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Referred: Commerce
Judiciary

1 IN THE SENATE

BY ENGSTROM

2 SENATE BILL NO. 81

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act creating the State Rural Electrification
7 Corporation."

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

9 * Section 1. AS 44 is amended by adding a new chapter to read:

10 CHAPTER 58. STATE RURAL ELECTRIFICATION CORPORATION.

11 ARTICLE 1. CREATION AND ORGANIZATION.

12 Sec. 44.58.010. PURPOSE OF SECS. 10 - 310 OF THIS CHAPTER. The
13 purpose of secs. 10 - 310 of this chapter is to provide electric
14 utility service to rural areas of the state not now receiving adequate
15 service.

16 Sec. 44.58.020. STATE RURAL ELECTRIFICATION CORPORATION. The
17 state rural electrification corporation is a public corporation of the
18 state. The corporation is an instrumentality of the state within the
19 Department of Commerce, but has a legal existence independent of and
20 separate from the state.

21 Sec. 44.58.030. GOVERNING BODY. The corporation's board of
22 directors shall conduct the business of the corporation.

23 Sec. 44.58.040. APPOINTMENT AND COMPOSITION OF BOARD. The
24 board consists of three members appointed by the governor for over-
25 lapping three-year terms. Upon the initial appointment one member
26 shall be appointed for three years, one for two years and one for one
27 year.

28 Sec. 44.58.050. CONFLICT OF INTERESTS. Upon appointment and
29 during his term of office, a board member shall declare privately in

1 writing to the governor and the board any financial or business inter-
2 ests he has which might conflict with the public nature of his member-
3 ship on the board. If there is a serious conflict, the board may ask
4 him to abstain from decisions resulting in a conflict or to resign
5 from the board. A contract of the corporation which is otherwise valid
6 is not invalid because of a personal interest of a board member in it
7 if the interest is declared and the board member abstains from decisions
8 pertaining to the contract.

9 Sec. 44.58.060. COMPENSATION AND EXPENSES. Members of the board
10 receive no salary, but are entitled to per diem and travel expenses
11 authorized by law for other boards.

12 Sec. 44.58.070. QUORUM. Two members shall constitute a quorum.

13 Sec. 44.58.080. OFFICERS AND EMPLOYEES. The members shall select
14 a chairman and a vice chairman from among its members. The corporation
15 may employ an executive director, technical experts, and other officers
16 agents and employees it requires.

17 Sec. 44.58.090. REMOVAL OF MEMBERS. The corporation, after a
18 hearing, may remove a member for inefficiency, neglect of duty or
19 misconduct in office. The corporation shall furnish a copy of the
20 charges to the member at least 10 days before the hearing. A record
21 of the proceedings together with the charges and findings shall be
22 filed with the Department of Administration.

23 Sec. 44.58.100. EMPLOYEES' BONDS. The corporation shall bond its
24 employees. The amount of a bond is determined by the board.

25 **ARTICLE 2. POWERS AND DUTIES.**

26 Sec. 44.58.110. POWERS OF CORPORATION. The corporation has all
27 powers necessary to carry out the purpose of secs. 10 - 310 of this
28 chapter including but not limited to the following:

- 29 (1) sue and be sued in its corporate name;

- 1 (2) adopt a seal;
- 2 (3) have perpetual succession;
- 3 (4) adopt, amend and repeal bylaws, rules and regulations;
- 4 (5) make and execute contracts and other instruments;
- 5 (6) in its own name, purchase, own, exchange, transfer,
- 6 lease, rent, convey or acquire by eminent domain under AS 10.25.010(8),
- 7 or otherwise, real and personal property;
- 8 (7) provide for the construction, maintenance, and improve-
- 9 ment of electric utility systems;
- 10 (8) operate owned and nonowned electric utility systems
- 11 without profit for the benefit of those receiving service;
- 12 (9) arrange or contract for services, privileges, works or
- 13 facilities for or in connection with an electric utility or its sub-
- 14 scribers, include in any such contract stipulations which the federal
- 15 government may have attached to its financial aid to the project;
- 16 (10) establish and enforce schedules of fees and charges
- 17 for services rendered;
- 18 (11) insure the real or personal property or operations and
- 19 personnel of the corporation against any risk or hazards;
- 20 (12) invest in property or securities in which banks or
- 21 trust companies may legally invest funds held in reserves or sinking
- 22 funds or funds not required for immediate disbursement;
- 23 (13) accept the proceeds of loans from the federal government
- 24 and other persons as parties and mortgage all or part of its property
- 25 as security for the loans;
- 26 (14) issue revenue bonds in its own name and pledge all or
- 27 part of its revenues and properties of its facilities as security.

