

1 IN THE SENATE BY SENATORS OWEN AND RYAN
2 SENATE BILL NO.144
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIRST LEGISLATURE - SECOND SESSION

5 A BILL
6 For an Act entitled: "An Act relating to a public works auth-
7 ority."

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

9 ARTICLE I
10 GENERAL

11 Section 1. SHORT TITLE. This Act may be cited as the
12 "Authority Act of 1960."

13 Sec. 2. DEFINITIONS. When used in this Act unless clearly
14 not applicable:

15 (1) "authority" means the Alaska Public Works Auth-
16 ority;

17 (2) "board" means the Alaska Public Works Authority
18 Board;

19 (3) "construction" or "to construct" means building,
20 improvement, maintenance, equipment, enlargement, alteration,
21 extension, repair, and furnishing, or their verb forms;

22 (4) "project" or "enterprise" means any structure,
23 facility, plant, system, works, or other undertaking, together
24 with all appurtenances, which the authority is authorized to con-
25 struct, improve, equip, furnish, maintain, acquire, or operate
26 under the provisions of this Act and includes any portion thereof;

27 (5) "person" means any natural person, association,
28 corporation, business trust, partnership, or public body;

29 (6) "federal government" or "federal agency" means

1 the government of the United States of America and includes the
2 President, other officers, departments, corporations, authorities,
3 agencies, or any instrumentality of the United States of America;

4 (7) "bonds" means evidences of indebtedness or obliga-
5 tion issued by the authority;

6 (8) "charges" includes fees, tolls, rates, and rentals;

7 (9) "revenues" means all charges or any specified por-
8 tion thereof received for and all other income and receipts de-
9 rived by the authority from the operation of a specific enterprise
10 or project or arising therefrom and includes revenue deposited in
11 any fund to secure the bonds or to provide for the payment of
12 them or the interest on them;

13 (10) the singular includes the plural.

14 Sec. 3. ALASKA PUBLIC WORKS AUTHORITY. The Alaska Public
15 Works Authority is established as a public body corporate and
16 politic.

17 Sec. 4. ALASKA PUBLIC WORKS AUTHORITY BOARD. a. The
18 Alaska Public Works Authority Board is established as the govern-
19 ing body of the authority.

20 b. The board consists of five members who are appointed by
21 and serve at the pleasure of the governor and confirmed by the
22 legislature meeting in joint session. The members shall be
23 residents of Alaska qualified by administrative and business ex-
24 perience. ~~[No member may be associated with any public service~~
25 ~~corporation which provides a service for profit similar to any~~
26 ~~of the services of the authority, nor may any member of the board~~
27 ~~have any interest in any business that may be favorably or un-~~
28 ~~favorably affected by the operation of the authority.]~~

29 c. The term of office of each member is six years. The

1 terms of two members shall expire on February 1 of each even-
2 numbered year, except that on February 1 of each sixth year the
3 term of only one member shall expire. Any member appointed to fill
4 a vacancy occurring other than by expiration of a term shall serve
5 only for the unexpired term of the member he succeeds. Members
6 appointed are qualified to act and receive compensation between
7 the time of their appointment and the time of confirmation or
8 rejection by the legislature.

9 Sec. 5. BOARD--ORGANIZATION, COMPENSATION, OATH, AND BOND.

10 a. Within 10 days after the effective date of this Act, the
11 governor shall make all appointments to the board and the board
12 shall meet and organize by electing from its members a chairman,
13 a vice-chairman, and a secretary. At the first regular meeting of
14 every even-numbered year the board shall elect new officers. Two
15 members of the first board shall serve for two years, two members
16 shall serve for four years, and one member shall serve for six
17 years. At the time of the appointments, the governor shall
18 designate which members have been appointed for which terms.
19 The commissioner of the Department of Revenue shall be the treas-
20 urer of the authority without voting rights or additional com-
21 pensation. The treasurer shall attend meetings when requested to
22 do so and shall perform all duties imposed upon him as treasurer
23 of the authority.

24 b. Members of the board receive no salary but shall receive
25 the same per diem and travel expenses as are authorized for state
26 boards for time spent in the service of the authority.

