

CS FOR HOUSE BILL NO. 74(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 3/28/13

Referred: Finance

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

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to development project financing by the Alaska Industrial**
2 **Development and Export Authority."**

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

4 * **Section 1.** AS 44.88.010(a) is amended to read:

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

6 (1) there exist areas of the state in which seasonal and nonseasonal
7 unemployment exists;

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

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

1 (4) the establishment and expansion of industrial, manufacturing,
2 energy, export, small business, and business enterprises in the state and the other
3 facilities referred to in this subsection are essential to the development of the natural
4 resources and the long-term economic growth of the state, and will directly and
5 indirectly alleviate unemployment in the state;

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

8 (6) many state businesses could benefit from additional financial and
9 technical assistance with respect to the exportation of their products and services;

10 (7) the Export-Import Bank of the United States has been mandated by
11 the Export-Import Bank Act Amendments of 1983 to provide technical assistance and
12 export financing support to small businesses in cooperation with state export finance
13 agencies;

14 (8) Alaska-based exporters can be effectively assisted through the
15 establishment, as part of the Alaska Industrial Development and Export Authority, of
16 an export financing program designed to work with the Export-Import Bank of the
17 United States and other federal, state, and private institutions;

18 (9) the achievement of the goal of full employment [,] and of
19 establishment and continuing operation and development of industrial, manufacturing,
20 energy, export, small business, and business enterprises in the state will be accelerated
21 and facilitated by the creation of an instrumentality of the state with powers to incur
22 debt, to own and operate facilities, and to make and insure loans to finance and to
23 assist private lenders to make loans to finance the establishment, operation, and
24 development of industrial, manufacturing, energy, export, small business, and business
25 enterprises;

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

28 (A) stimulating commercial and industrial growth and
29 expansion by encouraging an increase of private investment by banks,
30 investment houses, insurance companies, and other financial institutions,
31 including pension and retirement funds, to help satisfy the need for economic

1 expansion;

2 (B) encouraging the production of raw materials and goods for
3 export, the expansion of exports and raw materials and goods, and the
4 rendering of services abroad by residents of the state through the establishment
5 of a program that provides financial assistance in cooperation with federal,
6 state, and private institutions for these purposes in the form provided in this
7 chapter;

8 (C) creating the Alaska Industrial Development and Export
9 Authority with the powers necessary to accomplish the objectives stated in this
10 paragraph, including the power to issue taxable and tax-exempt bonds, [AND]
11 to acquire ownership interests in projects, **and to provide development**
12 **project financing** as provided in this chapter;

13 (11) it is in the state's interest to import private capital to create new
14 economic activity **that** [WHICH] would not otherwise take place in the state.

15 * **Sec. 2.** AS 44.88.070 is amended to read:

16 **Sec. 44.88.070. Purpose of the authority.** The purpose of the authority is to
17 promote, develop, and advance the general prosperity and economic welfare of the
18 people of **the state** [ALASKA], to relieve problems of unemployment, and to create
19 additional employment by

20 (1) providing various means of financing and means of facilitating the
21 financing, in cooperation with federal, state, and private institutions, of industrial,
22 manufacturing, export, small business, and business enterprises and the other facilities
23 referred to in AS 44.88.010(a) in the state;

24 (2) owning and operating **or providing development project**
25 **financing for** the enterprises and other facilities described in AS 44.88.172;

26 (3) fostering the expansion of exports of [ALASKA] goods, services,
27 and raw materials **of the state**;

28 (4) cooperating and acting in conjunction with other organizations,
29 public and private, the objects of which are the promotion and advancement of export
30 trade activities in the state;

31 (5) establishing a source of funding credit guarantees and insurance,

1 not otherwise available, to support export development;

2 (6) providing and cooperating or participating with federal, state, and
3 private institutions to provide actual and potential **state** [ALASKA] exporters,
4 particularly small- and medium-sized exporters, with financial assistance in support of
5 export transactions.

6 * **Sec. 3.** AS 44.88.080 is amended to read:

7 **Sec. 44.88.080. Powers of the authority.** In furtherance of its corporate
8 purposes, the authority has the following powers in addition to its other powers:

9 (1) to sue and be sued;

10 (2) to have a seal and alter it at pleasure;

11 (3) to make and alter bylaws for its organization and internal
12 management;

13 (4) to adopt regulations governing the exercise of its corporate powers;

14 (5) to acquire an interest in a project as necessary or appropriate to
15 provide financing for the project, whether by purchase, gift, or lease;

16 (6) to lease to others a project acquired by it for the rentals and upon
17 the terms and conditions the authority may consider advisable, including, without
18 limitation, provisions for options to purchase or renew;

19 (7) to issue bonds and otherwise to incur indebtedness, in accordance
20 with AS 44.88.090, in order to pay the cost of a project or development projects or in
21 order to provide money for the authority's purposes under this chapter; the authority
22 may also secure payment of the bonds or other indebtedness as provided in this
23 chapter;

24 (8) to sell, by installment sale or otherwise, exchange, donate, convey,
25 or encumber, in any manner by mortgage or by creation of any other security interest,
26 real or personal property owned by it, or in which it has an interest, including a
27 project, when, in the judgment of the authority, the action is in furtherance of its
28 corporate purposes;

29 (9) to accept gifts, grants, or loans from, and enter into contracts or
30 other transactions regarding them [,] with, a federal agency, [OR] an agency or
31 instrumentality of the state, a municipality, a private organization, or other source;

