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1 IN THE HOUSE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 SENATE CS FOR CS FOR 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; and providing for an effective date."

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
13 exists in the rural areas of the state and that adequate electrical
14 systems cannot be provided by the private sector due to inadequate
15 projected system revenues and economic depression in certain areas. The
16 legislature further finds that adequate housing, public facilities and
17 economic development are heavily dependent upon adequate, safe and
18 reliable electrical facilities. These conditions are inimical to the
19 safety, health, welfare and prosperity of the residents of the state and
20 to the sound growth of rural communities. The legislature further finds
21 that a reasonable means of accomplishing the purpose of providing ade-
22 quate, safe and reliable systems is the creation of regional electrical
23 authorities. It is the purpose and intent of the legislature to provide
24 a means whereby public corporations to serve as regional electrical
25 authorities may be formed.

26 Sec. 18.57.020. CREATION OF AUTHORITIES. An association authorized
27 by AS 18.55.996(a) to form a regional housing authority is given the
28 authority to form a regional electrical authority. There is created
29 with respect to each of the associations named in AS 18.55.996(a) a

1 public body corporate and politic as a political subdivision of the
2 state to function in the operating areas of the individual associations.
3 Each authority may exercise all powers conferred by this chapter.

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

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

24 (c) A municipality, electrical cooperative or other provider of
25 electrical service may transfer all or part of its electrical system
26 including, without limitation, lands and rights in land, equipment and
27 certificates or franchises, to a regional electrical authority by reso-
28 lution of the governing board upon terms agreed upon with the authority;
29 however, approval by resolution, of the board of commissioners of the

1 authority shall be obtained. Unless otherwise provided by law no other
2 approvals to transfers are required.

3 Sec. 18.57.030. TAX EXEMPTION. (a) A regional electrical author-
4 ity is exempt from payment of taxes or assessments on property owned by
5 the authority which is used for generation and transportation of electri-
6 city for a period of 20 years from the effective date of this Act.

7 (b) All obligations issued under this chapter are issued by a body
8 corporate and public which is a political subdivision of the state and
9 for an essential public and governmental purpose, and the obligations,
10 and the interest and income on and from the obligations, and all fees,
11 charges, funds, revenues, income and other money pledged or available to
12 pay or secure the payment of the obligations or interest are exempt from
13 taxation for a period of 20 years from the effective date of this Act,
14 except for transfer, inheritance and estate taxes.

15 (c) All obligations or liabilities of a regional electrical
16 authority remain its own and are not obligations or liabilities of the
17 state.

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

- 20 (1) adopt, alter and use a corporate seal;
21 (2) prescribe, adopt, amend and repeal bylaws;
22 (3) sue and be sued in its own name;
23 (4) appoint officers, agents and employees and vest them with
24 powers and duties and to fix, change and pay compensation for their
25 services as the authority may determine;
26 (5) borrow money, make and issue bonds, notes and other
27 evidences of indebtedness of the authority for any of its corporate
28 purposes and to secure payment of its bonds and of other obligations
29 by pledge of or lien on all or any of its assets, contracts, revenue

1 and income;

2 (6) make and issue bonds for the purpose of funding, refund-
3 ing, purchasing, paying or discharging any of the outstanding bonds or
4 obligations issued or assumed by it or bonds or obligations the principal
5 or interest of which is payable in whole or in part from its revenue;

6 (7) make and execute agreements, contracts and other instru-
7 ments necessary or convenient in the exercise of its powers and func-
8 tions, including contracts with any person, firm, corporation, govern-
9 ment agency or other entity;

10 (8) receive, administer and comply with the conditions and
11 requirements of an appropriation, gift, grant or donation of property or
12 money;

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

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

20 (11) acquire, produce, develop, manufacture, use, transmit,
21 distribute, supply, exchange, sell or otherwise dispose of electric
22 energy and other supplies and services as the authority determines
23 necessary, proper, incidental or convenient in connection with its
24 activities;

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

29 (13) plan, design, construct, reconstruct, extend or improve

1 any facility necessary or convenient in connection with its activities;

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

4 (15) exercise the powers of eminent domain in accordance with
5 AS 09.55.250 - 09.55.460;

