

CS FOR SENATE BILL NO. 140(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 3/14/14

Referred: Finance

Sponsor(s): SENATOR MCGUIRE

A BILL

FOR AN ACT ENTITLED

1 **"An Act creating the Arctic infrastructure development program and fund in the**
2 **Alaska Industrial Development and Export Authority; and relating to dividends from**
3 **the Alaska Industrial Development and Export Authority."**

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

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

6 (a) The authority shall adopt a policy for payment of a dividend from the
7 revolving fund, [AND A DIVIDEND FROM] the Alaska Industrial Development and
8 Export Authority sustainable energy transmission and supply development fund
9 (AS 44.88.660), **and the Arctic infrastructure development fund (AS 44.88.810)** to
10 the state each fiscal year. The dividends for a fiscal year shall be made available by the
11 authority before the end of that fiscal year. The authority shall notify the
12 commissioner of revenue when the dividends for a fiscal year are available for
13 appropriation. The amount of the dividend payable from the

14 (1) revolving fund for a fiscal year may not be less than 25 percent nor

1 more than 50 percent of the net income of the revolving fund for the base fiscal year;
 2 however, in no event, may the dividend payable from the revolving fund for a fiscal
 3 year exceed the total unrestricted net income of the revolving fund for the base year;

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

14 **(3) Arctic infrastructure development fund (AS 44.88.810) for a**
 15 **fiscal year may not be less than 25 percent nor more than 50 percent of the net**
 16 **income of the Arctic infrastructure development fund for the base fiscal year;**
 17 **however, the dividend payable from the Arctic infrastructure development fund**
 18 **for a fiscal year may not exceed the total unrestricted net income of the Arctic**
 19 **infrastructure development fund for the base year.**

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

21 (2) "net income" means the change in net position, or the equivalent
 22 term under generally accepted accounting principles, of the revolving fund, [OR] the
 23 change in net position of the Alaska Industrial Development and Export Authority
 24 sustainable energy transmission and supply development fund (AS 44.88.660), **or the**
 25 **change in net position of the Arctic infrastructure development fund**
 26 **(AS 44.88.810)** as set out in the audited financial statements of the authority for the
 27 base fiscal year, excluding amounts attributable to intergovernmental transfers, capital
 28 contributions, grants, or impairment losses on development projects financed under
 29 AS 44.88.172;

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

31 (3) "unrestricted net income" means the unrestricted change in net

1 position, or the equivalent term under generally accepted accounting principles, of the
 2 revolving fund, [OR] the Alaska Industrial Development and Export Authority
 3 sustainable energy transmission and supply development fund (AS 44.88.660), **or the**
 4 **Arctic infrastructure development fund (AS 44.88.810)** as set out in the audited
 5 financial statements of the authority for the base fiscal year, excluding amounts
 6 attributable to intergovernmental transfers, capital contributions, grants, or impairment
 7 losses on development projects financed under AS 44.88.172.

8 * **Sec. 4.** AS 44.88.159(a) is amended to read:

9 (a) The interest rate on a loan purchased from the proceeds of tax-exempt
 10 bonds secured by the Alaska Industrial Development and Export Authority sustainable
 11 energy transmission and supply development fund (AS 44.88.660) under
 12 AS 44.88.650 - 44.88.690 **or by the Arctic infrastructure development fund**
 13 **(AS 44.88.810) under AS 44.88.800 - 44.88.840** or a loan participation purchased
 14 from the proceeds of tax-exempt bonds or expected by the authority to be purchased
 15 from the proceeds of tax-exempt bonds under AS 44.88.155 shall be determined under
 16 the regulations adopted by the authority under AS 44.88.085(g)(2)(C) and shall be not
 17 less than the cost of funds to the authority. In this subsection, "cost of funds" means
 18 the true interest cost expressed as a rate on tax-exempt bonds of the authority plus an
 19 additional percentage as determined by the authority to represent the allocable
 20 expenses of operation, costs of issuance, and loan servicing costs.

21 * **Sec. 5.** AS 44.88.159(b) is amended to read:

22 (b) The interest rate on a loan purchased from the proceeds of taxable bonds
 23 secured by the Alaska Industrial Development and Export Authority sustainable
 24 energy transmission and supply development fund (AS 44.88.660) under
 25 AS 44.88.650 - 44.88.690 **or by the Arctic infrastructure development fund**
 26 **(AS 44.88.810) under AS 44.88.800 - 44.88.840** or a loan participation purchased
 27 from the proceeds of taxable bonds under AS 44.88.155 or expected by the authority
 28 to be purchased from the proceeds of taxable bonds under AS 44.88.155 shall be
 29 determined under the regulations adopted by the authority under
 30 AS 44.88.085(g)(2)(C) and shall be not less than the cost of funds to the authority. In
 31 this subsection, "cost of funds" means the true interest cost expressed as a rate on

1 taxable bonds, plus an additional percentage as determined by the authority to
 2 represent the allocable expenses of operation, costs of issuance, and loan servicing
 3 costs.

