

1 IN THE HOUSE

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2 HOUSE BILL NO. 26

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL,

6 For an Act entitled: "An Act authorizing the creation of regional electrical  
7 authorities."

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

9 \* Section 1. AS 18 is amended by adding a new chapter to read:

10 CHAPTER 57. REGIONAL ELECTRICAL AUTHORITIES.

11 Sec. 18.57.010. FINDING AND PURPOSE. The legislature finds that  
12 an acute shortage of adequate, safe, reliable electrical facilities exists  
13 in the rural areas of the state and that adequate electrical systems can-  
14 not be provided by the private sector due to inadequate projected system  
15 revenues and economic depression in certain areas. The legislature  
16 further finds that adequate housing, public facilities and economic devel-  
17 opment are heavily dependant upon adequate, safe and reliable electrical  
18 facilities. These conditions are inimical to the safety, health, welfare  
19 and prosperity of the residents of the state and to the sound growth of  
20 rural communities. The legislature further finds that a reasonable means  
21 of accomplishing the purpose of providing adequate, safe and reliable  
22 systems is the creation of regional electrical authorities. It is the  
23 purpose and intent of the legislature to provide a means whereby public  
24 corporations to serve as regional electrical authorities may be formed.

25 Sec. 18.57.020. CREATION OF AUTHORITIES. An association authorized  
26 by AS 18.55.996(a) to form a regional housing authority is given the  
27 authority to form a regional electrical authority. There is created with  
28 respect to each of the associations named in AS 18.55.996(a) a public  
29 body corporate and politic as a political subdivision of the state to

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1 function in the operating areas of the individual associations. Each  
2 authority may exercise all powers conferred by this chapter.

3 (a) A regional electrical authority may not transact business or  
4 exercise powers granted to it until the governing body of the association  
5 has, by resolution, declared there is a need for the authority to function,  
6 given it the authority to function and appointed persons to serve as the  
7 board of commissioners of the authority. The number of members of the  
8 board of commissioners, their terms of office and the filling of vacan-  
9 cies in office shall be determined by resolution of the governing body  
10 of the association.

11 (b) The regional electrical authority has jurisdiction to operate  
12 in all or part of the operating area of the individual association as  
13 determined by resolution of the governing body of the association. The  
14 governing body may, by resolution, add to or subtract from the area  
15 served. The authority may operate within the corporate limits of a muni-  
16 cipality only with consent, by resolution, of the governing body of the  
17 municipality; however, if an authority is operating within an area which  
18 becomes part of a municipality or has a certificate of convenience and  
19 necessity from the Alaska Public Utility Commission to operate in an  
20 area which becomes part of a municipality, no consent is necessary.

21 (c) A municipality, electrical cooperative or other provider of  
22 electrical service may transfer all or part of its electrical system  
23 including, without limitation, lands and rights in land, equipment and  
24 certificates or franchises, to a regional electrical authority by  
25 resolution of the governing board upon terms agreed upon with the author-  
26 ity; however, approval by resolution, of the board of commissioners of  
27 the authority shall be obtained. Unless otherwise provided by law no  
28 other approvals to transfers are required.

29 Sec. 18.57.030. TAX EXEMPTION. (a) A regional electrical authority

1 is not required to pay a tax or assessment on property owned by the  
2 authority.

3 (b) All obligations issued under this chapter are issued by a body  
4 corporate and public which is a political subdivision of the state and  
5 for an essential public and governmental purpose, and the obligations,  
6 and the interest and income on and from the obligations, and all fees,  
7 charges, funds, revenues, income and other money pledged or available to  
8 pay or secure the payment of the obligations or interest are exempt from  
9 taxation except for transfer, inheritance and estate taxes.

10 (c) All obligations or liabilities of a regional electrical  
11 authority remains its own and are not obligations or liabilities of the  
12 state.

13 Sec. 18.57.040. POWERS OF THE AUTHORITY. A regional electrical  
14 authority has the general power to

15 (1) adopt, alter and use a corporate seal;

16 (2) prescribe, adopt, amend and repeal bylaws;

17 (3) sue and be sued in its own name;

18 (4) appoint officers, agents and employees and vest them with  
19 powers and duties and to fix, change and pay compensation for their  
20 services as the authority may determine;

21 (5) borrow money, make and issue bonds, notes and other  
22 evidences of indebtedness of the authority for any of its corporate  
23 purposes, and to secure payment of its bonds and of other obligations by  
24 pledge of or lien on all or any of its assets, contracts, revenue and  
25 income;