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

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

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

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

23 (c) Bonds or bond anticipation notes may be issued as provided by
24 board resolution, in one or more series and shall (1) be dated; (2) bear
25 interest at the prescribed rate per year or within the maximum rate; (3)
26 be in a certain denomination or form, either coupon or registered; (4)
27 carry the conversion or registration provisions; (5) have rank or
28 priority; (6) be executed in a certain manner and form; (7) be payable
29 from the sources in the medium of payment and place or places inside or

1 outside the state; (8) be subject to authentication by a trustee or
2 fiscal agent; and (9) be subject to terms of redemption, with or without
3 premium. Bond anticipation notes mature at a time determined by the
4 authority. Bonds mature at a time, not exceeding 50 years from the date
5 of their issuance, as determined by the authority. Before the prepara-
6 tion of definitive bonds or bond anticipation notes, the authority may
7 issue interim receipts or temporary bonds or bond anticipation notes,
8 with or without coupons, exchangeable for bonds or bond anticipation
9 notes when the definitive bonds or bond anticipation notes have been
10 executed and are available for delivery.

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

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

17 (f) In a resolution of the authority authorizing or relating to
18 the issuance of bonds or bond anticipation notes, the authority may,
19 with the holders of the bonds or bond anticipation notes;

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

23 (2) covenant against pledging all or any part of its revenues,
24 or against permitting or suffering a lien on the revenues or its prop-
25 erty;

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

29 (4) covenant as to establishment of reserves or sinking funds

1 and the making of provision for and the regulation and disposition of
2 the reserves or sinking funds;

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

5 (6) covenant as to bonds and notes to be issued, and their
6 limitations, terms and conditions, and as to the custody, application
7 and disposition of the proceeds of the bonds and notes;

8 (7) covenant as to the issuance of additional bonds or notes,
9 or as to limitations on the issuance of additional bonds or notes and
10 the incurring of the other debts;

11 (8) covenant as to the payment of the principal of or inter-
12 est on the bonds or notes, as to the sources and methods of the payment,
13 as to the rank or priority of the bonds or notes with respect to a lien
14 or security, or as to the acceleration of the maturity of the bonds or
15 notes;

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

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

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

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

26 (13) establish the procedure, if any, by which the terms of
27 any contract or covenant with or for the benefit of the holders of bonds
28 or notes may be amended or abrogated, the amount of bonds or notes the
29 holders of which must consent to amendment or abrogation, and the manner

1 in which the consent may be given;

2 (14) covenant as to the custody of any of its properties or
3 investments, their safekeeping and insurance, and the use and disposi-
4 tion of insurance money;

5 (15) covenant as to the time or manner of enforcement or
6 restraint from enforcement of any rights of the corporation arising by
7 reason of or with respect to nonpayment of principal or interest of any
8 mortgage loans or construction loans;

9 (16) provide for the rights and liabilities, powers and duties
10 arising upon the breach of a covenant, condition or obligation, and to
11 prescribe the events of default and the terms and conditions upon which
12 any or all of the bonds, notes or other obligations of the authority
13 become or may be declared due and payable before maturity and the terms
14 and conditions upon which such a declaration and its consequences may be
15 waived;

16 (17) vest in a trustee or trustees inside or outside the state
17 property, rights, powers and duties in trust as the authority may
18 determine, which may include any or all of the rights, powers and duties
19 of a trustee appointed by the holders of bonds or notes, and to limit or
20 abrogate the right of the holders of bonds or notes of the authority to
21 appoint a trustee under this chapter or limit the rights, powers and
22 duties of the trustee;

23 (18) pay the costs or expenses incident to the enforcement of
24 the bonds or notes or of the provisions of the resolution or of a
25 covenant or agreement of the authority with the holders of its bonds or
26 notes;

27 (19) agree with a corporate trustee which may be a trust
28 company or bank having the powers of a trust company inside or outside
29 the state as to the pledging or assigning of revenues or funds to which

1 or in which the authority has any rights or interest; and further pro-
2 vide for other rights and remedies exercisable by the trustee as may be
3 proper for the protection of the holders of any bonds or notes of the
4 authority and not otherwise in violation of law and may provide for the
5 restriction of the rights of an individual holder of bonds or notes of
6 the authority;

7 (20) appoint and provide for the duties and obligations of a
8 paying agent or other fiduciary, by resolution, inside or outside the
9 state;

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

12 (22) make covenants other than expressly authorized in this
13 section, of like or different character, and to make covenants as may be
14 necessary or desirable, to better secure bonds or notes or which, in the
15 discretion of the authority, will tend to make bonds or notes more
16 marketable, notwithstanding the fact that the covenants are not enumer-
17 ated in this section.

