

**HOUSE CS FOR CS FOR SENATE BILL NO. 23(FIN)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-EIGHTH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE FINANCE COMMITTEE**

**Offered: 4/8/13**

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

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

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

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

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

13 (2) this unemployment is a serious menace to the health, safety, and

1 general welfare, not only to the people in those areas, but also to the people of the  
2 entire state;

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

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

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

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

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

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

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

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

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

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

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

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

21 \* **Sec. 2.** AS 44.88.070 is amended to read:

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

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

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

1 (3) fostering the expansion of exports of [ALASKA] goods, services,  
2 and raw materials of the state;

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

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

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

12 \* **Sec. 3.** AS 44.88.080 is amended to read:

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

15 (1) to sue and be sued;

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

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

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

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

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

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

30 (8) to sell, by installment sale or otherwise, exchange, donate, convey,  
31 or encumber, in any manner by mortgage or by creation of any other security interest,

1 real or personal property owned by it, or in which it has an interest, including a  
 2 project, when, in the judgment of the authority, the action is in furtherance of its  
 3 corporate purposes;

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

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

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

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

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

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

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

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

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

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

30 (19) to charge fees or other forms of remuneration for the use or  
 31 possession of the projects described in (14) of this section in accordance with the

1 agreements described in (11) and (17) of this section, other agreements pertaining to  
 2 the projects, covenants, or representations made in bond documents pertaining to the  
 3 projects, or regulations of the authority pertaining to the projects;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 intergovernmental transfers, capital contributions, grants, or impairment losses on  
2 development projects financed under AS 44.88.172.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (b) As a part of the financing authorized under (a) of this section, the Alaska  
 27 Industrial Development and Export Authority may issue bonds under AS 44.88.090 that are  
 28 secured by a capital reserve fund (AS 44.88.105). Notwithstanding AS 44.88.105, in  
 29 establishing a capital reserve fund for the bonds, the authority is not required to determine that  
 30 the capital reserve fund is necessary to enhance the marketability of the bonds. The authority  
 31 shall manage the capital reserve fund as provided in AS 44.88.105. The principal amount of

1 the bonds authorized in this section may not exceed \$150,000,000 plus the cost of capitalized  
2 interest, bond counsel fees, trustee fees, rating fees, financial advisor fees, escrow costs, and  
3 other bond issuance costs that the authority considers reasonable and appropriate.

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

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

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

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

28 (g) In this section,

29 (1) "authority" means the Alaska Industrial Development and Export  
30 Authority;

31 (2) "financing" means any method or combination of methods of providing

- 1 funds for a qualified energy development project under AS 44.88.650 - 44.88.690.
- 2 \* **Sec. 12.** This Act takes effect immediately under AS 01.10.070(c).