27 c. Members of the board shall take the oath required of all
28 public officers, and shall execute an official bond to the state
29 in the amount of \$5,000.00 with satisfactory sureties to be

1 approved by the commissioner of the Department of Revenue. The
2 oath and bond shall be filed with the commissioner of the Depart-
3 ment of Revenue.

4 Sec. 6. MEETINGS OF THE BOARD. a. All meetings of the
5 board shall be public. All members of the board shall attend
6 all meetings unless excused from attendance for a justifiable
7 reason; three members shall constitute a quorum for the organi-
8 zation and transaction of business, unless the by-laws require
9 a larger number.

10 b. The board shall keep minutes of its meetings and may
11 publish so much thereof as it considers of public interest and
12 benefit.

13 Sec. 7. POWERS AND DUTIES OF THE BOARD. a. The board
14 shall manage the properties and business of the authority and may
15 prescribe, amend, and repeal by-laws, rules, and regulations
16 governing the manner in which the business of the authority may
17 be conducted. Regulations of the board which come under the
18 meaning of "regulation" as defined by the Administrative Pro-
19 cedure Act may be promulgated and used only in accordance with
20 that Act.

21 b. The board shall employ a person as the executive direc-
22 tor of the authority, which person shall be professionally
23 trained and professionally qualified and experienced in the per-
24 formance of his duties. The selection of the executive director
25 is subject to the approval of the governor. The executive
26 director may not have any interest in a business that may favor-
27 ably or unfavorably be affected by the operation of the authority.

28 c. The board shall fix and determine the number of officers,
29 agents, and employees of the authority and their respective

1 compensation and duties, and may delegate to the executive direc-
2 tor such powers and duties as it may deem proper.

3 d. On or before December 1 of each year, the board shall
4 submit to the governor a report containing a full and complete
5 account of its business for the preceding year, together with
6 other information, suggestions, and recommendations deemed of
7 public value.

8 ARTICLE II

9 POWERS AND DUTIES OF THE AUTHORITY

10 Sec. 1. a. The authority is established in order to con-
11 struct, acquire, and maintain and operate school buildings, pub-
12 lic buildings, airports and landing fields, public institutions
13 for care, treatment or confinement of individuals, additions and
14 improvements to public universities, highways, bridges, tunnels,
15 swimming pools and lakes, hydroelectric dams and facilities,
16 nuclear energy facilities, reservoirs, flood and water control
17 facilities, ferry boats, ferry slips, and ferry terminals, ports
18 and port and harbor facilities, and any other project which is
19 in the interest of the public whether on the state, regional, or
20 local level.

21 b. The authority may sue and be sued in its official cor-
22 porate name, make contracts, acquire through gift, grant, pur-
23 chase, lease, condemnation, or otherwise, and hold, use, handle,
24 enjoy, lease, sell, pledge, or otherwise dispose of any and all
25 real and personal property.

26 c. No project may be undertaken by the authority, bonds
27 issued for it, or plans and specifications presented for bids
28 unless the project has been approved by the governor or his
29 designee.

1 d. The authority has no power to levy any taxes or to
2 pledge the credit or the taxing power of the state or its poli-
3 tical subdivisions, and no debt or obligation of the authority
4 may be considered a debt or obligation of the state, of its
5 political subdivisions, or other public agencies.

6 e. In addition, the authority has, but is not limited to,
7 the power to do the following:

8 (1) fix, alter, charge, and collect fees, tolls, rates,
9 rentals, and other charges for the use of its facilities, or its
10 services, or those of its projects at reasonable rates, deter-
11 mined by the authority for the purpose of providing for the
12 payment of the expenses of the authority, the construction,
13 acquisition, and operation of its facilities and properties, the
14 payment of the principal of and interest on its obligations, and
15 to fulfill the terms and provisions of any agreement made with
16 the purchasers or holders of any such obligations.

17 (2) borrow money, make and issue negotiable notes,
18 bonds, and other evidences of indebtedness or obligations of the
19 authority; secure the payment of its bonds, or any part of them,
20 by pledge of or establishment of a lien upon all or any portion
21 of its revenues and make such agreements with the purchasers or
22 holders of its bonds or with others in connection with its bonds,
23 whether issued or to be issued, as the authority may deem ad-
24 visable; and in general to provide for the security for its bonds
25 and the rights of the holders of them.