28 **Sec. 44.58.190. DUTIES OF CORPORATION.** The corporation shall

29 manage and operate electric utility systems with fees fixed at the

1 lowest rates consistent with sound business policies. No rural
2 electrification project may be constructed or operated for profit
3 or as a source of revenue to a municipality or the state except as
4 provided by this chapter. Rates shall be fixed and adjusted from
5 time to time to produce sufficient revenue to (1) pay for all operating
6 and maintenance expenses including, but not limited to, administrative
7 costs and general overhead; (2) all debt service and (3) establish a
8 reserve within six years of any borrowing, equal to six per cent of
9 plant investment for renewal and replacement and three per cent of plant
10 investment or one-year's maximum anticipated debt service for contin-
11 gencies.

12 Sec. 44.58.130. ANNUAL AUDITS. The board shall have its finan-
13 cial records audited annually. A certified public accountant shall
14 conduct the annual audit.

15 Sec. 44.58.140. SECURITY FOR INDEBTEDNESS. The corporation may
16 issue bonds including but not limited to bonds on which the principal
17 and interest are payable (1) exclusively from the income and revenue
18 of the electric utility project financed with the proceeds of the bonds,
19 (2) exclusively from the income and revenue of designated electric
20 utility projects whether or not they are financed in whole or in part
21 with the proceeds of the bonds, or (3) from its revenue generally.
22 Bonds may be additionally secured by a pledge of a grant or contribution
23 from the federal government or from another source, or by a pledge of
24 income or revenue of the corporation, or by a mortgage of an electric
25 utility project or other property of the corporation.

26 Sec. 44.58.150. LIMITATION OF LIABILITY ON BONDS. The members
27 of the corporation and any person executing the bonds are not liable
28 personally on the bonds by reason of their issuance. The bonds of the
29 corporation are not a debt of the state or a political or municipal

1 corporation or subdivision of the state and each bond shall so state
2 on its face. Neither the state nor a political or municipal corpora-
3 tion or other subdivision of the state other than the corporation is
4 liable on the bonds, nor are the bonds payable out of funds or pro-
5 perties other than those of the corporation. The corporation may not
6 pledge the faith of the people of the state for a loan or obligation.
7 Bonds of the corporation are not a debt, indebtedness or the borrowing
8 of money within the meaning of any limitation or restriction on the
9 issuance of bonds contained in the constitution or laws of the state.

10 Sec. 44.58.160. EXEMPTION FROM TAXES. Bonds of the corporation
11 are declared to be issued for an essential public and governmental
12 purpose and are public instrumentalities and, together with interest
13 on them and income from them, are exempt from taxes.

14 Sec. 44.58.170. ISSUANCE AND SALE OF BONDS. Bonds of the
15 corporation are authorized by adoption of a resolution prescribing
16 the date of issuance and maturity, interest rate, denomination, form,
17 conversion privilege, rank or priority, execution, terms of redemption,
18 medium and place of payment. Bonds may be sold at public or private
19 sale at not less than par. Each bond is negotiable. The signature of
20 a member or an officer upon a bond or coupon is not invalidated by his
21 ceasing to hold office before the delivery of the bond. The recitation
22 of a bond that it has been issued in the financing of a project under
23 secs. 10 - 310 of this chapter is conclusive as to the issuance of the
24 bond and the character of the project in a challenge of the validity
25 of the bond or the security for it.

26 Sec. 44.58.180. MAXIMUM INTEREST RATE. The interest rate on
27 bonds of the corporation may not exceed six per cent a year.

