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request of the Governor

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1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 72

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act creating the Alaska Municipal Bond Bank
7 Authority and prescribing its organization, powers and
8 duties; and providing for an effective date."

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

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

11 CHAPTER 58. ALASKA MUNICIPAL BOND BANK AUTHORITY.

12 Sec. 44.58.005. LEGISLATIVE FINDINGS. The legislature finds

13 that

14 (1) the rapid growth of municipalities in the state and the
15 incorporation of new municipalities has created a demand for capital
16 improvements which can only be met by these municipalities' borrowing
17 money through the issuance of bonds or notes;

18 (2) many of these municipalities, although creditworthy,
19 either have not issued bonds or notes or have little outstanding debt;

20 (3) the cost of borrowed money to these municipalities is or
21 may be unnecessarily high due to lack of investor familiarity with the
22 municipalities;

23 (4) other municipalities in the state pay unnecessarily high
24 borrowing costs because of the distance of the state from capital
25 markets or may find borrowing difficult or impossible because of tem-
26 porary economic dislocation due to loss of employment or prospective
27 loss of employment.

28 Sec. 44.58.010. LEGISLATIVE POLICY. (a) It is the policy of the
29 state

1 (1) to foster and promote by all reasonable means the provi-
2 sion of adequate capital markets and facilities for borrowing money by
3 municipalities in the state to finance capital improvements or for other
4 authorized purposes, to assist these municipalities in fulfilling their
5 capital needs and requirements by use of borrowed money within statutory
6 interest rate or cost of borrowing limitations, to the greatest extent
7 possible to reduce costs of borrowed money to taxpayers and residents of
8 the state, and equally to encourage continued investor interest in the
9 purchase of bonds or notes of municipalities as sound and preferred
10 securities for investment;

11 (2) to encourage municipalities to continue their independent
12 undertakings and financing of capital improvements and other authorized
13 purposes and to assist them by making capital funds available at reduced
14 interest costs for orderly financing of capital improvements and other
15 purposes especially during periods of restricted credit or money supply,
16 particularly for those municipalities not otherwise able to borrow for
17 capital needs.

18 (b) The legislature further declares that

19 (1) the exercise of the powers of the state in the interest
20 of its municipalities is required to further and implement the policies
21 declared in (a) of this section by authorizing the creation of a state
22 bond bank authority as a body corporate and politic that will have full
23 powers to borrow money and to issue its bonds and notes to make capital
24 funds available for borrowing by municipalities and by granting broad
25 powers to the bond bank authority to carry out the declared policies
26 which are in the public interest of the state and its taxpayers and
27 residents;

28 (2) state funds should be applied or authorized to be paid to
29 a state bond bank authority only to provide adequate assurance and

1 security to the holders of the bonds or notes of the bond bank authority;

2 (3) the bond bank authority should conduct its operations
3 to provide the lowest rates in terms of borrowing to municipalities as
4 is consistent with a self-supporting operation with no expectation of
5 subsidization with state funds.

6 Sec. 44.58.020. MUNICIPAL BOND BANK AUTHORITY. There is created
7 the Alaska Municipal Bond Bank Authority. The authority is a public
8 corporation of the state. The corporation is an instrumentality of the
9 state within the Department of Revenue but has a legal existence inde-
10 pendent of and separate from the state and has continuing succession
11 until its existence is terminated by law. The exercise by the authority
12 of the powers conferred by this chapter is considered an essential
13 governmental function of the state.

14 Sec. 44.58.030. MEMBERSHIP AND VACANCIES. The bond bank authority
15 consists of the following five directors: the commissioner of revenue,
16 the commissioner of community and regional affairs, who shall each be a
17 director ex officio with voting privileges, and three directors ap-
18 pointed by the governor. The appointment of each director other than
19 the commissioner of revenue and the commissioner of community and
20 regional affairs is subject to confirmation by the legislature. The
21 three directors appointed by the governor serve at his pleasure for
22 four-year terms. They must be residents of the state and qualified
23 voters at the time of appointment and shall comply with the requirements
24 of AS 39.50 (conflict of interest). The directors first appointed shall
25 have terms of two, three and four years respectively. Each director
26 shall hold office for the term of his appointment and until his suc-
27 cessor has been appointed and qualified. A director is eligible for
28 reappointment. A vacancy in a directorship occurring other than by
29 expiration of term shall be filled in the same manner as the original

1 appointment but for the unexpired term only. Each director before
2 entering upon his duties shall take and subscribe to an oath to perform
3 the duties of his office faithfully, impartially, and justly to the best
4 of his ability. A record of the oath shall be filed in the office of
5 the governor.