4 * **Sec. 6.** AS 44.88.159(d) is amended to read:

5 (d) The provisions of this section apply only to a loan participation purchased
 6 under AS 44.88.155 - 44.88.159 or to a loan made under AS 44.88.650 - 44.88.690 **or**
 7 **44.88.800 - 44.88.840.**

8 * **Sec. 7.** AS 44.88.159(e) is amended to read:

9 (e) The interest rate on a loan made under AS 44.88.650 - 44.88.690 **or**
 10 **44.88.800 - 44.88.840** or a loan participation purchased directly from the assets of the
 11 authority shall be determined under the regulations adopted by the authority under
 12 AS 44.88.085(g)(2)(C) and shall be not less than the total of a percentage as
 13 determined by the authority to represent the allocable expenses of operation and costs
 14 of loan origination and servicing, plus the cost of funds. In this subsection,

15 (1) "comparable financial security" means a type or category of
 16 financial security the authority identifies in the regulations adopted by the authority
 17 under AS 44.88.085(g)(2)(C) that has a term and financial conditions comparable to
 18 the term and financial conditions of a loan participation or a loan made under
 19 AS 44.88.650 - 44.88.690 **or 44.88.800 - 44.88.840** and for which a regularly
 20 published, nationally recognized market index is available;

21 (2) "cost of funds" means the earnings, expressed as an annual interest
 22 rate, the authority would receive on a comparable financial security, and, for a loan
 23 participation or a loan made under AS 44.88.650 - 44.88.690 **or 44.88.800 - 44.88.840**
 24 with a fixed interest rate, the cost of funds must equal or exceed the minimum interest
 25 rate;

26 (3) "minimum interest rate" means the five-year return on investment
 27 funds of the authority, expressed as an annual interest rate, achieved by all internal and
 28 external investment managers of the authority combined.

29 * **Sec. 8.** AS 44.88.159(f) is amended to read:

30 (f) In determining an interest rate under the regulations adopted by the
 31 authority under AS 44.88.085(g)(2)(C), the authority may determine to disregard the

1 minimum interest rate required under (a), (b), or (e) of this section for a loan
 2 participation purchased by the authority or a loan made under AS 44.88.650 -
 3 44.88.690 or 44.88.800 - 44.88.840 to resolve lending limits or reserve restrictions
 4 imposed on the financial institution and may instead determine to retain the interest
 5 rate existing at the time the authority makes the loan or purchases the authority's loan
 6 participation.

7 * **Sec. 9.** AS 44.88.159(g) is amended to read:

8 (g) The authority may, in the regulations adopted by the authority under
 9 AS 44.88.085(g)(2)(C), establish a program to pay to borrowers of loan participations
 10 determined by the authority to meet sufficient job creation, rural development, **Arctic**
 11 **infrastructure development**, renewable energy development, or other economic
 12 development criteria incentive rate rebates of not more than one percent of the interest
 13 rate charged on the authority's portion of a loan participation. The following standards
 14 apply to the program:

15 (1) the payment of an incentive rate rebate may reduce the interest rate
 16 to a rate that is less than the minimum interest rate required under (a), (b), or (e) of this
 17 section;

18 (2) the authority may not commit to pay an incentive rate rebate for a
 19 proposed loan participation if the total of the amount of the proposed loan
 20 participation plus the combined outstanding balance of all loan participations for
 21 which the authority has committed to pay incentive rate rebates would exceed five
 22 percent of the total of the amount of the proposed loan participation plus the combined
 23 outstanding balance of all loan participations of the authority;

24 (3) an incentive rate rebate may not accrue for more than five years
 25 after the date the loan participation is purchased;

26 (4) the authority may establish a separate account for the incentive rate
 27 rebate program.

28 * **Sec. 10.** AS 44.88 is amended by adding new sections to read:

29 **Article 9A. Arctic Infrastructure Development.**

30 **Sec. 44.88.800. Arctic infrastructure development program.** The Arctic
 31 infrastructure development program is created in the authority to promote and provide

1 financing for Arctic infrastructure development.