26 (6) make and issue bonds for the purpose of funding, refunding  
27 purchasing, paying or discharging any of the outstanding bonds or obliga-  
28 tions issued or assumed by it or bonds or obligations the principal or  
29 interest of which is payable in whole or in part from its revenue;

1 (7) make and execute agreements, contracts and other  
2 instruments necessary or convenient in the exercise of its powers and  
3 functions, including contracts with any person, firm, corporation,  
4 government agency or other entity;

5 (8) receive, administer and comply with the conditions and  
6 requirements of an appropriation, gift, grant or donation of property or  
7 money;

8 (9) invest or reinvest money or funds held by the authority  
9 in obligations or other securities or investments in which banks or  
10 trust companies in the state may legally invest funds held in reserves  
11 or sinking funds or funds not required for immediate disbursement, and  
12 in certificates of deposits or time deposits;

13 (10) acquire, hold, use, lease, sell or otherwise dispose of  
14 property of any kind, real, personal or mixed or any interest in it;

15 (11) acquire, produce, develop, manufacture, use, transmit,  
16 distribute, supply, exchange, sell or otherwise dispose of electric  
17 energy and other supplies and services as the authority determines  
18 necessary, proper, incidental or convenient in connection with its  
19 activities;

20 (12) determine, fix, alter, charge and collect rates, fees,  
21 rentals and other charges for the use of the facilities of the authority  
22 or for the service, electric energy or other commodities sold, rendered,  
23 or furnished by it;

24 (13) plan, design, construct, reconstruct, extend or improve  
25 any facility necessary or convenient in connection with its activities;

26 (14) enter on any land, water or premises for the purpose of  
27 making surveys, soundings or examinations;

28 (15) exercise the powers of eminent domain and declaration of  
29 taking in accordance with AS 09.55.250 - 09.55.460;

1 (16) do all acts and things necessary, convenient or desirable  
2 to carry out the powers granted or implied in this chapter;

3 (17) adopt, amend and repeal rules and regulations necessary  
4 for the exercise and performance of its powers and duties or to govern  
5 the rendering of service, sale or exchange of electrical energy.

6 Sec. 18.57.050. BONDS AND NOTES. (a) The authority, by board  
7 resolution, may issue bonds and bond anticipation notes in order to  
8 provide funds to carry out and effectuate its purposes.

9 (b) The principal and interest on these bonds or notes is payable  
10 from authority funds. Bond anticipation notes may be payable from the  
11 proceeds of the sale of bonds or from the proceeds of sale of other bond  
12 anticipation notes or, if bond or bond anticipation note proceeds are not  
13 available, such notes may be paid from other funds or assets of the auth-  
14 ority. Bonds or notes may be additionally secured by a pledge of a  
15 grant or contribution from the federal or state government, a corporation,  
16 association, institution or person, or a pledge of money, income, or  
17 revenues of the authority from any source.

18 (c) Bonds or bond anticipation notes may be issued as provided by  
19 board resolution, in one or more series and shall (1) be dated; (2) bear  
20 interest at the prescribed rate per year or within the maximum rate; (3)  
21 be in a certain denomination or form, either coupon or registered; (4)  
22 carry the conversion or registration provisions; (5) have rank or  
23 priority; (6) be executed in a certain manner and form; (7) be payable  
24 from the sources in the medium of payment and place or places inside or  
25 outside the state; (8) be subject to authentication by a trustee or  
26 fiscal agent; and (9) be subject to terms of redemption, with or without  
27 premium. Bond anticipation notes mature at a time determined by the  
28 authority. Bonds mature at a time, not exceeding 50 years from the date  
29 of their issuance, as determined by the authority. Before the preparation

1 of definitive bonds or bond anticipation notes, the authority may issue  
2 interim receipts or temporary bonds or bond anticipation notes, with or  
3 without coupons, exchangeable for bonds or bond anticipation notes when  
4 the definitive bonds or bond anticipation notes have been executed and  
5 are available for delivery.

6 (d) Bond or bond anticipation notes may be sold in the manner, on  
7 the terms, and at the price the authority determines.

8 (e) If an officer whose actual or facsimile signature appears on  
9 any bonds or notes or coupons attached to them ceases to be an officer  
10 before the delivery of the bond, note or coupon, his signature is valid  
11 as if he had remained in office until delivery.