6 Sec. 44.58.040. OFFICERS AND QUORUM. The directors shall elect
7 one of their number as chairman. The directors shall elect a secretary
8 and a treasurer who need not be directors, and the same person may be
9 elected to serve both as secretary and treasurer. The powers of the
10 bond bank authority are vested in the directors, and three directors of
11 the bond bank authority constitute a quorum. Action may be taken and
12 motions and resolutions adopted by the bond bank authority at any
13 meeting by the affirmative vote of at least three directors. A vacancy
14 in the directorship of the bond bank authority does not impair the right
15 of a quorum to exercise all the powers and perform all the duties of the
16 bond bank authority.

17 Sec. 44.58.050. BONDING OF MEMBERS. Before the issuance of bonds
18 or notes under this chapter, each director shall execute a surety bond
19 in the penal sum of \$25,000 and the treasurer shall execute a surety
20 bond in the penal sum of \$50,000. Each surety bond shall be conditioned
21 upon the faithful performance of the duties of the office of the direc-
22 tor or treasurer, to be executed by a surety company authorized to
23 transact business in the state as surety and filed in the office of the
24 lieutenant governor. After issuance of bonds or notes by the bond bank
25 authority each director shall maintain his surety bond in force. All
26 costs of the surety bonds shall be borne by the bond bank authority.

27 Sec. 44.58.060. COMPENSATION AND EXPENSES. The directors of the
28 bond bank authority shall serve without compensation, but the bond bank
29 authority shall reimburse its directors for actual expenses necessarily

1 incurred in the discharge of their duties. Notwithstanding any other
2 law, an officer or employee of the state shall forfeit his office or
3 employment and any benefits by reason of his acceptance of appointment
4 to the office of director of the bond bank authority.

5 Sec. 44.58.070. STAFF. The bond bank authority shall employ an
6 executive secretary who may with the approval of the bond bank authority
7 select and employ additional staff as necessary. Employees and agents
8 of the bond bank authority other than legal counsel and the executive
9 secretary are in the classified service under AS 39.25. In addition to
10 its staff of regular employees, the bond bank authority may contract for
11 and engage the services of the bond counsel, consultants, experts, and
12 financial advisors the bond bank authority considers necessary for the
13 purpose of developing information, or conducting studies, investiga-
14 tions, hearings or other proceedings.

15 Sec. 44.58.080. CONFLICT OF INTEREST. No officer, employee or
16 agent of the bond bank authority may have an interest, direct or indi-
17 rect, in any contract or proposed contract for services or materials to
18 be furnished to or used by the bond bank authority, other than for his
19 contract of appointment or employment. Neither the holding of an
20 office or employment in the government of the state or of a political
21 subdivision nor employment or interest in a private banking or financial
22 business or enterprise is a disqualifying interest per se. No director
23 appointed may be considered by reason of his employment or interest in
24 a private banking or financial business or enterprise to have a dis-
25 qualifying interest per se. This section is not applicable to personnel
26 whose services are purchased by the bond bank authority on an indepen-
27 dent contract basis.

28 Sec. 44.58.090. POWERS OF BOND BANK AUTHORITY. The bond bank
29 authority may

- 1 (1) sue and be sued;
- 2 (2) adopt and alter an official seal;
- 3 (3) make and enforce bylaws and rules for the conduct of
4 its business and for the use of its services and facilities;
- 5 (4) maintain an office at any place in the state;
- 6 (5) acquire, hold, use and dispose of its income, revenues,
7 funds and money;
- 8 (6) acquire, rent, lease, hold, use and dispose of other
9 personal property for its purposes;
- 10 (7) borrow money and issue its negotiable bonds or notes and
11 provide for and secure their payment, provide for the rights of their
12 holders and purchase, hold and dispose of any of its bonds or notes;
- 13 (8) fix and revise from time to time and charge and collect
14 fees and charges for the use of its services or facilities;
- 15 (9) accept gifts or grants from the United States, or from
16 any governmental unit or person, firm or corporation, carry out the
17 terms or provisions or make agreements with respect to the gifts or
18 grants, and do all things necessary, useful, desirable, or convenient in
19 connection with procuring, accepting or disposing of the gifts or
20 grants;
- 21 (10) do anything authorized by this chapter, through its
22 officers, agents or employees or by contracts with a person;
- 23 (11) make, enter into and enforce all contracts necessary,
24 convenient or desirable for the purposes of the bond bank authority or
25 pertaining to a loan to a political subdivision, a purchase or sale of
26 municipal bonds or other investments, or the performance of its duties
27 and execution of any of its powers under this chapter;
- 28 (12) purchase or hold municipal bonds at prices and in a
29 manner the bond bank authority considers advisable, and sell municipal

