

HOUSE CS FOR CS FOR SENATE BILL NO. 23(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 3/20/13

Referred: Finance

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

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the dividends from the Alaska Industrial Development and Export**
2 **Authority; relating to the meaning of 'net income' and 'unrestricted net income' for**
3 **purposes of the Alaska Industrial Development and Export Authority; authorizing the**
4 **Alaska Industrial Development and Export Authority to provide financing and issue**
5 **bonds for a liquefied natural gas production system and natural gas distribution system;**
6 **and providing for an effective date."**

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

8 *** Section 1.** AS 44.88.088(a) is amended to read:

9 (a) The authority shall adopt a policy for payment of a dividend **from the**
10 **revolving fund and a dividend from the Alaska Industrial Development and**
11 **Export Authority sustainable energy transmission and supply development fund**
12 **(AS 44.88.660)** to the state each fiscal year [. THE AMOUNT OF THE DIVIDEND
13 FOR A FISCAL YEAR MAY NOT BE LESS THAN 25 PERCENT NOR MORE

1 THAN 50 PERCENT OF THE NET INCOME OF THE AUTHORITY FOR THE
 2 BASE FISCAL YEAR. IN NO EVENT, HOWEVER, SHALL THE DIVIDEND FOR
 3 A FISCAL YEAR EXCEED THE TOTAL UNRESTRICTED NET INCOME OF
 4 THE AUTHORITY FOR THE BASE FISCAL YEAR]. The **dividends** [DIVIDEND]
 5 for a fiscal year shall be made available by the authority before the end of that fiscal
 6 year. The authority shall notify the commissioner of revenue when the **dividends**
 7 [DIVIDEND] for a fiscal year **are** [IS] available for appropriation. **The amount of the**
 8 **dividend payable from the**

9 **(1) revolving fund for a fiscal year may not be less than 25 percent**
 10 **nor more than 50 percent of the net income of the revolving fund for the base**
 11 **fiscal year; however, in no event, may the dividend payable from the revolving**
 12 **fund for a fiscal year exceed the total unrestricted net income of the revolving**
 13 **fund for the base year;**

14 **(2) Alaska Industrial Development and Export Authority**
 15 **sustainable energy transmission and supply development fund (AS 44.88.660) for**
 16 **a fiscal year may not be less than 25 percent nor more than 50 percent of the net**
 17 **income of the Alaska Industrial Development and Export Authority sustainable**
 18 **energy transmission and supply development fund for the base fiscal year;**
 19 **however, in no event, shall the dividend payable from the Alaska Industrial**
 20 **Development and Export Authority sustainable energy transmission and supply**
 21 **development fund for a fiscal year exceed the total unrestricted net income of the**
 22 **Alaska Industrial Development and Export Authority sustainable energy**
 23 **transmission and supply development fund for the base year.**

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

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

1 development projects financed under AS 44.88.172;

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

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

11 * **Sec. 4.** AS 44.88.105(d) is amended to read:

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

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

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

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

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

28 * **Sec. 5.** AS 44.88.172(a) is amended to read:

29 (a) The economic development account is established in the revolving fund.
 30 The economic development account consists of money or assets appropriated, loaned,
 31 or transferred to the authority for deposit in the account and other money or assets

1 deposited in the account by the authority. While money is on deposit in the economic
 2 development account, the money may be used [ONLY] to finance, acquire, manage,
 3 and operate development projects that the authority intends to own and operate. In this
 4 subsection,

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

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

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

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

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

31 (c) Notwithstanding the interest rate requirements of AS 44.88.159, the interest rate

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

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

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

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

24 (g) In this section,

25 (1) "authority" means the Alaska Industrial Development and Export
26 Authority;

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

29 * **Sec. 7.** This Act takes effect immediately under AS 01.10.070(c).