

CS FOR SENATE BILL NO. 23(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 3/6/13

Referred: Rules

Sponsor(s): SENATE 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; relating to the dividends from the Alaska**
3 **Industrial Development and Export Authority; authorizing the Alaska Industrial**
4 **Development and Export Authority to provide financing and issue bonds for a liquefied**
5 **natural gas production system and natural gas distribution system; and providing for an**
6 **effective date."**

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

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

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

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

12 (2) this unemployment is a serious menace to the health, safety, and
13 general welfare, not only to the people in those areas, but also to the people of the

1 entire state;

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

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

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

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

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

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

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

31 (10) it is in the public interest to promote the prosperity and general

1 welfare of all citizens of the state by

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

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

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

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

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

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

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

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

31 (3) fostering the expansion of exports of [ALASKA] goods, services,

1 and raw materials of the state;

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

5 (5) establishing a source of funding credit guarantees and insurance,
6 not otherwise available, to support export development;

7 (6) providing and cooperating or participating with federal, state, and
8 private institutions to provide actual and potential state [ALASKA] exporters,
9 particularly small- and medium-sized exporters, with financial assistance in support of
10 export transactions.

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

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

14 (1) to sue and be sued;

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

16 (3) to make and alter bylaws for its organization and internal
17 management;

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

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

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

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

29 (8) to sell, by installment sale or otherwise, exchange, donate, convey,
30 or encumber, in any manner by mortgage or by creation of any other security interest,
31 real or personal property owned by it, or in which it has an interest, including a

1 project, when, in the judgment of the authority, the action is in furtherance of its
2 corporate purposes;

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

6 (10) to deposit or invest its funds, subject to agreements with
7 bondholders;

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

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

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

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

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

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

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

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

29 (19) to charge fees or other forms of remuneration for the use or
30 possession of the projects described in (14) of this section in accordance with the
31 agreements described in (11) and (17) of this section, other agreements pertaining to

1 the projects, covenants, or representations made in bond documents pertaining to the
2 projects, or regulations of the authority pertaining to the projects;

3 (20) to participate with government or private industry in programs for
4 technical assistance, loans, technology, transfer, or other programs related to the
5 exportation of [ALASKA] goods, services, or raw materials **of the state** with respect
6 to its financing activities;

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

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

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

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

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

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

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

31 (28) to oversee the administration of outstanding BIDCO assistance

1 grants and loans made by the Alaska Science and Technology Foundation under
2 former AS 37.17.200 - 37.17.390;

3 (29) to guarantee loans made to the Alaska Insurance Guaranty
4 Association (AS 21.80.040), with these guarantees limited to loans necessary to make
5 the association financially able to meet cash flow needs up to a maximum outstanding
6 principal balance at any time of \$30,000,000;

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

10 (31) to consider, when exercising the powers listed in this section, the
11 interests of local governments impacted by the authority's activities to share in the
12 benefits of these activities, with appropriate consideration of the authority's ability to
13 meet debt obligations, issue new debt, and fulfill the authority's purposes;

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

16 * **Sec. 4.** AS 44.88.088(a) is amended to read:

17 (a) The authority shall adopt a policy for payment of a dividend **from the**
18 **revolving fund and a dividend from the Alaska Industrial Development and**
19 **Export Authority sustainable energy transmission and supply development fund**
20 **(AS 44.88.660)** to the state each fiscal year [. THE AMOUNT OF THE DIVIDEND
21 FOR A FISCAL YEAR MAY NOT BE LESS THAN 25 PERCENT NOR MORE
22 THAN 50 PERCENT OF THE NET INCOME OF THE AUTHORITY FOR THE
23 BASE FISCAL YEAR. IN NO EVENT, HOWEVER, SHALL THE DIVIDEND FOR
24 A FISCAL YEAR EXCEED THE TOTAL UNRESTRICTED NET INCOME OF
25 THE AUTHORITY FOR THE BASE FISCAL YEAR]. The **dividends** [DIVIDEND]
26 for a fiscal year shall be made available by the authority before the end of that fiscal
27 year. The authority shall notify the commissioner of revenue when the **dividends**
28 [DIVIDEND] for a fiscal year **are** [IS] available for appropriation. **The amount of the**
29 **dividend payable from the**