1 bonds acquired or held by it at prices without relation to cost and in a
2 manner the bond bank authority considers advisable;

3 (13) invest funds or money of the bond bank authority not
4 required at the time of investment for loan to political subdivisions
5 for the purchase of municipal bonds, in the same manner as permitted for
6 investment of funds belonging to the state, except as otherwise provided
7 in this chapter;

8 (14) prescribe the form of application or procedure required
9 of a political subdivision for a loan or purchase of its municipal
10 bonds, fix the terms and conditions of the loan or purchase, and enter
11 into agreements with political subdivisions with respect to loans or
12 purchases;

13 (15) render services to a political subdivision in connection
14 with a public or private sale of its municipal bonds, including advisory
15 and other services, and charge for services rendered;

16 (16) charge for its costs and services in review or consid-
17 eration of a proposed loan to a political subdivision or purchase by the
18 bond bank authority of municipal bonds of the political subdivision,
19 whether or not the loan is made or the municipal bonds purchased;

20 (17) fix and establish terms and provisions with respect to a
21 purchase of municipal bonds by the bond bank authority, including date
22 and maturities of the bonds, provisions as to redemption or payment
23 before maturity, and any other matters which in connection with the
24 purchase are necessary, desirable or advisable in the judgment of the
25 bond bank authority;

26 (18) procure insurance against any losses in connection with
27 its property, operations or assets in amounts and from insurers as it
28 considers desirable;

29 (19) to the extent permitted under its contracts with the

1 holders of bonds or notes of the bond bank authority, consent to modifi-
2 cation of the rate of interest, time and payment of installment of
3 principal or interest, security or any other term of a bond or note,
4 contract or agreement of any kind to which the bond bank authority is a
5 party; and

6 (20) do all acts and things necessary, convenient, or desir-
7 able to carry out the powers expressly granted or necessarily implied in
8 this chapter.

9 Sec. 44.58.100. LIMITATIONS. Under this chapter the bond bank
10 authority may not

11 (1) make loans of money to a person, firm or corporation
12 other than a municipality or purchase securities issued by a person,
13 other than a municipality except for investment as provided in this
14 chapter;

15 (2) emit bills of credit, accept deposits of money for time
16 or demand deposit, administer trusts, or engage in any form or manner
17 in, or in the conduct of, a private or commercial banking business, or
18 act as a savings bank or savings and loan association;

19 (3) be or constitute a bank or trust company within the
20 jurisdiction or under the control of a regulatory or supervisory board
21 or department of the state, or the Comptroller of the Currency of the
22 United States, or the Department of the Treasury, or Federal Reserve
23 Board of the United States; or

24 (4) be or constitute a bank, banker or dealer in securities
25 within the meaning of or subject to the provisions of securities, securi-
26 ties exchange, or securities dealers law, of the United States or of
27 this state or of another state.

28 Sec. 44.58.110. ANNUAL REPORT AND AUDIT. Before October 1 of each
29 year the bond bank authority shall make a report of its activities for

1 the preceding fiscal year to the governor and to the legislature. The
2 report shall set out a complete operating and financial statement
3 covering its operations during the year. The bond bank authority shall
4 have an audit of its books and accounts made at least once in each year
5 by certified public accountants and the cost of the audit shall be
6 considered an expense of the bond bank authority and a copy of the audit
7 shall be filed with the commissioner of revenue and the legislature.

8 Sec. 44.58.120. ANNUAL BUDGET. The bond bank authority shall
9 prepare and submit an annual budget in accordance with the provisions of
10 the Executive Budget Act (AS 37.07).

11 Sec. 44.58.130. CARE AND CUSTODY OF BONDS. The bond bank authority
12 may enter into agreements or contracts with a bank, trust company,
13 banking or financial institution inside or outside the state as may be
14 necessary, desirable or convenient, in the opinion of the bond bank
15 authority, for rendering services in connection with the care, custody
16 or safekeeping of municipal bonds or other investments held or owned by
17 the bond bank authority, for rendering services in connection with the
18 payment or collection of amounts payable as to principal or interest,
19 and for rendering services in connection with the delivery to the bond
20 bank authority of municipal bonds or other investments purchased by it
21 or sold by it, and to pay the cost of those services. The bond bank
22 authority may also, in connection with any of the services to be ren-
23 dered by a bank, trust company or banking or financial institution as to
24 the custody and safekeeping of its municipal bonds or investments,
25 require security in the form of collateral bonds, surety agreements or
26 security agreements in such form and amount as, in the opinion of the
27 bond bank authority, is necessary or desirable.