28 Sec. 44.58.190. ADDITIONAL POWERS TO SECURE BONDS OR OBLIGATIONS
29 UNDER LEASE. In connection with the issuance of bonds or the incurring

1 of obligations under leases and in order to secure the payment of bonds
2 or lease obligations, the corporation, in addition to its other powers,
3 may

4 (1) pledge all or a part of its gross or net fees or
5 revenues to which its right exists or may exist;

6 (2) mortgage all or a part of its real or personal property,
7 owned or later acquired;

8 (3) covenant against pledging all or a part of its fees and
9 revenues, or against mortgaging all or a part of its real or personal
10 property, to which its right or title exists or may come into existence
11 or against permitting or suffering any lien on the revenues or property

12 (4) covenant with respect to limitations on its right to
13 sell, lease or otherwise dispose of an electric utility project or a
14 part of an electric utility project;

15 (5) covenant as to what other, or additional debts or
16 obligations may be incurred by it;

17 (6) covenant as to the bonds to be issued and as to the
18 issuance of the bonds in escrow or otherwise, and as to the use and
19 disposition of the proceeds of bonds;

20 (7) provide for the replacement of lost, destroyed or
21 mutilated bonds;

22 (8) covenant against extending the time for the payment
23 of its bonds or interest on the bonds;

24 (9) redeem the bonds, and covenant for their redemption
25 and to provide the terms and conditions of redemption;

26 (10) covenant subject to the limitations contained in secs.
27 10 - 310 of this chapter as to the fees to be charged in the operation
28 of an electric utility project, the amount to be raised each year or
29 other period of time by fees and other revenues, and as to the use and

1 disposition of these revenues;

2 (11) create or authorize the creation of special funds for
3 money held for construction, or operating costs, debt service, reserves
4 or other purposes, and covenant as to the use and disposition of this
5 money;

6 (12) prescribe the procedure by which the terms of a contract
7 with bondholders may be amended or abrogated, the amount of bonds the
8 holders of which must consent to and the manner in which the consent
9 may be given;

10 (13) covenant as to the rights, liabilities, powers and
11 duties arising upon the breach by it of a covenant, condition, or
12 obligation, and covenant and prescribe as to events of default and
13 terms and conditions upon which any or all of its bonds or obligations
14 shall become or may be declared due before maturity, and covenant as
15 to the terms and conditions upon which this declaration and its
16 consequences may be waived;

17 (14) vest in a trustee or trustees or the holders of bonds
18 or a specified proportion of them, the right to enforce the payment
19 of the bonds or covenants securing or relating to the bonds;

20 (15) vest in one or more trustees the right, in the event
21 of a default by the corporation, to take possession of an electric
22 utility project or a part of the project, and so long as the corpora-
23 tion continues in default to retain possession and to use, operate and
24 manage the project, collect the fees and revenues from the project,
25 and to dispose of the money according to the agreement between the
26 corporation and the trustees;

27 (16) provide for the powers and duties of the trustees,
28 and limit the liability of the trustees; and

29 (17) provide the terms and conditions upon which the trustee

1 or trustees or the holders of bonds, or portions of bonds, may enforce
2 a covenant or right securing or relating to the bonds.

3 **Sec. 44.58.200. RIGHT OF OBLIGEE OF CORPORATION TO BRING MANDAMUS**
4 **OR INJUNCTION.** An obligee of the corporation may, in addition to all
5 other rights which may be conferred and subject only to contractual
6 restriction binding upon him, bring a mandamus or injunction action
7 against the members, the corporation, its officers, agents or employees.

8 **Sec. 44.58.210. POWER OF CORPORATION TO CONFER UPON OBLIGEE RIGHT**
9 **TO BRING ACTION OR PROCEEDING.** The corporation may by resolution,
10 trust indenture, mortgage, lease or other contract confer upon an
11 obligee holding or representing a specified amount in bonds, or holding
12 a lease, the right upon a default as defined in the resolution or
13 instrument by suit, action or proceeding

14 (1) to have possession of an electric utility project or
15 part of one surrendered to the obligee, with possession retained by
16 the obligee as long as the authority continues in default;

17 (2) to obtain the appointment of a receiver of a project,
18 or part of one and its fees and profits, who may enter, take possession
19 and for the duration of the default operate and maintain it, collect
20 and receive all fees, revenues or other charges thereafter arising, and
21 keep the money in a separate account or accounts to be applied in
22 accordance with the obligations of the corporation as the court directs

23 (3) to require the corporation and its members to account
24 as if they were trustees of an express trust.