30 **(1) revolving fund for a fiscal year may not be less than 25 percent**
31 **nor more than 50 percent of the net income of the revolving fund for the base**

1 fiscal year; however, in no event, may the dividend payable from the revolving
 2 fund for a fiscal year exceed the total unrestricted net income of the revolving
 3 fund for the base year;

4 (2) Alaska Industrial Development and Export Authority
 5 sustainable energy transmission and supply development fund (AS 44.88.660) for
 6 a fiscal year may not be less than 25 percent nor more than 50 percent of the net
 7 income of the Alaska Industrial Development and Export Authority sustainable
 8 energy transmission and supply development fund for the base fiscal year;
 9 however, in no event, shall the dividend payable from the Alaska Industrial
 10 Development and Export Authority sustainable energy transmission and supply
 11 development fund for a fiscal year exceed the total unrestricted net income of the
 12 Alaska Industrial Development and Export Authority sustainable energy
 13 transmission and supply development fund for the base year.

14 * **Sec. 5.** AS 44.88.088(b)(2) is amended to read:

15 (2) "net income" means the [AUTHORITY'S] change in net position,
 16 or the equivalent term under generally accepted accounting principles, of the
 17 revolving fund or the change in net position of the Alaska Industrial
 18 Development and Export Authority sustainable energy transmission and supply
 19 development fund (AS 44.88.660) [ASSETS] as set out in the audited financial
 20 statements of the authority for the base fiscal year, excluding amounts attributable to
 21 intergovernmental transfers, capital contributions, grants, or impairment losses on
 22 development projects financed under AS 44.88.172;

23 * **Sec. 6.** AS 44.88.088(b)(3) is amended to read:

24 (3) "unrestricted net income" means the [AUTHORITY'S] unrestricted
 25 change in net position, or the equivalent term under generally accepted
 26 accounting principles, of the revolving fund or the Alaska Industrial
 27 Development and Export Authority sustainable energy transmission and supply
 28 development fund (AS 44.88.660) [ASSETS] as set out in the audited financial
 29 statements of the authority for the base fiscal year, excluding amounts attributable to
 30 intergovernmental transfers, capital contributions, grants, or impairment losses on
 31 development projects financed under AS 44.88.172.

1 * **Sec. 7.** AS 44.88.105(d) is amended to read:

2 (d) The **chair** [CHAIRMAN] of the authority shall annually, **not** [NO] later
 3 than January 2, certify in writing to the governor and the legislature the amount, if
 4 any, required to restore a capital reserve fund to the capital reserve fund requirement.
 5 The legislature may appropriate to the authority the amount certified by the **chair**
 6 [CHAIRMAN] of the authority. The authority shall deposit the amounts appropriated
 7 under this subsection during a fiscal year in the proper capital reserve fund. Nothing in
 8 this section creates a debt or liability of the state. In this subsection, "capital reserve
 9 fund" means a capital reserve fund that

10 (1) is created under this section on or before January 1, 1989;

11 (2) secures refunding bonds if the refunding bonds are issued to refund
 12 bonds that are secured by a capital reserve fund created under this section on or before
 13 January 1, 1989; [OR]

14 (3) secures bonds issued on or after August 11, 1993, for a power
 15 transmission intertie; **or**

16 **(4) secures bonds issued on or after July 1, 2013, for a qualified**
 17 **energy development project financed under AS 44.88.650 - 44.88.690.**

18 * **Sec. 8.** AS 44.88.172(a) is amended to read:

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

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

30 (2) "own" includes ownership by the authority of all or a percentage of
 31 a development project or all or a percentage of the shares of a corporation or

1 membership in a limited liability company for which the development project is the
2 sole asset of the corporation or limited liability company.