12 (f) In a resolution of the authority authorizing or relating to  
13 the issuance of bonds or bond anticipation notes, the authority may, with  
14 the holders of the bonds or bond anticipation notes;

15 (1) pledge to any payment or purpose all or any part of  
16 revenues to which it is or will be entitled to and similarly pledge the  
17 money derived from the revenues, and the proceeds of any bonds or notes;

18 (2) covenant against pledging all or any part of its revenues,  
19 or against permitting or suffering a lien on the revenues or its property;

20 (3) covenant as to the use and disposition of any and all  
21 payments of principal or interest received by the authority on mortgage  
22 loans, construction loans or other investments held by the authority;

23 (4) covenant as to establishment of reserves or sinking funds  
24 and the making of provision for and the regulation and disposition of the  
25 reserves or sinking funds;

26 (5) covenant with respect to or against limitations on a  
27 right to sell or otherwise dispose of property of any kind;

28 (6) covenant as to bonds and notes to be issued, and their  
29 limitations, terms and conditions, and as to the custody, application and

1 disposition of the proceeds of the bonds and notes;

2 (7) covenant as to the issuance of additional bonds or notes,  
3 or as to limitations on the issuance of additional bonds or notes and  
4 the incurring of the other debts;

5 (8) covenant as to the payment of the principal of or interest  
6 on the bonds or notes, as to the sources and methods of the payment, as  
7 to the rank or priority of the bonds or notes with respect to a lien or  
8 security, or as to the acceleration of the maturity of the bonds or notes;

9 (9) provide for the replacement of lost, stolen, destroyed or  
10 mutilated bonds or notes;

11 (10) covenant against extending the time for the payment of  
12 bonds or notes or interest on the bonds or notes;

13 (11) covenant as to the redemption of bonds or notes and  
14 privileges of their exchange for other bonds or notes of the authority;

15 (12) covenant to create or authorize the creation of special  
16 funds of money to be held in pledge or otherwise for operation expenses,  
17 payment or redemption of bonds or notes, reserves or other purposes, and  
18 as to use and disposition of the money held in the funds;

19 (13) establish the procedure, if any, by which the terms of  
20 any contract or covenant with or for the benefit of the holders of bonds  
21 or notes may be amended or abrogated, the amount of bonds or notes the  
22 holders of which must consent to amendment or abrogation, and the manner  
23 in which the consent may be given;

24 (14) covenant as to the custody of any of its properties or  
25 investments, their safekeeping and insurance, and the use and disposition  
26 of insurance money;

27 (15) covenant as to the time or manner of enforcement or  
28 restraint from enforcement of any rights of the corporation arising by  
29 reason of or with respect to nonpayment of principal or interest of any

mortgage loans or construction loans;

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2 (16) provide for the rights and liabilities, powers and duties  
3 arising upon the breach of a covenant, condition or obligation, and to  
4 prescribe the events of default and the terms and conditions upon which  
5 any or all of the bonds, notes or other obligations of the authority  
6 become or may be declared due and payable before maturity and the terms  
7 and conditions upon which such a declaration and its consequences may be  
8 waived;

9 (17) vest in a trustee or trustees inside or outside the state  
10 property, rights, powers and duties in trust as the authority may  
11 determine, which may include any or all of the rights, powers and duties  
12 of a trustee appointed by the holders of bonds or notes, and to limit  
13 or abrogate the right of the holders of bonds or notes of the authority  
14 to appoint a trustee under this chapter or limit the rights, powers and  
15 duties of the trustee;

16 (18) pay the costs or expenses incident to the enforcement of  
17 the bonds or notes or of the provisions of the resolution or of a  
18 covenant or agreement of the authority with the holders of its bonds or  
19 notes;

20 (19) agree with a corporate trustee which may be a trust company  
21 or bank having the powers of a trust company inside or outside the state  
22 as to the pledging or assigning of revenues or funds to which or in which  
23 the authority has any rights or interest; and further provide for other  
24 rights and remedies exercisable by the trustee as may be proper for the  
25 protection of the holders of any bonds or notes of the authority and  
26 not otherwise in violation of law and may provide for the restriction of  
27 the rights of an individual holder of bonds or notes of the authority;

28 (20) appoint and provide for the duties and obligations of a  
29 paying agent or other fiduciary, by resolution, inside or outside the

1 state;

2 (21) limit the rights of the holders of bonds or notes to  
3 enforce a pledge or covenant securing bonds or notes;

4 (22) make covenants other than expressly authorized in this  
5 section, of like or differnt character, and to make covenants as may be  
6 necessary or desirable, to better secure bonds or notes or which, in the  
7 discretion of the authority, will tend to make bonds or notes more  
8 marketable, notwithstanding the fact that the covenants are not  
9 enumerated in this section.

