88.900(9) is amended to read:

20 (9) "project" means

21 (A) a plant or facility used or intended for use in connection
 22 with making, processing, preparing, transporting, or producing in any manner,
 23 goods, products, or substances of any kind or nature or in connection with
 24 developing or utilizing a natural resource, or extracting, smelting, transporting,
 25 converting, assembling, or producing in any manner, minerals, raw materials,
 26 chemicals, compounds, alloys, fibers, commodities and materials, products, or
 27 substances of any kind or nature;

28 (B) a plant or facility used or intended for use in connection
 29 with a business enterprise;

30 (C) commercial activity by a business enterprise;

31 (D) a plant or facility demonstrating technological advances of

1 new methods and procedures and prototype commercial applications for the
 2 exploration, development, production, transportation, conversion, and use of
 3 energy resources;

4 (E) infrastructure for a new tourism destination facility or for
 5 the expansion of a tourism destination facility; in this subparagraph, "tourism
 6 destination facility" does not include a hotel or other overnight lodging facility;

7 (F) a plant or facility, other than a plant or facility described in
 8 (D) of this paragraph, for the generation, transmission, development,
 9 transportation, conversion, or use of energy resources;

10 **(G) a plant or facility that enhances, provides for, or**
 11 **promotes economic development with respect to transportation,**
 12 **communications, community public purposes, technical innovations,**
 13 **prototype commercial applications of intellectual property, or research;**

14 **(H) a plant or facility used or intended for use as a federal**
 15 **facility, including a United States military, national guard, or coast guard**
 16 **facility;**

17 * **Sec. 16.** The uncodified law of the State of Alaska is amended by adding a new section to
 18 read:

19 LEGISLATIVE APPROVAL; SKAGWAY ORE TERMINAL. (a) The Alaska
 20 Industrial Development and Export Authority may issue bonds to finance the expansion,
 21 modification, improvement, and upgrading of the Skagway Ore Terminal. The Skagway Ore
 22 Terminal shall be owned by the authority and financed under AS 44.88.172 - 44.88.177. The
 23 principal amount of the bonds provided by the authority for the Skagway Ore Terminal may
 24 not exceed \$65,000,000 and may include the costs of funding reserves and other costs of
 25 issuing bonds deemed reasonable and appropriate by the Alaska Industrial Development and
 26 Export Authority.

27 (b) This section constitutes legislative approval required by AS 44.88.095(g).

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

30 RETROACTIVITY. AS 29.60.810(2)(D), added by sec. 6 of this Act, is retroactive to
 31 January 1, 1993.

- 1 * **Sec. 18.** AS 18.55.130(c) and 18.55.130(d) are repealed.
- 2 * **Sec. 19.** This Act takes effect immediately under AS 01.10.070(c).