

HOUSE BILL NO. 58

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES KREISS-TOMKINS AND MILLETT, Kito, Ortiz

Introduced: 1/21/15

Referred: House Special Committee on Energy, Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act making an entity that is exempt from federal taxation under 26 U.S.C. 501(c)(3)
2 (Internal Revenue Code) and a federally recognized tribe eligible for a loan from the
3 Alaska energy efficiency revolving loan fund; and relating to loans from the Alaska
4 energy efficiency revolving loan fund."

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

6 * **Section 1.** AS 18.56.855(b) is amended to read:

7 (b) Money and other assets of the Alaska energy efficiency revolving loan
8 fund may be used to

9 (1) make loans to an entity designated as tax exempt under 26
10 U.S.C. 501(c)(3) (Internal Revenue Code), a federally recognized tribe, a regional
11 educational attendance area, a [AREAS OR TO] municipal government
12 [GOVERNMENTS], including a subdivision [SUBDIVISIONS] of a municipal
13 government, [GOVERNMENTS, TO] the University of Alaska, or [TO] the state for
14 the purpose of financing energy efficiency improvements to buildings in the state

1 owned by **an entity designated as tax exempt under 26 U.S.C. 501(c)(3) (Internal**
 2 **Revenue Code), a federally recognized tribe, a** regional educational attendance
 3 **area,** [AREAS, BY] the University of Alaska, [BY] the state, or **a municipality** [BY
 4 MUNICIPALITIES IN THE STATE];

5 (2) secure bonds issued by the corporation to finance the loans
 6 described in (1) of this subsection;

7 (3) pay costs of administering the revolving loan fund; and

8 (4) pay the costs of administering and enforcing the terms of loans
 9 made by the corporation from the revolving loan fund.

10 * **Sec. 2.** AS 18.56.855(c) is amended to read:

11 (c) Before **a federally recognized tribe,** a regional educational attendance
 12 area, the University of Alaska, a municipal government, or a subdivision of a
 13 municipal government, may borrow money from the corporation under this section,
 14 the **federally recognized tribe,** regional educational attendance area, [THE]
 15 University of Alaska, or [THE] municipal government shall waive any sovereign
 16 immunity defense it may have available to it with respect to enforcement of the terms
 17 of the loan. A regional educational attendance area, the University of Alaska, or a
 18 municipal government may waive sovereign immunity to comply with the requirement
 19 of this subsection. The state waives any sovereign immunity defense against
 20 enforcement of the terms of a loan made to the state under this section. A person or
 21 corporation having a claim under this section shall bring an action in a state court in
 22 Alaska that has jurisdiction over the claim.

23 * **Sec. 3.** AS 18.56.855(d) is amended to read:

24 (d) **An entity designated as tax exempt under 26 U.S.C. 501(c)(3) (Internal**
 25 **Revenue Code), a federally recognized tribe, a** [ALL] regional educational
 26 attendance **area, a** [AREAS AND] municipal **government, or** [GOVERNMENTS IN
 27 THE STATE AND] the University of Alaska **is** [ARE] authorized to borrow from the
 28 corporation under this section. The corporation shall set out the terms of a loan to **an**
 29 **entity designated as tax exempt under 26 U.S.C. 501(c)(3) (Internal Revenue**
 30 **Code), a federally recognized tribe, or** a regional educational attendance area in a
 31 loan agreement or similar document. At the discretion of the corporation, a borrowing

1 by a regional educational attendance area, the University of Alaska, or a municipal
 2 government under this section may be effected by use of a loan agreement or similar
 3 document evidencing and setting out the terms of the loan or by issuance of a bond by
 4 the municipal government to the corporation. Notwithstanding a charter provision
 5 requiring public sale by a regional educational attendance area or a municipality of its
 6 municipal bonds or other indebtedness, a regional educational attendance area or
 7 municipality may sell its bonds under this section to the corporation at a negotiated,
 8 private sale. At the discretion of the corporation, the bonds or other indebtedness of
 9 the municipality may be general obligations of the municipality or may be secured by
 10 an identified revenue source or by a combination of the full faith and credit of the
 11 municipality and an identified revenue source.

12 * **Sec. 4.** AS 18.56.855(e) is amended to read:

13 (e) Notwithstanding any other provision of law, to the extent that a department
 14 or agency of the state is the custodian of money payable to **an entity designated as**
 15 **tax exempt under 26 U.S.C. 501(c)(3) (Internal Revenue Code), a federally**
 16 **recognized tribe**, a regional educational attendance area, [TO] the University of
 17 Alaska, or [TO] a municipality, at any time after written notice to the department or
 18 agency head from the corporation that the **entity designated as tax exempt under 26**
 19 **U.S.C. 501(c)(3) (Internal Revenue Code), federally recognized tribe**, regional
 20 educational attendance area, [THE] University of Alaska, or [THE] municipality is in
 21 default on the payment of principal of or interest on municipal bonds or other
 22 indebtedness then held or owned by the corporation, or amounts due under an
 23 agreement between the corporation and **an entity designated as tax exempt under 26**
 24 **U.S.C. 501(c)(3) (Internal Revenue Code), a federally recognized tribe**, a regional
 25 educational attendance area, the University of Alaska, or a municipality, the
 26 department or agency shall withhold the payment of that money from **the entity**
 27 **designated as tax exempt under 26 U.S.C. 501(c)(3) (Internal Revenue Code),**
 28 **federally recognized tribe**, [THAT] regional educational attendance area, [THE]
 29 University of Alaska, or [THAT] municipality and pay over the money to the
 30 corporation for the purpose of paying the principal of and interest on the bonds or
 31 indebtedness. The notice must be given in each instance of default. If a notice is given

1 under this subsection and, if applicable, under AS 44.85.170 and the default is
 2 continuing under this subsection or [AND] under AS 44.85.170, the department or
 3 agency shall make payment to the corporation and to the Alaska Municipal Bond Bank
 4 Authority on a pro rata basis, taking into consideration the principal amount of the
 5 respective default amounts.

6 * **Sec. 5.** AS 18.56.855(j) is amended to read:

7 (j) In this section,

8 **(1)** "authorized state officer" means

9 **(A)** [(1)] the commissioner of the department of the state for a
 10 building owned by the state;

11 **(B)** [(2)] the executive director of a public corporation for a
 12 building owned by the public corporation;

13 **(C)** [(3)] the legislative council for a building owned by the
 14 legislature;

15 **(D)** [(4)] the administrative director of the Alaska Court
 16 System for a building owned by the judicial system;

17 **(E)** [(5)] any other person designated in writing by a person
 18 listed in **(A) - (E)** [(1) - (4)] of this **paragraph** [SUBSECTION];

19 **(2)** "**federally recognized tribe**"

20 **(A)** **means a tribe that is recognized by the United States**
 21 **Secretary of the Interior to exist as an Indian tribe under 25 U.S.C. 479a**
 22 **(Federally Recognized Indian Tribe List Act of 1994);**

23 **(B)** **includes a subdivision, subsidiary, or business**
 24 **enterprise wholly owned by a federally recognized tribe.**