

HOUSE BILL NO. 196

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

BY REPRESENTATIVES EDGMON, Foster, Herron

Introduced: 3/16/11

Referred: Community and Regional Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the power project fund and to the bulk fuel revolving loan fund;**
2 **establishing a bulk fuel loan account and making the bulk fuel loan account and the**
3 **bulk fuel bridge loan account separate accounts in the bulk fuel revolving loan fund;**
4 **providing for technical assistance to rural borrowers under the bulk fuel bridge loan**
5 **program; relating to the administration and investment of the bulk fuel revolving loan**
6 **fund by the division in the Department of Commerce, Community, and Economic**
7 **Development responsible for community and regional affairs; and providing for an**
8 **effective date."**

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

10 *** Section 1.** AS 42.45.010(b) is amended to read:

11 (b) The authority may make loans from the power project fund

12 (1) to electric utilities, regional electric authorities, municipalities,

1 regional and village corporations, village councils, and independent power producers
2 to pay the costs of

3 (A) reconnaissance studies, feasibility studies, license and
4 permit applications, preconstruction engineering, and design of power projects;
5 and

6 (B) constructing, equipping, modifying, improving, and
7 expanding small-scale power production facilities that are designed to produce
8 less than 10 megawatts of power, bulk fuel storage facilities, and transmission
9 and distribution facilities, including energy production, transmission and
10 distribution, waste energy, energy conservation, energy efficiency, and
11 alternative energy facilities and equipment;

12 (2) to a borrower for a power project or for bulk fuel, waste energy,
13 energy conservation, energy efficiency, or alternative energy facilities or equipment if

14 (A) the loan is entered into under a leveraged lease financing
15 arrangement;

16 (B) the party that will be responsible for the power project or
17 the bulk fuel, waste energy, energy conservation, energy efficiency, or
18 alternative energy facilities or equipment is an electric utility, regional electric
19 authority, municipality, regional or village corporation, village council, or
20 independent power producer; and

21 (C) the borrower seeking the loan demonstrates to the authority
22 that the financing arrangement for the power project or the bulk fuel, waste
23 energy, energy conservation, energy efficiency, or alternative energy facilities
24 or equipment will reduce financing costs for the project, facilities, or
25 equipment below costs of comparable public power projects, facilities, or
26 equipment [;

27 (3) TO THE BULK FUEL REVOLVING LOAN FUND FOR THE
28 PURPOSES DESCRIBED IN AS 42.45.250(l) UNDER TERMS, INCLUDING
29 INTEREST, THAT THE AUTHORITY DETERMINES ARE APPROPRIATE TO
30 MAINTAIN THE VIABILITY OF THE POWER PROJECT FUND AND THE
31 BULK FUEL REVOLVING LOAN FUND; HOWEVER, THE AUTHORITY MAY

1 NOT MAKE A LOAN UNDER THIS PARAGRAPH IF

2 (A) THE CUMULATIVE OUTSTANDING BALANCE OF
3 THE LOANS WOULD EXCEED THE LESSER OF \$2,000,000 OR 10
4 PERCENT OF THE CASH BALANCE OF THE POWER PROJECT FUND
5 ON JUNE 30 OF THE PRECEDING FISCAL YEAR; OR

6 (B) THE CASH BALANCE OF THE POWER PROJECT
7 FUND IS LESS THAN \$5,000,000].

8 * **Sec. 2.** AS 42.45.250(a) is amended to read:

9 (a) The bulk fuel revolving loan fund is established in the **division**
10 [AUTHORITY] to assist communities, utilities providing power in communities, and
11 fuel retailers in communities in purchasing bulk fuel to generate power or supply the
12 public with fuel for use in communities. A community, or a person generating power
13 or selling fuel in a community **or maintaining community facilities or**
14 **infrastructure** [WHO HAS WRITTEN ENDORSEMENT FROM THE
15 GOVERNING BODY OF EACH COMMUNITY FOR WHICH A LOAN FROM
16 THE FUND IS SOUGHT,] is eligible for a **bulk fuel loan under AS 42.45.260 or a**
17 **bulk fuel bridge loan under AS 42.45.270 to purchase** [FROM THE BULK FUEL
18 REVOLVING LOAN FUND FOR A PURCHASE OF AN EMERGENCY SUPPLY
19 OR A SEMIANNUAL OR ANNUAL SUPPLY OF] bulk fuel to be used in the
20 community.

