

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT, INTERNATIONAL
TRADE AND TOURISM

February 3, 2011
10:16 a.m.

MEMBERS PRESENT

Representative Bob Herron, Chair
Representative Kurt Olson, Vice Chair
Representative Wes Keller
Representative Cathy Engstrom Munoz
Representative Steve Thompson
Representative Peggy Wilson
Representative Berta Gardner
Representative Chris Tuck

MEMBERS ABSENT

Representative Neal Foster

COMMITTEE CALENDAR

HOUSE BILL NO. 119

"An Act relating to the procurement of supplies, services, professional services, and construction for the Alaska Industrial Development and Export Authority; relating to the definition of 'own' for the economic development account; relating to the definitions of 'development project', 'plant', 'facility', and 'project' for the Alaska Industrial Development and Export Authority; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 119

SHORT TITLE: AIDEA: PROCUREMENT; PROJECTS

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/24/11	(H)	READ THE FIRST TIME - REFERRALS
01/24/11	(H)	EDT, FIN
02/03/11	(H)	EDT AT 10:15 AM BARNES 124

WITNESS REGISTER

REPRESENTATIVE MIKE DOOGAN

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Spoke on the subject of "Missed Opportunities."

TED LEONARD, Executive Director
Alaska Industrial Development & Export Authority (AIDEA)
Alaska Industrial Development & Export Authority (AIDEA) and
Alaska Energy Authority (AEA)
Department of Commerce, Community & Economic Development (DCCED)
Anchorage, Alaska

POSITION STATEMENT: Testified in favor of HB 119.

MARK DAVIS, Economic Development Officer
Alaska Industrial Development & Export Authority (AIDEA)
Alaska Industrial Development & Export Authority (AIDEA) and
Alaska Energy Authority (AEA)
Department of Commerce, Community & Economic Development (DCCED)
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 119.

ACTION NARRATIVE

[10:16:34 AM](#)

CHAIR BOB HERRON called the House Special Committee on Economic Development, International Trade and Tourism meeting to order at 10:16 a.m. Representatives Herron, Gardner, Peggy Wilson, Olson, and Keller were present at the call to order. Representatives Munoz, Tuck, and Thompson arrived as the meeting was in progress. Representative Doogan was also in attendance.

HB 119-AIDEA: PROCUREMENT; PROJECTS

[10:17:12 AM](#)

CHAIR HERRON announced that the only order of business would be HOUSE BILL NO. 119, "An Act relating to the procurement of supplies, services, professional services, and construction for the Alaska Industrial Development and Export Authority; relating to the definition of 'own' for the economic development account; relating to the definitions of 'development project', 'plant', 'facility', and 'project' for the Alaska Industrial Development and Export Authority; and providing for an effective date."

[10:17:19 AM](#)

CHAIR HERRON introduced surprise speaker Representative Doogan.

[10:17:50 AM](#)

REPRESENTATIVE MIKE DOOGAN, Alaska State Legislature, recalled that in 1991 Governor Hickel spoke of civilization's need for big projects, such as President Kennedy's challenge to put a man on the moon. Governor Hickel's big project was to build a 1,700 mile aqueduct to carry water from Alaska to Southern California. Represented Doogan reviewed the plan and noted that construction of an aqueduct would have created many jobs, and would have been an economic stimulus for the state and the West Coast. Furthermore, water is more important to the world than oil; in fact, at the price of \$1.50 per 16 ounce bottle, water is worth \$504 per barrel and is about five times more valuable than oil. Furthermore, after taxation and shipping, the state's annual revenue for the sale of water would be about \$30 billion. Representative Doogan advised this project is an example of a missed opportunity, and he offered to "lay down the groundwork and get the ball rolling, if not get the water, rolling."

[10:21:38 AM](#)

REPRESENTATIVE KELLER referred to the impending shortage of water from the Colorado River.

[10:22:39 AM](#)

REPRESENTATIVE GARDNER observed that access to clean water is a serious topic globally, and related a conversation about the purchase of aquifer rights.

[10:23:32 AM](#)

CHAIR HERRON stated his intent to compile a report on all of the state's missed economic opportunities.

[10:24:13 AM](#)

REPRESENTATIVE DOOGAN regretted his past ridicule of Governor Hickel's water pipeline proposal.

[10:25:18 AM](#)

TED LEONARD, Executive Director, Alaska Industrial Development & Export Authority (AIDEA), Alaska Industrial Development & Export

