

1 IN THE HOUSE

BY GUESS AND BOARDMAN

2 HOUSE BILL NO. 482

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act authorizing the issuance of indus-
7 trial development bonds by political sub-
8 divisions of the state; and providing for
9 review of these bonds before issuance."

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

11 * Section 1. AS 37.30 is amended by adding new sections to
12 read:

13 ARTICLE 2. LOCAL INDUSTRIAL DEVELOPMENT BONDS.

14 Sec. 37.30.100. POLITICAL SUBDIVISIONS MAY ISSUE BONDS.

15 Political subdivisions of the state may issue industrial
16 development bonds. Laws which prescribe a limit to the
17 bonded indebtedness which a political subdivision may incur
18 may not be construed to include indebtedness incurred through
19 the issuance of industrial development bonds.

20 Sec. 37.30.110. REVIEW AND APPROVAL REQUIRED. The
21 governing body of a political subdivision of the state may
22 not submit a proposal to issue industrial development bonds
23 to the voters of the political subdivision unless the issue
24 is approved by the Department of Economic Development and
25 Planning as provided in secs. 100 - 170 of this chapter.

26 Sec. 37.30.120. SUBMISSION AND REVIEW OF APPLICATION.
27 The governing body of a political subdivision which wishes
28 to issue industrial development bonds must apply to the
29 department for a certificate of approval. The department

1 shall issue a certificate of approval if it finds, after a
2 review of the application.

3 (1) that the political subdivision has a contract,
4 approved by the governing body of the political subdivision,
5 with a person to lease the property to be acquired with the
6 proceeds of the bonds for occupancy and use in connection
7 with the conduct of an industrial enterprise for a period of
8 years;

9 (2) that the contract requires the lessee to pay
10 an annual rent adequate to meet the payment of the principal
11 and interest on the bonds during the term of the lease;

12 (3) that the lessee is a responsible party;

13 (4) that the contract provides for

14 (A) reasonable maintenance of the property
15 by the lessee;

16 (B) adequate insurance to be carried on the
17 property and specifies the use and disposition to be
18 made of monies received as a result of an insurance
19 claim;

20 (C) the rights of the political subdivision
21 and the lessee in regard to the disposition of the
22 property financed by the proposed bonds after retire-
23 ment of the bonds or upon the termination of the contract
24 either by expiration of, or failure to perform, the
25 contract;

26 (5) that opportunities for employment are inade-
27 quate in the area from which the proposed industrial plant
28 would reasonable draw its labor force and that there exists
29 in that area a condition of substantial and persistent

1 unemployment or underemployment;

2 (6) that the proposed industrial plant will
3 provide employment having a reasonable relationship to the
4 indebtedness to be incurred as compared to investment per
5 employee of comparable industrial facilities;

6 (7) that financing by banks or other financial
7 institutions for the property required by the lessee is not
8 readily available to the lessee on ordinary commercial terms
9 in adequate amounts in either the local or national financial
10 markets;

11 (8) that no portion of the proposed bond issue
12 will be purchased by the lessee or an affiliate or subsidiary
13 of the lessee at the time of the initial marketing of the
14 bond issue;

15 (9) that the property offered the lessee is in-
16 tended for the expansion of an industrial enterprise, located
17 elsewhere, to the political subdivision, or the establishment
18 of a new enterprise in the political subdivision, and not
19 primarily for the relocation of an existing facility to the
20 political subdivision;

21 (10) that adequate provision is being, or will be,
22 made to meet any increased demand upon public facilities
23 within the political subdivision that will result from the
24 proposed project;

25 (11) that the issuance of the proposed bonds and
26 the operation of the industrial enterprise will not disrupt
27 the financial stability of the political subdivision if it
28 should have to assume responsibility for payment of the
29 principal and interest of the bonds.

1 Sec. 37.30.130. REGULATIONS. The department shall
2 promulgate procedural regulations which specify the informa-
3 tion which should accompany an application for a certificate
4 of approval and shall promulgate substantive regulations
5 which further define the standards of review in sec.120 of
6 this chapter.