21 * **Sec. 3.** AS 42.45.250(b) is amended to read:

22 (b) Money in the fund may be used by the legislature to make appropriations
23 for costs of administering **AS 42.45.250 - 42.45.299** [THIS SECTION].

24 * **Sec. 4.** AS 42.45.250 is amended by adding new subsections to read:

25 (n) The fund consists of

26 (1) money appropriated to, transferred to, or received by gift, grant,
27 devise, bequest, or donation to the fund;

28 (2) principal and interest payments or other income earned on loans or
29 investments of the fund and appropriated to the fund.

30 (o) The fund is not a dedicated fund.

31 (p) The division shall establish and implement a technical assistance program

1 for borrowers. Technical assistance shall be provided to borrowers who need
 2 assistance in applying for a loan or who have received a bulk fuel loan to help those
 3 borrowers improve creditworthiness or other financial criteria likely to be considered
 4 by the division if the borrower applies for another bulk fuel loan in the future. The
 5 division may contract with a state agency or private contractor to administer or
 6 implement the technical assistance program.

7 * **Sec. 5.** AS 42.45 is amended by adding new sections to article 4 to read:

8 **Sec. 42.45.260. Bulk fuel loan account; loans.** (a) The bulk fuel loan account
 9 is established as a separate account within the fund. The division may make loans
 10 from the bulk fuel loan account as provided in AS 42.45.250 - 42.45.299.

11 (b) The division shall establish by regulation criteria under which
 12 communities or entities eligible under AS 42.45.250(a) may obtain a bulk fuel loan.
 13 The criteria must require the division to consider the applicant's creditworthiness and
 14 repayment history and may require the consideration of other factors.

15 (c) The division shall evaluate each application for a bulk fuel loan and shall
 16 make findings if the application is denied.

17 (d) Loans made from the bulk fuel loan account to one borrower

18 (1) may not exceed \$750,000 or, if the borrower is a cooperative
 19 corporation organized under AS 10.15 or an electric cooperative organized under
 20 AS 10.25 and uses the loan to purchase bulk fuel on behalf of more than one
 21 community, may not exceed \$750,000 multiplied by the number of communities on
 22 whose behalf the bulk fuel is to be purchased or \$1,800,000, whichever is less;

23 (2) shall be repaid within one year after the date of the loan
 24 disbursement; and

25 (3) may include additional terms and conditions required by the
 26 division.

27 (e) The division may contract with a private contractor to administer the loan
 28 account.

29 **Sec. 42.45.270. Bulk fuel bridge account; loans.** (a) The bulk fuel bridge
 30 loan account is established as a separate account within the fund. Subject to
 31 availability of funds in the account, the division may make bulk fuel bridge loans from

1 the bulk fuel bridge loan account as provided in AS 42.45.250 - 42.45.299.

2 (b) A community or person is eligible for a bulk fuel bridge loan only if the
3 community or person

4 (1) meets the requirements of AS 42.45.250(a); and

5 (2) has been denied an application for a bulk fuel loan under
6 AS 42.45.260.

7 (c) Loans made from the bulk fuel bridge loan account to one borrower in a
8 fiscal year

9 (1) may not exceed \$750,000;

10 (2) shall be repaid within one year after the date of the loan
11 disbursement; and

12 (3) may include additional terms and conditions required by the
13 division.

14 (d) The division shall implement a technical assistance and counseling plan
15 for borrowers who have received a bulk fuel bridge loan to help those borrowers
16 improve creditworthiness or other financial criteria likely to be considered by the
17 division if the borrower applies for another bulk fuel loan in the future. The division
18 may contract with a state agency or outside contractor to administer or implement the
19 technical assistance and counseling plan.

20 **Sec. 42.45.280. Bulk fuel loan and bulk fuel bridge loan interest rates.** (a)
21 Except as provided under (b) and (c) of this section, interest shall be charged on a bulk
22 fuel loan and bulk fuel bridge loan at a base rate of four percent.