26 (3) make contracts and execute all instruments necessary
27 or convenient for the carrying on of its business.

28 (4) borrow money and accept grants of real and per-
29 sonal property from and enter into contracts, leases, or other

1 transactions with the federal government.

2 (5) exercise the power of eminent domain.

3 (6) do all acts and things necessary or convenient to
4 carry out the powers granted to it by this Act or any other act.

5 (7) enter into agreements with the state, any of its
6 political subdivisions or other public agencies for the under-
7 taking of any project.

8 (8) acquire, by assignment from the state, contracts
9 which are not completed and which involve any of the undertakings
10 which the authority is authorized to perform by this Act.

11 Sec. 2. REVENUE BOND ISSUE. a. The authority may, by
12 resolution of the board, issue such revenue bonds as it deems
13 necessary.

14 b. The bonds shall be of such series, bear such date,
15 mature at such time not exceeding 30 years from their respective
16 date, bear interest at such rate not exceeding six per cent per
17 annum, payable semi-annually, be in such denominations, be in
18 such form, either coupon or fully registered without coupons,
19 carry such registration exchangeability and inter-changeability
20 privileges, be payable in such medium of payment and at such
21 place, be subject to such terms of redemption at such prices
22 not exceeding 105 per cent of the principal, and be entitled to
23 such priorities in the revenues, rentals, or receipts of the
24 authority as the resolution may provide.

25 c. The bonds shall bear the facsimile signature of the
26 chairman of the board, the facsimile of the corporate seal, and
27 the manual signature of the treasurer. Coupon bonds shall have
28 interest coupons attached to them bearing the facsimile signature
29 of the treasurer. Bonds bearing the signature of officers in

1 office on the date of signing are valid, notwithstanding that
2 before delivery the persons signing have ceased to be officers.
3 d. The bonds shall be sold to the highest responsible bidder
4 after public notice in such manner as the authority may prescribe.
5 The notice shall contain a general description of the bonds, the
6 manner, place, and time of the sale, or the time limit for the
7 receipt of bids, the name of the officers to whom bids or pro-
8 posals shall be delivered, and a statement of the terms and
9 conditions of the sale. If no bids are received or the authority
10 determines that the bids are not satisfactory as to the price or
11 the responsibility of the bidder, the authority may reject all
12 bids received, if any, and either re-advertise or sell the bonds
13 at a private sale. Pending the preparation of the definitive
14 bonds, interim receipts or temporary bonds may be issued to the
15 purchaser of bonds and may contain such terms and conditions as
16 the authority may determine.

17 e. The authority may sell the bonds at a price below par
18 value.

19 f. A resolution authorizing bonds may contain provisions
20 which shall be part of the contract with the holders of the bonds
21 as to the following:

22 (1) pledging the revenues of the authority for such
23 obligations, or restricting the pledge to any portion of its
24 revenues from all or any projects or properties;

25 (2) the construction, acquisition, or operation of any
26 project and the duties of the authority with reference to them;

27 (3) the terms and provisions of the bonds;

28 (4) limitations on the purposes to which the proceeds
29 of the bonds may be applied;

1 (5) the rate of tolls, rentals, and other charges for
2 use of the facilities of or for the services rendered by the
3 authority, including limitations upon the power of the authority
4 to modify any leases or other agreements pursuant to which any
5 tolls, rentals, or other charges are payable;

6 (6) the setting aside of reserves or sinking funds
7 and the regulation and disposition of them;

8 (7) limitations on the issuance of additional bonds;

9 (8) the terms and provisions securing the bonds or
10 under which the bonds may be issued;

11 (9) any other or additional agreements with the holders
12 of the bonds.

13 g. The authority may enter into any agreements with any
14 bank or trust company or other person in the United States having
15 power to enter into the same, including the federal government,
16 as security for its bonds; and may assign and pledge all or any
17 portion of the revenues of the authority thereunder. The inden-
18 ture agreement may contain such provisions as may be customary
19 in such instruments or as the authority may authorize, including,
20 but not limited to, provisions in regard to the following:

21 (1) the construction, acquisition or operation, of
22 any project and the duties of the authority with reference to
23 them;

24 (2) the application of funds and the safeguarding of
25 funds on hand or on deposit;

26 (3) the rights and remedies of the trustees and the
27 holders of the bonds, which may include restrictions upon the
28 individual right of action of the bondholders;

29 (4) the terms and provisions of the bonds or the

1 resolutions authorizing the issuance of the bonds;

2 (5) unless the authority provides otherwise in the
3 resolution, the principal, interest, and sums for other security
4 funds shall be paid from the revenues prior to paying the main-
5 tenance and operation costs of any project.