7 Sec. 37.30.140. ACTION BY DEPARTMENT ON APPLICATION.

8 (a) The department may require the governing body of a
9 political subdivision to submit additional information to
10 support its application.

11 (b) The department may hold a public hearing upon an
12 application. A hearing must be held within 30 days after
13 receipt of an application by the department. The department
14 shall publish notice of the hearing at least twice in a
15 newspaper of general circulation in the political subdivision
16 during the two weeks preceding the date of the hearing.

17 (c) The department shall notify the governing body of
18 a political subdivision of its determination regarding an
19 application for a certificate of approval within 45 days
20 after the date on which the department receives the applica-
21 tion, if no hearing is held on the application, or within
22 30 days after the hearing is completed, if a hearing is held
23 on the application.

24 (d) The department, if it denies an application for a
25 certificate, shall state in detail the reasons for the denial.
26 A denial is final and may not be reconsidered by the depart-
27 ment.

28 (e) The governing body of a political subdivision may
29 appeal the denial of a certificate of approval to the

1 superior court. The provisions of AS 44.62.560 - 44.62.570
2 apply to the judicial review of the denial.

3 Sec. 37.30.150. FORM AND EFFECT OF CERTIFICATE. (a)

4 A certificate of approval shall state that the political
5 subdivision is authorized to hold an election, within 12
6 months from the date the certificate is issued, to approve
7 the issuance of bonds for the purpose set out in the appli-
8 cation.

9 (b) If a political subdivision does not hold an election
10 within the 12-month period, the certificate is void and the
11 political subdivision must apply for another certificate,
12 except that if the issuance of the bonds under the certificate
13 is contested in court before election, the department may
14 extend the effective period of the certificate for a period
15 of time not to exceed that required for the final adjudica-
16 tion of the case.

17 (c) If the voters of the political subdivision disap-
18 prove issuance of the bonds, the certificate is void on
19 the day after the election results are certified.

20 (d) The approval of the voters of the issuance of
21 industrial development bonds is void unless the political
22 subdivision receives a certificate of approval from the
23 department before the election is held.

24 Sec. 37.30.160. ELECTION AND NOTICE. (a) All laws
25 applicable to the approval and sale of general obligation and
26 revenue bonds of political subdivisions which do not conflict
27 with secs. 100 - 170 of this chapter are applicable to the
28 sale of industrial development bonds. Publication of notice
29 of bonded indebtedness required under AS 29.50.020(b) is

1 applicable to elections to approve general obligation
2 industrial development bonds and, in addition to the require-
3 ments specified in AS 29.50.020(b), the notice of existing
4 indebtedness must also state the nature of the industrial
5 project for which the bonds will be issued and where a true
6 copy of the contract between the political subdivision and
7 the lessee of the property to be financed by the bonds is
8 available for examination.

9 (b) If an election to approve revenue industrial de-
10 velopment bonds is to be held, the governing body of the
11 political subdivision shall publish a notice at least once
12 a week for three consecutive weeks in a newspaper of general
13 circulation in the political subdivision. The first notice
14 shall be published at least 20 days before the date of the
15 election. The notice shall state the nature of the industrial
16 project for which the bonds will be issued and where a true
17 copy of the contract between the political subdivision and
18 the lessee of the property to be financed by the bonds is
19 available for examination.

20 Sec. 37.30.170. DEFINITIONS. In secs. 100 - 160 of
21 this chapter.

22 (1) "department" means the Department of Economic
23 Development and Planning;

24 (2) "industrial development bonds" and "bonds"
25 mean general obligation or revenue bonds issued by a political
26 subdivision of the state for the purpose of financing the
27 purchase of land or the purchase or construction, which in-
28 cludes reconstruction, improvement and enlargement, of
29 buildings and appurtenances; and revenue bonds issued by a

1 political subdivision for the purpose of financing the
2 purchase of machinery, equipment or fixtures; which will be
3 sold or leased on a continuing basis to a person for use in
4 connection with the operation of an industrial enterprise.

5 (3) "political subdivision" means a borough or
6 city, home rule or otherwise, which by law or charter can
7 issue general obligation or revenue bonds.

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