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

29 Sec. 18.57.070. REMEDIES. A holder of obligations or coupons

1 attached to them issued under the provisions of this chapter, and a
2 trustee under a trust agreement or resolution authorizing the issuance
3 of the obligations, if not restricted by the trust agreement or resolu-
4 tion, either at law or in equity, may enforce all rights granted under
5 the coupons or under the trust agreement or resolution, or under any
6 other contract executed by the authority under this chapter, and may
7 enforce and compel the performance of all duties required by this
8 chapter or by the trust agreement or resolution to be performed by the
9 authority or by an officer of it.

10 Sec. 18.57.080. NEGOTIABLE INSTRUMENTS. All obligations and
11 interest coupons attached to the obligations are negotiable instruments
12 under the laws of this state, subject only to applicable registration
13 provisions.

14 Sec. 18.57.090. OBLIGATIONS ELIGIBLE FOR INVESTMENT. Obligations
15 issued under the provisions of this chapter are securities in which all
16 public officers and public bodies of the state and its political sub-
17 divisions, all insurance companies, trust companies, banking associa-
18 tions, investment companies, executors, administrators, trustees and
19 other fiduciaries may properly and legally invest funds, including
20 capital in their control or belonging to them. These obligations may be
21 deposited with the state or municipal officer of an agency or political
22 subdivision of the state for any purpose for which the deposit of bonds,
23 notes or obligations of the state is authorized by law.

24 Sec. 18.57.100. REFUNDING OBLIGATIONS. (a) The authority may
25 provide for the issuance of refunding obligations for the purpose of
26 refunding obligations then outstanding which have been issued under the
27 provisions of this chapter, including the payment of redemption premium
28 on them and interest accrued or to accrue to the date of redemption of
29 the obligations. The issuance of the obligations, the maturities and

1 other details of them, the rights of the holders of them, and the
2 rights, duties and obligations of the authority in respect of them are
3 governed by the provisions of this chapter which relate to the issuance
4 of appropriate obligations.

5 (b) Refunding obligations may be sold or exchanged for outstanding
6 obligations issued under this chapter. If sold, the proceeds may be
7 applied, in addition to other authorized purposes, to the purchase,
8 redemption or payment of the outstanding obligations. Pending the
9 application of the proceeds of any such refunding obligations, with any
10 other available funds, to the payment of the principal (accrued interest
11 and any redemption premium on the obligations being refunded, and, if so
12 provided or permitted in the resolution authorizing the issuance of the
13 refunding obligations or in the trust agreement securing them, to the
14 payment of any interest on the refunding obligations and any expenses in
15 connection with the refunding), the proceeds may be invested in direct
16 obligations of, or obligations the principal of and the interest on
17 which are unconditionally guaranteed by, the United States of America
18 which mature or which will be subject to redemption, at the option of
19 the holders of them, not later than the respective dates when the
20 proceeds, together with the interest accruing on them, will be required
21 for the purposes intended.

22 Sec. 18.57.110. CREDIT OF STATE NOT PLEDGED. Obligations issued
23 under the provisions of this chapter do not constitute a debt, liability
24 or obligation of the state or of any other political subdivision of the
25 state or a pledge of the faith and credit of the state or a political
26 subdivision of the state but are payable solely from the revenues or
27 assets of the authority. Each obligation issued under this chapter
28 shall contain on its face a statement that the authority is not obli-
29 gated to pay it nor the interest on it except from the revenues or

1 assets pledged for it and that neither the faith and credit nor the
2 taxing power of the state or of a political subdivision of the state is
3 pledged to the payment of the principal of or interest on the obligation.

4 * Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-
5 070(c).