6 h. Bonds of the authority are legal investments for state
7 and local retirement systems.

8 i. The bonds have all the qualities of negotiable instru-
9 ments as set forth in the laws of the state.

10 Sec. 3. REMEDIES OF BONDHOLDERS. a. In the event that
11 the authority defaults in the payment of principal of or interest
12 on any bonds for a period of at least 30 days, or in the event
13 that the authority fails or refuses to comply with the provisions
14 of this Act or defaults in any agreement made with holders of its
15 bonds, the holders of 25 per cent in aggregate principal amount
16 of the bonds then outstanding may, subject to any limitations of
17 the indenture or agreement or in addition to any remedies of the
18 indenture or agreement, appoint a trustee to represent the bond-
19 holders. The trustee and any trustee under any indenture or
20 other agreement may, and upon written request of the holders of
21 25 per cent - or whatever per cent is specified by the indenture
22 or other agreement - in principal amount of the bonds outstanding
23 shall, in his own name perform the following:

24 (1) by suit, action, or proceeding enforce all rights
25 of the bondholders, including the right to require the authority
26 to impose and collect charges from the operation of the project
27 the revenues of which have been pledged, which charges shall be
28 adequate to carry out any agreement as to or pledge of the revenues
29 of the authority, and to require the authority to carry out any

1 other agreements with or for the benefit of the bondholders, and
2 to perform its and their duties under this Act;

3 (2) bring suit upon the bonds;

4 (3) by action require the authority to account as if it
5 were the trustee of an express trust for the bondholders;

6 (4) by action enjoin any acts or things which may be
7 unlawful or in violation of the rights of the bondholders;

8 (5) by notice in writing to the authority, declare all
9 bonds due and payable, and if all defaults shall be made good,
10 then with the consent of the holders of 25 per cent - or whatever
11 per cent is specified by the indenture or other agreement - of
12 the principal amount of the bonds then outstanding, to annul
13 such declaration and its consequences.

14 b. Any trustee, whether appointed under this Act or under
15 an indenture or other agreement and whether or not all bonds
16 have been declared due and payable, shall be entitled, as a
17 matter of right, to the appointment of a receiver, who may, to
18 the same extent that the authority itself could do so, enter and
19 take possession of the facilities of the authority, or any parts
20 of them, the revenues from which are applicable to the payment of
21 the bonds so in default, and operate and maintain the same, and
22 collect and receive all revenues thereafter arising from them in
23 the same manner as the authority might do, and shall deposit all
24 such moneys in a separate account, and apply the same in such
25 manner as the court shall direct. In any action or proceeding by
26 the trustees, the fees, counsel fees, and expenses of the trus-
27 tee and of the receiver, if any, and all costs and disbursements
28 allowed by the court, shall be a first charge on any revenues and
29 receipts derived from the facilities of the authority, the

1 revenues or receipts from which are applicable to the payment of
2 the bonds so in default. The trustee shall, in addition to the
3 foregoing, have and possess all of the powers necessary or
4 appropriate for the exercise of any functions specifically set
5 forth in this Act or incident to the general representation of
6 the bondholders in the enforcement and protection of their
7 rights.

8 c. In addition to all other rights and all other remedies,
9 any holder of bonds of the authority has the right by action or
10 proceeding to enforce his rights against the authority, including
11 the right to require the authority to impose and collect charges
12 adequate to carry out any agreement as to or pledge of such
13 charges or revenues, and to require the authority to carry out any
14 of its covenants and agreements with the bondholders and to
15 perform its and their duties under this Act; provided, however,
16 that nothing in this Act shall authorize any receiver appointed
17 pursuant to this Act, for the purpose of operating and maintaining
18 any facilities of the authority, to sell, assign, mortgage, or
19 otherwise dispose of any of the assets of whatever kind and
20 character belonging to the authority. It is the intention of
21 this Act to limit the powers of the receiver to the operation and
22 maintenance of the facilities of the authority as the court may
23 direct, and no holder of bonds of the authority, nor any trustee,
24 shall ever have the right in action or proceedings to compel
25 a receiver, nor shall any receiver ever be authorized, or any
26 court be empowered to direct the receiver to sell, assign, mort-
27 gage, or otherwise dispose of any assets of whatever kind or
28 character belonging to the authority.