3 * **Sec. 9.** AS 44.88.172 is amended by adding a new subsection to read:

4 (d) The authority shall adopt regulations to implement this section. The
5 regulations may include provisions for the application process, application fees,
6 interest rates, other charges and fees, terms, conditions, security, and other
7 requirements for development projects the authority undertakes or development
8 project financing the authority provides.

9 * **Sec. 10.** AS 44.88.900 is amended by adding a new paragraph to read:

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

14 * **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to
15 read:

16 LEGISLATIVE APPROVAL; FINANCING OF LIQUEFIED NATURAL GAS
17 PRODUCTION AND DISTRIBUTION FACILITIES. (a) The Alaska Industrial
18 Development and Export Authority, through the Alaska Industrial Development and Export
19 Authority sustainable energy transmission and supply fund (AS 44.88.660), may provide
20 financing up to a principal amount of \$275,000,000 for the development, construction, and
21 installation of, and the start-up costs of operation and maintenance for, a liquefied natural gas
22 production plant and system and affiliated infrastructure on the North Slope and a natural gas
23 distribution system and affiliated infrastructure in Interior Alaska.

24 (b) As a part of the financing authorized under (a) of this section, the Alaska
25 Industrial Development and Export Authority may issue bonds under AS 44.88.090 that are
26 secured by a capital reserve fund (AS 44.88.105). Notwithstanding AS 44.88.105, in
27 establishing a capital reserve fund for the bonds, the authority is not required to determine that
28 the capital reserve fund is necessary to enhance the marketability of the bonds. The authority
29 shall manage the capital reserve fund as provided in AS 44.88.105. The principal amount of
30 the bonds authorized in this section may not exceed \$150,000,000 plus the cost of capitalized
31 interest, bond counsel fees, trustee fees, rating fees, financial advisor fees, escrow costs, and

1 other bond issuance costs that the authority considers reasonable and appropriate.

2 (c) Notwithstanding the interest rate requirements of AS 44.88.159, the interest rate
3 the authority may charge for financing authorized under (a) of this section provided from the
4 Alaska Industrial Development and Export Authority sustainable energy transmission and
5 supply fund (AS 44.88.660) may not exceed three percent or the current market rate for
6 commercial loans at the time the bonds are issued, whichever is less. Notwithstanding the
7 interest rate requirements of AS 44.88.159, the interest rate for financing authorized under (a)
8 of this section provided from the proceeds of bonds authorized under this section may not
9 exceed the interest rate to be paid on the bonds, plus an allowance that the authority
10 establishes for its administrative expenses; however, the allowance for administrative
11 expenses may not exceed 25 basis points. Notwithstanding any contrary provision of law, the
12 interest rate limitations of this subsection supersede and replace any other requirements of law
13 regarding the interest rates that the authority may charge for the financing authorized under
14 (a) of this section.

15 (d) The authorization under (a) of this section constitutes legislative approval for the
16 authority to exceed the limitations of AS 44.88.690 in providing the financing approved under
17 (a) of this section. In providing the financing authorized under (a) of this section, the authority
18 may waive any limitations or requirements of its regulations that are otherwise applicable to
19 the Alaska Industrial Development and Export Authority sustainable energy transmission and
20 supply fund (AS 44.88.660).

21 (e) The bonds authorized by this section may not be considered in calculating the
22 authority's bonding limitation for a 12-month period under AS 44.88.095(a).

23 (f) The authorization to issue bonds this section grants expires on June 30, 2018, if the
24 authority does not issue bonds before that date. Expiration of the authorization to issue bonds
25 does not affect bonds that the authority issues under this section before July 1, 2018.

26 (g) In this section,

27 (1) "authority" means the Alaska Industrial Development and Export
28 Authority;

29 (2) "financing" means any method or combination of methods of providing
30 funds for a qualified energy development project under AS 44.88.650 - 44.88.690.

31 * **Sec. 12.** This Act takes effect immediately under AS 01.10.070(c).