28 Sec. 44.58.140. EFFECT OF OBLIGATIONS. (a) Bonds and notes
29 issued under this chapter are not a debt or liability of the state and

1 do not create or constitute an indebtedness, liability or obligation of
2 the state, nor do they constitute a pledge of the faith and credit of
3 the state. All bonds and notes issued under this chapter, unless
4 funded or refunded by bonds or notes of the bond bank authority, are
5 general obligations of the authority to which the full faith and credit
6 of the authority are pledged to the payments of them, except to the
7 extent provided by the resolution authorizing the issuance of them.
8 Each bond and note must contain on its face a statement to the effect
9 that the bond bank authority is obligated to pay the principal and
10 interest on the instrument only from revenues or funds of the bond bank
11 authority and that the state is not obligated to pay the principal or
12 interest and that neither the faith and credit nor the taxing power of
13 the state is pledged to the payment of the principal or the interest
14 on the bond or note.

15 (b) The state pledges to and agrees with the holders of the bonds
16 or notes issued under this chapter that the state will not limit or
17 restrict the rights vested in the bond bank authority to purchase,
18 acquire, hold, sell or dispose of municipal bonds or other investments
19 or to make loans to political subdivisions or to establish and collect
20 fees or other charges convenient or necessary to produce sufficient
21 revenues to meet the expenses of operation of the bond bank authority
22 and to fulfill the terms of any agreement made with the holders of its
23 bonds or notes or in any way impair the rights or remedies of the
24 holders of the bonds or notes until the bonds or notes, together with
25 the interest on the bonds or notes, and interest on unpaid installments
26 of interest, and all costs and expenses in connection with an action or
27 proceeding by or on behalf of the holders, are fully met, paid and
28 discharged.

29 Sec. 44.58.150. NEGOTIABILITY OF BONDS OR NOTES. Notwithstanding

1 other provisions of law, a bond or note issued under this chapter is
2 fully negotiable for all purposes of the Uniform Commercial Code (AS 45.-
3 05), and a holder or owner of a bond or note, or of a coupon appurtenant
4 to it, by accepting the bond, note or coupon is conclusively considered
5 to have agreed that the bond, note or coupon is fully negotiable for all
6 purposes of the Uniform Commercial Code.

7 Sec. 44.58.160. BONDS OR NOTES AS LEGAL INVESTMENTS. Notwith-
8 standing the restrictions of any other law, all banks, trust companies,
9 savings banks and institutions, building and loan associations, savings
10 and loan associations, investment companies, and other persons carrying
11 on a banking business, all insurance companies, insurance associations,
12 and other persons carrying on an insurance business, and all executors,
13 administrators, guardians, trustees and other fiduciaries, may legally
14 invest sinking funds, money or other funds belonging to them or within
15 their control in bonds or notes issued under this chapter.

16 Sec. 44.58.170. TAX EXEMPTION. All property of the bond bank
17 authority is public property devoted to an essential public and govern-
18 mental function and purpose and is exempt from all taxes and special
19 assessments of the state or a political subdivision of the state. All
20 bonds or notes issued under this chapter are issued by a body corporate
21 and public of this state and for an essential public and governmental
22 purpose and the bonds and notes, and the interest and income on and
23 from the bonds and notes, and all fees, charges, funds, revenues,
24 income and other money pledged or available to pay or secure the payment
25 of the bonds or notes, or interest on the bonds or notes, are exempt
26 from taxation except for transfer, inheritance and estate taxes.

27 Sec. 44.58.180. LOANS TO POLITICAL SUBDIVISIONS. (a) The bond
28 bank authority, to carry out the purposes and policies of this chapter,
29 may lend money to municipalities through the purchase by the bond bank

1 authority of municipal bonds of municipalities. The bond bank author-
2 ity, for this purpose, may issue its bonds and notes payable solely from
3 the revenues or funds available to the bond bank authority for such
4 payment and may otherwise assist municipalities as provided in this
5 chapter.