1 (10) to deposit or invest its funds, subject to agreements with
2 bondholders;

3 (11) to enter into contracts or agreements with respect to the exercise
4 of any of its powers, and do all things necessary or convenient to carry out its
5 corporate purposes and exercise the powers granted in this chapter;

6 (12) to purchase or insure loans to finance the costs of manufacturing,
7 industrial, and business enterprise projects;

8 (13) to enter into loan agreements with respect to one or more projects
9 upon the terms and conditions the authority considers advisable;

10 (14) to acquire, manage, and operate projects as the authority considers
11 necessary or appropriate to serve a public purpose;

12 (15) to assist private lenders to make loans to finance the costs of
13 projects through loan commitments, short-term financing, or otherwise;

14 (16) to accept gifts, grants, or loans from a federal agency, from an
15 agency or instrumentality of the state or of a municipality, or from any other source;

16 (17) to enter into contracts or other transactions with a federal agency,
17 with an agency or instrumentality of the state or of a municipality, or with a private
18 organization or other entity consistent with the exercise of any power under this
19 chapter;

20 (18) to facilitate the expansion of a secondary market for the resale of
21 federally or commercially insured loans made to finance the costs of projects in the
22 state [ALASKA] held by federal and state chartered financial institutions or by the
23 Alaska Commercial Fishing and Agriculture Bank;

24 (19) to charge fees or other forms of remuneration for the use or
25 possession of the projects described in (14) of this section in accordance with the
26 agreements described in (11) and (17) of this section, other agreements pertaining to
27 the projects, covenants, or representations made in bond documents pertaining to the
28 projects, or regulations of the authority pertaining to the projects;

29 (20) to participate with government or private industry in programs for
30 technical assistance, loans, technology, transfer, or other programs related to the
31 exportation of [ALASKA] goods, services, or raw materials of the state with respect

1 to its financing activities;

2 (21) to provide export finance training for office staff and other
3 individuals involved in export finance assistance, including the training sessions that
4 may be provided by the United States Export-Import Bank or other organizations;

5 (22) to coordinate to the maximum extent possible its efforts to
6 promote the export of [ALASKA] goods, services, and raw materials **of the state** with
7 programs and goals of the United States Export-Import Bank, the International Trade
8 Administration of the United States Department of Commerce, the Foreign Credit
9 Insurance Association, and other private and public programs designed to provide
10 export assistance and export-related financing;

11 (23) to guarantee loans related to qualified export transactions under
12 regulations adopted by the authority;

13 (24) to provide financing assistance, in cooperation with federal, state,
14 and private institutions, as provided in this chapter for small business enterprises;

15 (25) to make cooperative agreements with the Department of
16 Transportation and Public Facilities, acting on behalf of the international airports
17 revenue fund established under AS 37.15.430, to acquire, equip, operate, maintain,
18 construct, or install facilities that will enhance the competitiveness of the international
19 airports, including a cooperative agreement to lend amounts from the international
20 **airports** [AIRPORT] revenue fund to finance the development or improvement of
21 utilities serving the airports;

22 (26) to screen potential applicants for a new business incentive grant
23 and recommend the award of the grants under AS 45.81.020;

24 (27) to oversee the administration of outstanding grants awarded by the
25 Alaska Science and Technology Foundation under former AS 37.17.010 - 37.17.110;

26 (28) to oversee the administration of outstanding BIDCO assistance
27 grants and loans made by the Alaska Science and Technology Foundation under
28 former AS 37.17.200 - 37.17.390;

29 (29) to guarantee loans made to the Alaska Insurance Guaranty
30 Association (AS 21.80.040), with these guarantees limited to loans necessary to make
31 the association financially able to meet cash flow needs up to a maximum outstanding

principal balance at any time of \$30,000,000;

(30) with legislative approval and notwithstanding AS 44.88.060, to purchase from the Alaska Energy Authority as an investment of the revolving fund, loans of the power project fund established under AS 42.45.010;

(31) to consider, when exercising the powers listed in this section, the interests of local governments **affected** [IMPACTED] by the authority's activities to share in the benefits of these activities, with appropriate consideration of the authority's ability to meet debt obligations, issue new debt, and fulfill the authority's purposes;

(32) to provide development project financing for all or a portion of the cost of a development project as provided in AS 44.88.172.

* **Sec. 4.** AS 44.88.172(a) is amended to read:

(a) The economic development account is established in the revolving fund. The economic development account consists of money or assets appropriated, loaned, or transferred to the authority for deposit in the account and other money or assets deposited in the account by the authority. While money is on deposit in the economic development account, the money may be used [ONLY] to finance, acquire, manage, and operate development projects that the authority intends to own and operate **or to provide development project financing for development projects the authority does not intend to own and operate.** In this subsection,

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

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

* **Sec. 5.** AS 44.88.172 is amended by adding a new subsection to read:

(d) The authority shall adopt regulations to implement this section. The regulations may include provisions for the application process, application fees, interest rates, other charges and fees, terms, conditions, security, and other

1 requirements for development projects the authority undertakes or development
2 project financing the authority provides.

3 * **Sec. 6.** AS 44.88.900 is amended by adding a new paragraph to read:

4 (17) "development project financing" means money loaned by the
5 authority or a guarantee of a loan, note, debt, or other financial obligation issued by
6 the authority to fund or assist in funding a development project the authority does not
7 intend to own and operate.