29 Sec. 4. MONEYS OF THE AUTHORITY. All moneys of the authority,

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1 from whatever source derived, shall be paid to the treasurer of
2 the authority. The moneys shall be deposited in the first in-
3 stance by the treasurer in one or more banks or trust companies,
4 in one or more special accounts, and each of such special accounts
5 shall be continuously secured by a pledge of direct obligations
6 of the federal government or of the state, having an aggregate
7 market value, exclusive of accrued interest, at all times at
8 least equal to the balance on deposit in such account. Such
9 securities shall either be deposited with the treasurer or be
10 held by a trustee or agent satisfactory to the authority. The
11 moneys in the accounts shall be paid out on the warrant or other
12 order of the treasurer of the authority or of such other person as
13 the authority may authorize to execute such warrants or orders.
14 The Department of Revenue is authorized from time to time to
15 examine the accounts and books of the authority, including its
16 receipts, disbursements, contracts, leases, sinking funds, in-
17 vestments, and any other matters relating to its finances,
18 operations, and affairs.

19 Sec. 5. GRANT OF LANDS TO THE AUTHORITY. The state may
20 grant, assign, and convey to the authority, with or without con-
21 sideration, any lands, easements or rights in lands, together
22 with any improvements, buildings, or structures thereon needed or
23 convenient for the purposes of the authority, or to lease to
24 the authority for a term, not exceeding 99 years, at a nominal
25 or such other rental as may be determined, any or all such lands,
26 easements or rights in lands, together with any improvements,
27 buildings, or structures thereon.

28 Sec. 6. LEASES FROM THE AUTHORITY. The state may enter into
29 contracts with the authority to lease as lessee from the authority

1 any or all of the projects undertaken by the authority for a term,
2 with respect to each project constructed, not exceeding 30 years,
3 at such rental or rentals as may be determined by the authority,
4 and upon the completion of the projects, the state may lease as
5 lessee any or all of the projects completed by the authority for
6 a term, with respect to each project leased, not exceeding 30
7 years, at such rental or rentals as may be determined by the
8 authority. The state may lease as lessee any equipment and
9 furnishings from the authority required for the use and occupancy
10 of any project.

11 Sec. 7. ACQUISITION OF LANDS. The state may acquire title
12 to any additional lands or interest in lands which may be required
13 for the purposes of the authority, and payment for such lands
14 shall be made by the state. The power of the state to acquire
15 lands does not limit or restrict the power of the authority it-
16 self to acquire lands or interests in lands in the name of the
17 authority.

18 Sec. 8. COMPETITION IN AWARD OF CONTRACTS. If any project
19 is constructed pursuant to a contract and the estimated cost of
20 the work exceeds \$2,500.00, the contract shall be awarded to
21 the lowest responsible bidder after such advertisement for bids as
22 is deemed necessary by the board. The authority may make rules
23 and regulations for the submission of bids and the construction
24 of any project. No contract shall be entered into for construc-
25 tion of any project or for the purchase of materials, unless the
26 contractor shall give an undertaking with a sufficient surety or
27 sureties approved by the authority, and in an amount fixed by the
28 authority, for the faithful performance of the contract; and such
29 contract shall be accompanied by an additional bond for the

1 protection of those who furnish labor and material, for such
2 amount and subject to the terms and conditions established by the
3 authority. All construction contracts shall provide, among other
4 things, that the person entering into such contract with the
5 authority shall pay for all materials furnished and services ren-
6 dered for the performance of the contract, and that any person
7 furnishing such materials or rendering such services may maintain
8 an action to recover for the same against the obligor in the
9 undertaking as though such person was named therein, provided
10 the action is brought within one year after the time the cause
11 of action accrued. Nothing in this section shall be construed
12 to limit the power of the authority to construct any project
13 directly by the officers, agents, and employees of the authority
14 or by agreement with the federal or state governments. Nothing
15 in this Act prevents the authority from entering into contracts
16 which are subject to the rules of the federal government, if the
17 authority deems it advisable to do so, but the governor's approval
18 must be obtained before the authority may undertake a project.

