

SENATE BILL NO. 25

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

BY SENATOR MCGUIRE

Introduced: 1/19/11

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to participation by the Alaska Industrial Development and Export**
2 **Authority in energy projects."**

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

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

6 SHORT TITLE. This Act may be known as the Alaska Sustainable Strategy for
7 Energy Transmission and Supply (ASSETS) Act.

8 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 LEGISLATIVE INTENT. The legislature intends to appropriate, during fiscal years
11 2013 and 2014, amounts that total \$2,000,000,000 to carry out the purposes of this Act.

12 * **Sec. 3.** AS 44.88.010(a) is amended to read:

13 (a) The legislature finds, determines, and declares that

14 (1) there exist areas of the state in which seasonal and nonseasonal

1 unemployment exist;

2 (2) this unemployment is a serious menace to the health, safety, and
3 general welfare, not only to the people in those areas, but also to the people of the
4 entire state;

5 (3) the state lacks the basic manufacturing, industrial, energy, export,
6 small business, and business enterprises and the other facilities referred to in this
7 subsection necessary to permit adequate development of its natural resources and the
8 balanced growth of its economy;

9 (4) the establishment and expansion of industrial, manufacturing,
10 energy, export, small business, and business enterprises in the state [ALASKA] and
11 the other facilities referred to in this subsection are essential to the development of the
12 natural resources and the long-term economic growth of the state, and will directly and
13 indirectly alleviate unemployment in the state;

14 (5) the expansion of export trade is vital to the health and growth of the
15 state's economy;

16 (6) many state [ALASKA] businesses could benefit from additional
17 financial and technical assistance with respect to the exportation of their products and
18 services;

19 (7) the [UNITED STATES] Export-Import Bank of the United States
20 has been mandated by the Export-Import Bank Act Amendments of 1983 to provide
21 technical assistance and export financing support to small businesses in cooperation
22 with state export finance agencies;

23 (8) Alaska-based exporters can be effectively assisted through the
24 establishment, as part of the Alaska Industrial Development and Export Authority, of
25 an export financing program designed to work with the [U.S.] Export-Import Bank of
26 the United States and other federal, state, and private institutions;

27 (9) the achievement of the goal of full employment, and of
28 establishment and continuing operation and development of industrial, manufacturing,
29 energy, export, small business, and business enterprises in the state will be accelerated
30 and facilitated by the creation of an instrumentality of the state with powers to incur
31 debt, to own and operate facilities, to make and insure loans to finance and to assist

1 private lenders to make loans to finance the establishment, operation, and development
2 of industrial, manufacturing, energy, export, small business, and business enterprises;

3 (10) it is in the public interest to promote the prosperity and general
4 welfare of all citizens of the state by

5 (A) stimulating commercial and industrial growth and
6 expansion by encouraging an increase of private investment by banks,
7 investment houses, insurance companies, and other financial institutions,
8 including pension and retirement funds, to help satisfy the need for economic
9 expansion;

10 (B) encouraging the production of raw materials and goods for
11 export, the expansion of exports and raw materials and goods, and the
12 rendering of services abroad by residents of the state through the establishment
13 of a program that provides financial assistance in cooperation with federal,
14 state, and private institutions for these purposes in the form provided in this
15 chapter;

16 (C) creating the Alaska Industrial Development and Export
17 Authority with the powers necessary to accomplish the objectives stated in this
18 paragraph, including the power to issue taxable and tax-exempt bonds and to
19 acquire ownership interests in projects as provided in this chapter;

20 (11) it is in the state's interest to import private capital to create new
21 economic activity which would not otherwise take place in the state.

22 * **Sec. 4.** AS 44.88.010(b) is amended to read:

23 (b) It is declared to be the policy of the state, in the interests of promoting the
24 health, security, and general welfare of all the people of the state, and a public
25 purpose, to increase job opportunities and otherwise to encourage the economic
26 growth of the state, including the development of its natural resources, through the
27 establishment and expansion of manufacturing, industrial, energy, export, small
28 business, and business enterprises and the other facilities referred to in (a) of this
29 section by creating the Alaska Industrial Development and Export Authority with the
30 powers, duties, and functions as provided in this chapter.

