

1 IN THE HOUSE

BY GUESS

2 HOUSE BILL NO. 14

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act authorizing the issuance of industrial de-
7 velopment bonds by political subdivisions of the
8 state; and providing for review of these bonds before
9 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 read:

12 ARTICLE 2. LOCAL INDUSTRIAL DEVELOPMENT BONDS.

13 Sec. 37.30.100. POLITICAL SUBDIVISIONS MAY ISSUE BONDS. Po-
14 litical subdivisions of the state may issue industrial development
15 bonds. Laws which prescribe a limit to the bonded indebtedness which
16 a political subdivision may incur may not be construed to include
17 indebtedness incurred through the issuance of industrial development
18 bonds.

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

25 Sec. 37.30.120. SUBMISSION AND REVIEW OF APPLICATION. The
26 governing body of a political subdivision which wishes to issue in-
27 dustrial development bonds must apply to the department for a certifi-
28 cate of approval. The department shall issue a certificate of ap-
29 proval if it finds, after a review of the application,

1 (1) that the political subdivision has a contract, ap-
2 proved by the governing body of the political subdivision, with a
3 person to lease the property to be acquired with the proceeds of the
4 bonds for occupancy and use in connection with the conduct of an in-
5 dustrial enterprise for a period of years;

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

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

10 (4) that the contract provides for

11 (A) reasonable maintenance of the property by the
12 lessee;

13 (B) adequate insurance to be carried on the property
14 and specifies the use and disposition to be made of money re-
15 ceived as a result of an insurance claim;

16 (C) the rights of the political subdivision and the
17 lessee in regard to the disposition of the property financed by
18 the proposed bonds after retirement of the bonds or upon the
19 termination of the contract either by expiration of, or failure
20 to perform, the contract;

21 (5) that the proposed industrial plant will provide em-
22 ployment having a reasonable relationship to the indebtedness to be
23 incurred as compared to investment per employee of comparable in-
24 dustrial facilities;

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

29 (7) that no portion of the proposed bond issue will be

1 purchased by the lessee or an affiliate or subsidiary of the lessee
2 at the time of the initial marketing of the bond issue;

3 (8) that the property offered the lessee is intended for
4 the expansion of an industrial enterprise, located elsewhere, to the
5 political subdivision, or the establishment of a new enterprise in the
6 political subdivision, and not primarily for the relocation of an
7 existing facility to the political subdivision;

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

11 (10) that the issuance of the proposed bonds and the opera-
12 tion of the industrial enterprise will not disrupt the financial
13 stability of the political subdivision if it should have to assume
14 responsibility for payment of the principal and interest of the bonds.

15 Sec. 37.30.130. REGULATIONS. The department shall promulgate
16 procedural regulations which specify the information which should
17 accompany an application for a certificate of approval and shall
18 promulgate substantive regulations which further define the standards
19 of review in sec. 120 of this chapter.

20 Sec. 37.30.140. ACTION BY DEPARTMENT ON APPLICATION. (a) The
21 department may require the governing body of a political subdivision to
22 submit additional information to support its application.

23 (b) The department may hold a public hearing upon an application.
24 A hearing must be held within 30 days after receipt of an application
25 by the department. The department shall publish notice of the hearing
26 at least twice in a newspaper of general circulation in the political
27 subdivision during the two weeks preceding the date of the hearing.

28 (c) The department shall notify the governing body of a political
29 subdivision of its determination regarding an application for a

1 certificate of approval within 45 days after the date on which the
2 department receives the application, if no hearing is held on the
3 application, or within 30 days after the hearing is completed, if a
4 hearing is held on the application.

5 (d) The department, if it denies an application for a certifi-
6 cate, shall state in detail the reasons for the denial. A denial is
7 final and may not be reconsidered by the department.

8 (e) The governing body of a political subdivision may appeal
9 the denial of a certificate of approval to the superior court. The
10 provisions of AS 44.62.560 - 44.62.570 apply to the judicial review of
11 the denial.

12 Sec. 37.30.150. FORM AND EFFECT OF CERTIFICATE. (a) A certifi-
13 cate of approval shall state that the political subdivision is
14 authorized to hold an election, within 12 months from the date the
15 certificate is issued, to approve the issuance of bonds for the purpose
16 set out in the application.

17 (b) If a political subdivision does not hold an election within
18 the 12-month period, the certificate is void and the political subdivi-
19 sion must apply for another certificate, except that if the issuance
20 of the bonds under the certificate is contested in court before elec-
21 tion, the department may extend the effective period of the certificate
22 for a period of time not to exceed that required for the final adjudi-
23 cation of the case.

24 (c) If the voters of the political subdivision disapprove
25 issuance of the bonds, the certificate is void on the day after the
26 election results are certified.

27 (d) The approval of the voters of the issuance of industrial de-
28 velopment bonds is void unless the political subdivision receives a
29 certificate of approval from the department before the election is held.

1 **Sec. 37.30.160. ELECTION AND NOTICE.** (a) All laws applicable
2 to the approval and sale of general obligation and revenue bonds of
3 political subdivisions which do not conflict with secs. 100 - 170 of
4 this chapter are applicable to the sale of industrial development
5 bonds. Publication of notice of bonded indebtedness required under
6 AS 29.50.020(b) is applicable to elections to approve general obliga-
7 tion industrial development bonds and, in addition to the requirements
8 specified in AS 29.50.020(b), the notice of existing indebtedness must
9 also state the nature of the industrial project for which the bonds
10 will be issued and where a true copy of the contract between the
11 political subdivision and the lessee of the property to be financed
12 by the bonds is available for examination.

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

23 **Sec. 37.30.170. DEFINITIONS.** In secs. 100 - 160 of this chapter

24 (1) "department" means the Department of Economic Develop-
25 ment;

26 (2) "industrial development bonds" and "bonds" mean general
27 obligation or revenue bonds issued by a political subdivision of the
28 state for the purpose of financing the purchase of land or the pur-
29 chase or construction, which includes reconstruction, improvement and

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enlargement, of buildings and appurtenances; and revenue bonds issued by a political subdivision for the purpose of financing the purchase of machinery, equipment or fixtures; which will be sold or leased on a continuing basis to a person for use in connection with the operation of an industrial enterprise;

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