23 (b) The division may establish by regulation a program to reduce the interest
24 rate on the second and subsequent bulk fuel loans obtained by a borrower. In
25 evaluating a potential interest rate reduction, the division shall consider the borrower's
26 repayment history and any other criteria that may be established by regulation. The
27 division may by regulation reduce the interest rate on a bulk fuel loan made by the
28 division by one percent for a borrower who has had at least one previous bulk fuel
29 loan made by the division or by two percent for a borrower who has had two or more
30 previous bulk fuel loans made by the division. The division shall make findings if an
31 application for an interest rate reduction is denied.

1 (c) For the first time a borrower receives a bulk fuel bridge loan, the interest
 2 rate shall be zero percent. For all loans made after the first bulk fuel bridge loan to a
 3 borrower, the interest rate shall be set according to the procedure described in (a) of
 4 this section.

5 **Sec. 42.45.299. Definitions.** In AS 42.45.250 - 42.45.299, unless the context
 6 otherwise requires,

7 (1) "community" means an organized municipality or an
 8 unincorporated village that is a social unit if the organized municipality or
 9 unincorporated village has a population of less than 2,000 people;

10 (2) "division" means the division in the Department of Commerce,
 11 Community, and Economic Development that is responsible for community and
 12 regional affairs;

13 (3) "fund" means the bulk fuel revolving loan fund established in
 14 AS 42.45.250(a) and administered under AS 42.45.250 - 42.45.299;

15 (4) "person" has

16 (A) the meaning given in AS 01.10.060;

17 (B) includes a cooperative, a joint venture, and a governmental
 18 entity.

19 * **Sec. 6.** AS 29.60.660; AS 42.45.250(c), 42.45.250(d), 42.45.250(e), 42.45.250(f),
 20 42.45.250(g), 42.45.250(h), 42.45.250(i), 42.45.250(j), 42.45.250(k), 42.45.250(l), and
 21 42.45.250(m) are repealed.

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

24 **TRANSITION: TRANSFER OF MONEY IN BULK FUEL BRIDGE LOAN FUND.**
 25 Subject to appropriation, the money in the bulk fuel bridge loan fund in AS 29.60.660,
 26 repealed by sec. 6 of this Act, is transferred to the bulk fuel revolving loan fund in
 27 AS 42.45.250 for deposit into the bulk fuel bridge loan account established in AS 42.45.270,
 28 added by sec. 5 of this Act.

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

31 **TRANSITION: COLLECTIONS.** Notwithstanding the repeal of AS 29.60.660 by sec.

1 6 of this Act, subject to appropriation, amounts collected by the Department of Commerce,
2 Community, and Economic Development from enforcement of contracts, rights, liabilities,
3 and obligations created by or under AS 29.60.660 are transferred to the bulk fuel revolving
4 loan fund in AS 42.45.250 for deposit into the bulk fuel bridge loan account established in
5 AS 42.45.270, added by sec. 5 of this Act.

6 * **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 TRANSITION: PENDING PROCEEDINGS; EXISTING CONTRACTS, RIGHTS,
9 LIABILITIES, AND OBLIGATIONS. (a) All litigation, hearings, and other proceedings
10 pending under a law repealed by this Act continue in effect and may be continued and
11 completed by the Department of Commerce, Community, and Economic Development.

12 (b) Contracts, rights, liabilities, and obligations created by or under a law amended or
13 repealed by this Act and in effect on the day before the effective date of sec. 12 of this Act
14 remain in effect and may be enforced by the Department of Commerce, Community, and
15 Economic Development, notwithstanding the repeal of AS 29.60.660 by sec. 6 of this Act or
16 another repeal or amendment in this Act.

17 * **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 TRANSITION: REGULATIONS. The division in the Department of Commerce,
20 Community, and Economic Development that is responsible for community and regional
21 affairs may adopt regulations necessary to implement this Act. The regulations take effect
22 under AS 44.62 (Administrative Procedure Act), but not before January 1, 2012.

23 * **Sec. 11.** Section 10 of this Act takes effect immediately under AS 01.10.070(c).

24 * **Sec. 12.** Except as provided in sec. 11 of this Act, this Act takes effect on January 1, 2012.