31 * **Sec. 5.** AS 44.88.095(a) is amended to read:

1 (a) **The authority may not issue bonds for energy projects in a total**
 2 **amount for all energy projects that exceeds \$2,000,000,000.** The authority may not
 3 issue bonds in a 12-month period in an amount that exceeds \$400,000,000, excluding
 4 refunding bonds **and bonds for energy projects.**

5 * **Sec. 6.** AS 44.88.155(d) is amended to read:

6 (d) A loan participation purchased by the authority with assets of the
 7 enterprise development account or with proceeds of bonds secured by assets of the
 8 enterprise development account

9 (1) may not exceed \$20,000,000; however, in the case of a loan
 10 participation for **an energy project** [A POWER TRANSMISSION INTERTIE], the
 11 loan participation may exceed \$20,000,000 [WITH LEGISLATIVE APPROVAL];

12 (2) may not be purchased unless

13 (A) the project applicant is not, or, if the applicant is not a
 14 single proprietorship, all members of the business enterprise or enterprises
 15 constituting the project applicant are not, in default on another loan made by
 16 the state or by a public corporation of the state; and

17 (B) at least 10 percent of the principal amount of the loan is
 18 retained by the loan originator, **or at least five percent of the principal**
 19 **amount of the loan is retained by the loan originator if the loan is for an**
 20 **energy project;**

21 (3) may not be purchased if the loan to be purchased exceeds 75
 22 percent of the appraised value of the collateral offered as security for the loan unless
 23 the amount of the loan in excess of this limit is federally insured or guaranteed or is
 24 insured by a qualified mortgage insurance company, except that the loan to be
 25 purchased under this paragraph may not exceed the total of loan proceeds used to
 26 refinance an existing debt plus the cost of new construction, expansion, or acquisition
 27 unless the proceeds from the additional amounts of the loan to be purchased are
 28 restricted to uses approved by the authority to finance commercial activity in the state
 29 by a business enterprise;

30 (4) may not be purchased if the participation in the loan to be
 31 purchased is for a term longer than the following, except that a loan under (A) or (C)

1 of this paragraph may not have a term longer than three-quarters of the authority's
2 estimate of the life of the collateral offered as security for the loan:

3 (A) 40 years from the date the loan is made in the case of a
4 loan participation for a project described in AS 44.88.900(9)(E);

5 (B) 50 years from the date the loan is made in the case of a loan
6 participation for a an energy project [POWER TRANSMISSION
7 INTERTIE];

8 (C) 25 years from the date the loan is made in the case of a loan
9 participation for other projects;

10 (5) may be made only if the participation in the loan to be purchased
11 contains amortization provisions; the amortization provisions

12 (A) must be complete and satisfactory to the authority and
13 require periodic payments by the borrower;

14 (B) may allow the loan originator to amortize the portion of the
15 loan retained by the loan originator using a shorter amortization schedule than
16 the amortization schedule for the portion of the loan held by the authority if

17 (i) in the authority's opinion, the project financed can
18 support the increased debt service; and

19 (ii) the accelerated amortization schedule is required to
20 induce the originator to make the loan;

21 (6) may be made only if the participation in the loan to be purchased is
22 in the form and contains the terms and provisions with respect to insurance, repairs,
23 alterations, payment of taxes and assessments, default reserves, delinquency charges,
24 default remedies, acceleration of maturity, secondary liens, and other matters the
25 authority prescribes; and

26 (7) may be made only if the participation in the loan to be purchased is
27 secured as to repayment by a mortgage or other security instrument in the manner the
28 authority determines is feasible to assure timely repayment under the loan documents
29 entered into with the borrower.

30 * **Sec. 7.** AS 44.88.159(e) is amended to read:

31 (e) The interest rate on a loan participation purchased directly from the assets

1 of the authority shall be determined under the regulations adopted by the authority
 2 under AS 44.88.085(g)(2)(C) and shall be not less than the total of a percentage as
 3 determined by the authority to represent the allocable expenses of operation and costs
 4 of loan origination and servicing, plus the cost of funds. **Notwithstanding the**
 5 **foregoing, the authority may adopt regulations providing for less than the**
 6 **minimum interest rate on a loan participation for an energy project purchased**
 7 **directly from the assets of the authority.** In this subsection,

8 (1) "comparable financial security" means a type or category of
 9 financial security the authority identifies in the regulations adopted by the authority
 10 under AS 44.88.085(g)(2)(C) that has a term and financial conditions comparable to
 11 the term and financial conditions of a loan participation and for which a regularly
 12 published, nationally recognized market index is available;

13 (2) "cost of funds" means the earnings, expressed as an annual interest
 14 rate, the authority would receive on a comparable financial security, and, for a loan
 15 participation with a fixed interest rate, the cost of funds must equal or exceed the
 16 minimum interest rate;

17 (3) "minimum interest rate" means the five-year return on investment
 18 funds of the authority, expressed as an annual interest rate, achieved by all internal and
 19 external investment managers of the authority combined.

20 * **Sec. 8.** AS 44.88.900 is amended by adding a new paragraph to read:

21 (15) "energy project" means a project that involves the transmission,
 22 generation, or distribution of electricity or natural gas for use in the state.