10 Sec. 18.57.060. VALIDITY OF PLEDGE. The pledge of assets or  
11 revenues of the authority to the payment of the principal or interest of  
12 obligations of the authority is valid and binding from the time the  
13 pledge is made and assets or revenues pledged are immediately subject  
14 to the lien of the pledge without physical delivery or further action.  
15 The lien of a pledge is valid and binding against all parties having  
16 claims of any kind in tort, contract or otherwise against the authority,  
17 irrespective of whether those parties have notice of the lien of the  
18 pledge. Nothing prohibits the authority from selling assets subject to  
19 a pledge, except that a sale may be restricted by the trust agreement or  
20 resolution providing for the issuance of the obligations.

21 Sec. 18.57.070. REMEDIES. A holder of obligations or coupons  
22 attached to them issued under the provisions of this chapter, and a  
23 trustee under a trust agreement or resolution authorizing the issuance  
24 of the obligations, if not restricted by the trust agreement or  
25 resolution, either at law or in equity, may enforce all rights granted  
26 under the coupons or under the trust agreement or resolution, or under  
27 any other contract executed by the authority under this chapter, and  
28 may enforce and compel the performance of all duties required by this  
29 chapter or by the trust agreement or resolution to be performed by the

1 authority or by an officer of it.

2 Sec. 18.57.080. NEGOTIABLE INSTRUMENTS. All obligations and  
3 interest coupons attached to the obligations are negotiable instruments  
4 under the laws of this state, subject only to applicable registration  
5 provisions.

6 Sec. 18.57.090. OBLIGATIONS ELIGIBLE FOR INVESTMENT. Obligations  
7 issued under the provisions of this chapter are securities in which all  
8 public officers and public bodies of the state and its political sub-  
9 divisions, all insurance companies, trust companies, banking associations,  
10 investment companies, executors, administrators, trustees and other  
11 fiduciaries may properly and legally invest funds, including capital in  
12 their control or belonging to them. These obligations may be deposited  
13 with the state or municipal officer of an agency or political subdivis-  
14 ion of the state for any purpose for which the deposit of bonds, notes  
15 or obligations of the state is authorized by law.

16 Sec. 18.57.100. REFUNDING OBLIGATIONS. (a) The authority may  
17 provide for the issuance of refunding obligations for the purpose of  
18 refunding obligations then outstanding which have been issued under  
19 the provisions of this chapter, including the payment of redemption  
20 premium on them and interest accrued or to accrue to the date of  
21 redemption of the obligations. The issuance of the obligations, the  
22 maturities and other details of them, the rights of the holders of them,  
23 and the rights, duties and obligations of the authority in respect of  
24 them are governed by the provisions of this chapter which relate to the  
25 issuance of appropriate obligations.

26 (b) Refunding obligations may be sold or exchanged for outstanding  
27 obligations issued under this chapter. If sold, the proceeds may be  
28 applied, in addition to other authorized purposes, to the purchase,  
29 redemption or payment of the outstanding obligations. Pending the

1 application of the proceeds of any such refunding obligations, with any  
2 other available funds, to the payment of the principal (accrued interest  
3 and any redemption premium on the obligations being refunded, and, if so  
4 provided or permitted in the resolution authorizing the issuance of the  
5 refunding obligations or in the trust agreement securing them, to the  
6 payment of any interest on the refunding obligations and any expenses  
7 in connection with the refunding), the proceeds may be invested in direct  
8 obligations of, or obligations the principal of and the interest on which  
9 are unconditionally guaranteed by, the United States of America which  
10 mature or which will be subject to redemption, at the option of the  
11 holders of them, not later than the respective dates when the proceeds,  
12 together with the interest accruing on them, will be required for the  
13 purposes intended.

14 Sec. 18.57.110. CREDIT OF STATE NOT PLEDGED. Obligations issued  
15 under the provisions of this chapter do not constitute a debt, liability  
16 or obligation of the state or of a political subdivision of the state  
17 or a pledge of the faith and credit of the state or a political sub-  
18 division of the state but are payable solely from the revenues or assets  
19 of the authority. Each obligation issued under this chapter shall contain  
20 on its face a statement that the authority is not obligated to pay it  
21 nor the interest on it except from the revenues or assets pledged for it  
22 and that neither the faith and credit nor the taxing power of the state  
23 or of a political subdivision of the state is pledged to the payment of  
24 the principal of or interest on the obligation.

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