25 **Sec. 44.58.220. EXEMPTION OF REAL PROPERTY OF CORPORATION FROM**
26 **EXECUTION OR OTHER PROCESS.** All real property of the corporation is
27 exempt from levy and sale by execution, and no execution or other
28 judicial process may issue against it and no judgment against the
29 corporation may be a charge or lien upon its real property. However,

1 this section does not limit the right of an obligee to foreclose or
2 otherwise enforce a mortgage of the corporation or to pursue any
3 remedy for the enforcement of a pledge or lien given by the corporation
4 on its fees or revenues.

5 **Sec. 44.58.230. EXEMPTION FROM TAXES AND ASSESSMENTS.** The pro-
6 perty of the corporation is public property used for essential public
7 and governmental purposes and this property and the corporation are
8 exempt from all taxes and special assessments of a municipality, the
9 state or a political subdivision of the state. However, the corporation
10 may make payments to a municipality or political subdivision in lieu of
11 taxes.

12 **Sec. 44.58.240. LEGALITY OF CORPORATION BONDS AS INVESTMENTS.**
13 Bonds of the corporation are legal and proper investments and security
14 for public and private banking, insurance and trust funds.

15 **Sec. 44.58.250. REPORTS AND RECOMMENDATIONS FOR THE GOVERNOR.**
16 The corporation shall file with the Department of Administration and
17 submit to the governor and the legislature an annual report of its
18 activities and may make recommendations for the legislation or other
19 action it considers necessary to carry out the purposes of secs. 10 -
20 310 of this chapter.

21 **Sec. 44.58.260. PUBLIC LOANS OR DONATIONS TO OR COOPERATION WITH**
22 **CORPORATION.** (a) Any public body, political subdivision or municipal
23 corporation, officer or agency of the state may (1) lend or donate
24 money or property to the corporation, (2) cooperate with it in the
25 planning, construction, or operation of a project, (3) transfer to it an
26 interest in property, grant an easement, undertake otherwise authorized
27 construction of facilities adjacent to a project, (4) agree with the
28 corporation that a certain sum or that no sum shall be paid by the
29 corporation to it instead of taxes, (5) enter into agreements respecting

1 exercise of any powers granted in this section which shall be approved
2 and executed by the public body or municipality in or adjacent to the
3 project before the project may be constructed, and (6) in general do all
4 things necessary or convenient to cooperate in the planning, construc-
5 tion or operation of a project.

6 (b) A sale, conveyance, lease or agreement under this section
7 may be made without appraisal, public notice or advertisement or
8 bidding. A public body may exercise the powers granted in this section
9 by resolution or ordinance by a majority of the members of the govern-
10 ing body present at the meeting at which it is introduced, and the
11 resolution or ordinance takes effect immediately without publishing
12 or posting.

13 **Sec. 44.58.270. AREA COVERAGE SERVICE.** Electric service shall
14 be made available to the largest practicable number of rural users in
15 each service area. To further the area coverage policy, the corpora-
16 tion shall periodically review its requirements for extending service
17 and determine that they reflect current conditions.

18 **Sec. 44.58.280. AUTHORITY TO LEASE.** The corporation may lease
19 or contract to manage and operate a utility owned by another entity to
20 further the purposes of this chapter.

21 **Sec. 44.58.290. RELATION TO PUBLIC SERVICE COMMISSION.** The
22 corporation shall be subject to regulation by the Alaska Public
23 Service Commission.

24 **Sec. 44.58.300. INITIAL CAPITAL.** Appropriations and loans from
25 the state general fund necessary for the initial operation of the
26 corporation are authorized.

27 **Sec. 44.58.310. DISSOLUTION.** After payment in full of its
28 debentures and other obligations or after depositing in a trust
29 sufficient money to secure the payment of its obligations, the board

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may dissolve the corporation by the majority vote of its directors. Dissolution is not effective until the legislature confirms it. The effective date of dissolution is the date the legislature confirms the dissolution or a date determined by the legislature at the time of confirmation. Assets remaining after satisfaction of liabilities and obligations of the corporation shall be deposited to the credit of the general fund of the state.