2 **Sec. 44.88.810. Arctic infrastructure development fund.** The Arctic
3 infrastructure development fund is established in the authority. The fund consists of
4 appropriations made to the fund by the legislature, money or other assets transferred to
5 the fund by a majority vote of the members of the authority under AS 44.88.050 from
6 any other fund controlled by the authority, and unrestricted loan repayments, interest,
7 or other income earned on loans, investments, or assets of the fund. The fund is not an
8 account in the revolving fund established in AS 44.88.060, and the authority shall
9 account for the fund separately from the revolving fund. The authority may create
10 additional accounts in the fund. Subject to agreements made with the holders of the
11 authority's bonds or with other persons, the authority may transfer amounts in an
12 account in the fund to another account in the fund. Amounts deposited in the fund may
13 be pledged to the payment of bonds of the authority or expended for the purposes of
14 AS 44.88.800 - 44.88.840. The authority has the powers and responsibilities
15 established in AS 37.10.071 with respect to the investment of amounts held in the
16 fund.

17 **Sec. 44.88.820. Use of fund balance.** Subject to the requirements of
18 AS 44.88.800 - 44.88.840, the authority may use money in the Arctic infrastructure
19 development fund (AS 44.88.810) for Arctic infrastructure development.

20 **Sec. 44.88.830. Qualified infrastructure development; powers and duties**
21 **of the authority.** (a) Subject to the limitations of AS 44.88.840, for Arctic
22 infrastructure development the authority may

23 (1) use the Arctic infrastructure development fund (AS 44.88.810) to
24 finance Arctic infrastructure development, insure project obligations, guarantee loans
25 or bonds, and establish reserves;

26 (2) acquire real or personal property by purchase, transfer, or
27 foreclosure when the acquisition is necessary to protect the authority's interest in
28 financing;

29 (3) defer principal payments or capitalize interest on Arctic
30 infrastructure development;

31 (4) subject to AS 36.30.085(e), enter into lease agreements, sales-

1 lease-back agreements, build-operate-transfer and operate-transfer agreements, or any
2 similar project financing agreement for a qualified Arctic infrastructure development;

3 (5) enter into agreements with government entities for the transfer and
4 control of infrastructure, facilities, rights-of-way, and studies;

5 (6) contract for services with a professional advisor, including an
6 attorney, bond counsel, engineer, or other technical expert necessary to fulfill the
7 purposes of the program; and

8 (7) subject to AS 44.88.090, borrow money and issue bonds.

9 (b) The authority shall adopt regulations to implement AS 44.88.800 -
10 44.88.840, including

11 (1) a process for acquiring financing under this section;

12 (2) qualifications for Arctic infrastructure development projects
13 applying for financing under this section; and

14 (3) fiscal controls and accounting procedures for the fund.

15 **Sec. 44.88.840. Limitations on financing.** (a) Unless the authority has
16 obtained legislative approval by law, the authority may not use the Arctic
17 infrastructure development fund established in AS 44.88.810 to make

18 (1) a loan for more than one-third of the capital cost of an Arctic
19 infrastructure development; or

20 (2) a loan guarantee if the amount of the guarantee exceeds
21 \$20,000,000.

22 (b) Financing under AS 44.88.830 is limited to the projected life of the Arctic
23 infrastructure development, which may not be more than 40 years.

24 (c) Notwithstanding (a) of this section, the authority may use the Arctic
25 infrastructure development fund established in AS 44.88.810 as security for a bond
26 guarantee.

27 (d) Notwithstanding (a) of this section, the authority may not provide
28 financing or loans or bond guarantees in an amount less than \$7,000,000 for the
29 purchase or repair of a fishing vessel used in a federally managed fishery, the purchase
30 of quota shares or individual fishing quota used in a federally managed fishery in the
31 Arctic, or the construction, improvement, rehabilitation, or expansion of a plant,

1 facility, or equipment used in support of a fishery in the Arctic.

2 * **Sec. 11.** AS 44.88.900 is amended by adding new paragraphs to read:

3 (18) "Arctic" means the area of the state north of the Arctic Circle,
4 north and west of the boundary formed by the Porcupine, Yukon, and Kuskokwim
5 Rivers, all contiguous seas, including the Arctic Ocean, and the Beaufort, Bering, and
6 Chukchi Seas, and the Aleutian Chain;

7 (19) "Arctic infrastructure development" means

8 (A) the construction, improvement, rehabilitation, or expansion
9 of a facility

10 (i) in the Arctic to aid in development or meet
11 emergency response needs; or

12 (ii) in the state if the construction, improvement,
13 rehabilitation, or expansion supports or furthers the development of a
14 facility in the Arctic; or

15 (B) the purchase or repair of a fishing vessel for use in a
16 federally managed fishery, the purchase of quota shares or individual fishing
17 quota used in a federally managed fishery in the Arctic, or the construction,
18 improvement, rehabilitation, or expansion of a plant, facility, or equipment
19 used in support of a fishery in the Arctic.