19 Sec. 9. USE OF PROJECTS. The use of the facilities of the
20 authority and the operation of its business shall be subject to
21 the rules and regulations from time to time adopted by the
22 authority; provided, however, that the authority may not do any-
23 thing which will impair the security of the holders of the
24 obligations of the authority or violate any agreements with them
25 or for their benefit.

26 Sec. 10. LIMITATION OF POWERS. The state pledges to and
27 agrees with any person acquiring the bonds to be issued by the
28 authority for the construction of any project or part thereof,
29 that the state will not limit or alter the rights vested in the

1 authority until all bonds at any time issued, together with the
2 interest thereon, are fully met and discharged. The state further
3 pledges and agrees with the federal government that in the event
4 that any federal agency constructs or contributes any funds for
5 the construction of any project the state will not alter or limit
6 the rights and powers of the authority in any manner which would
7 be inconsistent with the continued maintenance and operation of
8 the project or the improvement thereof, or which would be in-
9 consistent with the due performance of any agreements between the
10 authority and the federal government, and the authority shall
11 continue to have and may exercise all powers granted by this Act
12 so long as the same shall be necessary or desirable for carrying
13 out the purposes of this Act.

14 Sec. 11. EXEMPTION FROM TAXATION. The effectuation of the
15 authorized purposes of the authority shall be in all respects for
16 the benefit of the people of the state for the increase of their
17 commerce and prosperity and for the improvement of their health
18 and living conditions, and since the authority will be performing
19 essential governmental functions in effectuating its purposes,
20 the authority is not required to pay any taxes or assessments
21 upon any property acquired or used by it for such purposes, and
22 the bonds issued by the authority, their transfer, and the income
23 therefrom - including any profits made on their sale - shall at
24 all times be free from taxation in this state except from inheri-
25 tance and estate taxation. The provisions of this section do not
26 prevent the authority from entering into agreements with the
27 state's political subdivisions to make payments in lieu of taxes
28 when it is in the interest of the public to do so.

29 Sec. 12. REFUNDING BONDS. a. The authority may provide

1 for the issuance, sale, or exchange of refunding bonds to redeem
2 or retire bonds issued by it upon the terms, at the times, and in
3 the manner which it deems advisable.

4 b. All provisions of this Act applicable to the issuance
5 of bonds are applicable to funding or refunding bonds and to their
6 issuance, sale, or exchange.

7 c. Funding or refunding bonds may be issued in a principal
8 amount sufficient to provide funds for the payment of all of the
9 following:

10 (1) all bonds to be funded or refunded by them;

11 (2) all expenses incident to the calling, retiring,
12 or paying of the outstanding bonds and the issuance of the fund-
13 ing or refunding bonds, including the difference in amount between
14 the par value of the funding or refunding bonds and any amount
15 less than that for which the funding or refunding bonds may be
16 sold;

17 (3) interest upon the funding or refunding bonds from
18 the date of sale to the date of payment of the bonds to be funded
19 or refunded out of the proceeds of the sale or the date upon
20 which the bonds to be funded or refunded will be paid pursuant to
21 the call or agreement with the holders of such bonds;

22 (4) any premium necessary in the calling or retiring
23 of the outstanding bonds and the interest accruing on them to
24 the date of the call or retirement.

25 Sec. 13. APPROPRIATION. Moneys necessary for the initial
26 operation of the authority or for unusual expenses as may arise
27 from time to time may be appropriated in the general appropria-
28 tions act or in such other acts as may be necessary.

29 Sec. 14. SEVERABILITY CLAUSE. If a part of this Act is

1 invalid, all valid parts that are severable from the invalid part
2 remain in effect. If a part of this Act is invalid in one or
3 more of its applications, the part remains in effect in all valid
4 applications that are severable from the invalid applications.

5 Sec. 15. EFFECTIVE DATE. This Act takes effect on the day
6 after its passage and approval or on the day it becomes law
7 without such approval.

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