Authority (AIDEA) and Alaska Energy Authority (AEA), Department of Commerce, Community & Economic Development (DCCED), informed the committee he would present a sectional analysis of HB 119 and discuss the merits of the bill. Mr. Leonard stated the bill is a continuation of AIDEA's process to update and expand its responsibility to diversify and grow Alaska's economy. Section 1 amends the state's procurement code to allow AIDEA to adopt its own regulations for procurement in a similar way to other state corporations such as the Alaska Housing Finance Corporation (AHFC). He stressed that the procurement regulations would reflect the competitive bid process and provide for reasonable and equitable bid opportunities for vendors, and would allow AIDEA the flexibility to more effectively manage the procurement process in conjunction with the private sector. Section 2 enables AIDEA to invest directly into a corporation or a Limited Liability Corporation (LLC) in order to establish partnerships with the private sector in owning a portion of a project. Mr. Leonard advised that recent legislation granted AIDEA the ability to own a portion of a project; however, Section 2 of the proposed legislation is a more effective way to work with the private sector, because LLCs or sub corporations are generally the vehicles used by private corporations to form partnerships and facilitate projects. Also, using a LLC or a separate corporation can limit AIDEA's liability; for example, liability could be limited to that of the corporation's insurance or to the investment that AIDEA or the other partners put in the project. Sections 3-5 of the bill would update and expand the types of development projects that AIDEA may own, operate, or participate in with other developers. Currently, definitions in statute limit AIDEA to natural resources, industrial development, energy, and tourism projects; however, with the beginnings of a growing and more diversified economy in the state, other areas of business development such as aerospace, logistics, communications, and federal activities are of interest. Mr. Leonard concluded that the enactment of the proposed sections will also allow AIDEA to provide economic development projects in partnership with federal agencies or the military, thereby strengthening the presence of federal and military facilities in the state.

[10:31:23 AM](#)

REPRESENTATIVE GARDNER asked whether the proposed legislation has any connection to the Knik Arm Bridge and Toll Authority (KABATA).

MR. LEONARD said no. The expansion of the definitions was directed by AIDEA's strategic plan.

[10:32:08 AM](#)

MARK DAVIS, Economic Development Officer, Alaska Industrial Development & Export Authority (AIDEA), Alaska Industrial Development & Export Authority (AIDEA) and Alaska Energy Authority (AEA), Department of Commerce, Community & Economic Development (DCCED), in further response to Representative Gardner, opined AIDEA was always authorized to participate in KABATA, however, AIDEA is required to make an adequate return on investment and analyzes every project with that requirement in mind. He pointed out that AIDEA may be interested in other transportation projects, such as fuel storage facilities at airports, which are prohibited under current statute. This is the reason to amend AS 44.88.900(8) to clarify that "roads" may be a component of a project.

[10:33:33 AM](#)

MR. LEONARD added that there is no reason for AIDEA to be involved in KABATA, because KABATA has the powers to bond and finance the project without assistance from AIDEA.

[10:33:48 AM](#)

CHAIR HERRON asked, "Representative Gardner, does that mean that we're going to maintain these silos between KABATA and AIDEA?"

REPRESENTATIVE GARDNER said she did not know.

[10:34:01 AM](#)

REPRESENTATIVE MUNOZ asked Mr. Leonard, "Have you identified specific projects that could benefit with this change?"

[10:34:18 AM](#)

MR. LEONARD referred to the project definition and said it mainly identifies the types of projects. The change clarifies the ability for AIDEA to assist in an industrial road that is not part of a separate project. Additionally, it would allow AIDEA to invest in healthcare facilities, and he gave an example. Mr. Leonard assured the committee "this definition is not based on a certain project waiting in the wings for us to change this definition."

MR. DAVIS observed that the healthcare facility and the airport would have been good investments for the agency. Research into other states' development agencies revealed "holes in our definitions." Thus, AIDEA found other agencies were able to make investments to help their economies that AIDEA could not make.

[10:37:07 AM](#)

MR. LEONARD acknowledged that AIDEA is interested in the jet fuel storage project at the Ted Stevens Anchorage International Airport - although a project is not presently underway - and air transport is part of the broadening of the definition.

[10:37:40 AM](#)

REPRESENTATIVE TUCK referred to page 3, lines 28-31, of the proposed legislation and asked for clarification that the addition of "transportation" does not encroach on the Department of Transportation & Public Facilities (DOTPF) funded facilities, but that private lands and private roads are the subject areas. He then asked whether DOTPF would normally facilitate a fuel storage facility at the Anchorage airport.

[10:38:51 AM](#)

MR. LEONARD advised DOTPF is involved in the fuel storage tanks, but AIDEA can help facilitate the financing of the tanks on DOTPF land more effectively. In fact, one of the abilities AIDEA has is to assist in the international airport functions of the state.

[10:39:44 AM](#)

MR. DAVIS noted that AIDEA is authorized to support export functions. He further explained that AIDEA's interpretation of transportation is as a sector of the economy, not that AIDEA will be building roads, but that as an identified and important sector of the economy, transportation is included as part of AIDEA's strategic plan, and in the proposed definition.

[10:40:52 AM](#)

REPRESENTATIVE TUCK re-stated his search for a defining line between what DOTPF will be funding through the normal state procurement process, and AIDEA's function. He acknowledged that

the process through AIDEA, especially when dealing with private enterprises, is quicker, but opposed circumventing DOTPF for the purpose of avoiding the appeal process. A question remains about the division between the agencies regarding transportation, airports, and highways, whether on private or public land.

[10:42:26 AM](#)

MR. LEONARD gave the example of the industrial road owned by AIDEA at the Red Dog mine, which traverses NANA Regional Corporation Inc., land and federal land. The agency has the expertise to work with the private sector on investments on federal or state lands. Another example is the consortium that runs the fuel tanks at the Anchorage airport, because the tanks are on leased land and AIDEA can help build or finance the expansion of the tanks. He encouraged the committee to look at AIDEA in that role, as it works with other state agencies on projects involving the private sector.

[10:44:24 AM](#)

MR. DAVIS pointed out one of the divisions between DOTPF and AIDEA is that AIDEA must earn a rate of return on its investments, therefore, AIDEA cannot invest in a traditional road.

[10:44:48 AM](#)

REPRESENTATIVE TUCK asked for a list of "community public purposes." [Found on page 3, line 30, of the proposed legislation.]

[10:45:24 AM](#)

MR. LEONARD explained community public purposes are a general catch-all definition that would include healthcare, transportation, and other facilities that promote economic development in a community.

[10:45:59 AM](#)

MR. DAVIS recalled the survey of other states found that most economic development authorities use this language to support health clinics and technical and vocational training facilities; however, these projects are only appropriate for AIDEA if "they can pay for themselves."

MR. LEONARD stressed that AIDEA must also show there is an economic development reason for the project.

[10:47:03 AM](#)

REPRESENTATIVE TUCK expressed his concern that community public purposes could be a water supply, telephone utilities, or public services which should be provided by government, but "now are going to have to have a for-profit requirement."

[10:47:54 AM](#)

REPRESENTATIVE GARDNER asked for assurance that the changes to procurement do not affect matters of "local hire, worker's compensation, and prevailing local wages ... that's covered in Title 36."

[10:48:34 AM](#)

MR. DAVIS advised that the aforementioned statute is AS 36.30.170(b) that requires the following:

That the bidder holds a business license, submits a bid for goods, services, under the name as appearing on their actual business license, and has maintained a place of business in the state by the bidder for a period of at least six months That's about the limit of the statute's requirement. [The bidder] is incorporated or qualified to do business under the state, is a limited liability company organized under AS 10.50 and all members are residents of the state, is a partnership and that or it's a joint venture.

MR. DAVIS clarified that the statute "is not local hire, but it is a local preference." The Alaska statute establishing local hire was declared unconstitutional by the U.S. Supreme Court in 1979. He said the present statute is incorporated in the proposed bill.

REPRESENTATIVE GARDNER asked whether the language was "as strong as we can be for local hire."

MR. DAVIS said, "That's the statute we have."

[10:49:51 AM](#)

CHAIR HERRON indicated that four questions were presented to Mr. Leonard and Mr. Davis for their written response at a later date. The responses will be distributed to committee members upon receipt.

[10:50:29 AM](#)

REPRESENTATIVE TUCK asked for a list of the economic development agencies used as samples for the proposed statutory changes.

[10:51:10 AM](#)

REPRESENTATIVE OLSON moved to adopt Amendment 1, identified as 27G-1, which read:

Page 1, line 5, following "**Authority;**":

Insert "**relating to the Alaska Industrial Development and Export Authority creating subsidiaries regarding projects financed under AS 44.88.172;**"

Page 2, following line 24;

Insert a new bill section to read:

"***Sec. 3.** AA 44.88 is amended by adding a new section to read:

Sec. 44.88.178. Creation of subsidiaries.

The authority may create one or more subsidiary corporations for the purpose of acquiring, construction, owning, or financing a project financed under AS 44.88.172. A subsidiary corporation created under this section may be incorporated under AS 10.20.146 - 10.20.166. The authority may transfer assets of the authority to a subsidiary created under this section. A subsidiary created under this section may borrow money and issue bonds as evidence of that borrowing, and has all the powers of the authority that the authority grants to it. Unless otherwise provided by the corporation, the debts, liabilities, and obligations of a subsidiary corporation created under this section are not the debts, liabilities, or obligations of the authority."

Renumber the following bill sections accordingly.

[10:51:16 AM](#)

CHAIR HERRON objected for the purposes of discussion.

[10:51:33 AM](#)

MR. LEONARD informed the committee Amendment 1 goes along with the spirit of Section 2, and allows AIDEA to be involved in a LLC or corporation. For example, AIDEA could set up a subsidiary corporation for the purpose of developing a project; the subsidiary corporation would have powers to develop the project, but would be able to protect AIDEA's assets because the debts, liabilities, and obligation of a subsidiary corporation are not the debts, liabilities, or obligations of the authority. He concluded this is an effective way to develop a project and at the same time, protect the overall assets of the authority.

[10:52:47 AM](#)

REPRESENTATIVE GARDNER asked whether Amendment 1 is intended to impact existing projects.

[10:53:00 AM](#)

MR. LEONARD expressed AIDEA's belief that the amendment strengthens the agency's ability to participate in LLCs and subsidiary corporations because it protects AIDEA's assets. The subject came to light when the agency researched natural resource projects related to oil and gas businesses, which may carry risks.

[10:53:55 AM](#)

CHAIR HERRON asked the presenters to review the written questions and respond to the chair by 2/7/11.

[House Bill 119 was held for further testimony.]

[10:54:28 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Economic Development, International Trade and Tourism meeting was adjourned at 10:54 a.m.