6 (b) To the extent that the commissioner of revenue is the custo-
7 dian of money payable to a municipality, at any time after written
8 notice to him from the bond bank authority that the municipality is in
9 default on the payment of principal or interest on municipal bonds of
10 the municipality then held or owned by the bond bank authority, the com-
11 missioner of revenue shall withhold the payment of that money from that
12 municipality until the amount of the principal or interest then due and
13 unpaid has been paid to the bond bank authority, or until the commis-
14 sioner of revenue has been advised that arrangements, satisfactory to
15 the bond bank authority, have been made for the payment of the principal
16 and interest.

17 Sec. 44.58.190. ISSUANCE OF BONDS AND NOTES. (a) The bond bank
18 authority may issue its bonds or notes in principal amounts that it
19 considers necessary to provide funds for any purposes under this chap-
20 ter, including

- 21 (1) the purchase of municipal bonds;
- 22 (2) the making of loans through the purchase of municipal
23 bonds;
- 24 (3) the payment, funding or refunding of the principal of, or
25 interest or redemption premiums on, bonds or notes issued by it whether
26 the bonds or notes or interest to be funded or refunded have or have not
27 become due;
- 28 (4) the establishment or increase of reserves to secure or to
29 pay bonds or notes or interest on bonds or notes and all other costs or

1 expenses of the bond bank authority incident to and necessary or con-
2 venient to carry out its corporate purposes and powers.

3 (b) Except as otherwise provided in this chapter or by the bond
4 bank authority, every issue of bonds or notes shall be general obli-
5 gations payable out of the revenues or funds of the bond bank authority,
6 subject only to agreements with the holders of particular bonds or notes
7 pledging a particular revenue or fund. Bonds or notes may be addi-
8 tionally secured by a pledge of a grant or contributions from the
9 United States or the state or a political subdivision or a person, firm
10 or corporation, or a pledge of income or revenues, funds or money of the
11 bond bank authority from any source whatsoever.

12 (c) Notwithstanding the provisions of (a) and (b) of this section,
13 the total amount of bond bank authority bonds and notes outstanding at
14 any one time, except bonds or notes issued to fund or refund bonds or
15 notes, may not exceed \$150,000,000.

16 (d) In deciding to purchase municipal bonds of a municipality, the
17 bond bank authority shall give preference to the municipalities referred
18 to in sec. 5 of this chapter. In addition, the following, listed in
19 order of preference, are preferred purposes of the municipal bonds that
20 may be considered by the bond bank authority for purchase: schools,
21 waste water treatment facilities, fire protection and public safety
22 facilities, public health facilities and public transportation facili-
23 ties.

24 Sec. 44.58.200. FORM OF ISSUANCE. Bonds or notes of the bond bank
25 authority shall be authorized by resolution of the bond bank authority
26 and may be issued in one or more series and shall bear the date, mature
27 at the time, bear interest at the rate of interest each year or within a
28 maximum rate, be in the denomination, be in the form, either coupon or
29 registered, carry the conversion or registration privileges, have the

1 rank or priority, be executed in the manner, be payable from the sources
2 in the medium of payment at the place inside or outside the state, and
3 be subject to the terms of redemption, with or without premium, as the
4 resolution of the bond bank authority provides.

5 Sec. 44.58.210. SALE PRICE. Bonds or notes of the bond bank
6 authority may be sold at public or private sale at the price the bond
7 bank authority determines.

8 Sec. 44.58.220. PAYMENT OR REFUNDING OF NOTES. The bond bank
9 authority may from time to time issue its notes under this chapter and
10 pay and retire or fund or refund the notes from proceeds of bonds or of
11 other notes, or from other funds or money of the bond bank authority
12 available for that purpose in accordance with a contract between the
13 bond bank authority and the holders of the notes.

14 Sec. 44.58.230. TERMS OF AGREEMENT WITH THE BOND- OR NOTEHOLDER.
15 In a resolution of the bond bank authority authorizing or relating to
16 the issuance of bonds or notes, the bond bank authority, in order to
17 secure the payment of the bonds or notes and in addition to its other
18 powers, may covenant and contract with the holders of the bonds or notes

19 (1) to pledge to a payment or purpose all or a part of its
20 revenues to which its right then exists or may thereafter come into
21 existence, and the money derived from the revenues, and the proceeds of
22 any bonds or notes;

23 (2) to covenant against pledging all or a part of its reve-
24 nues, or against permitting or suffering a lien on those revenues or its
25 property;

26 (3) to covenant as to the use and disposition of payments of
27 principal or interest received by the bond bank authority on municipal
28 bonds or other investments held by the bond bank authority;

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

1 funds, the making of provision for them, and the regulation and dis-
2 position of the reserves or sinking funds;

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

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

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

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

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

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

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

23 (12) to covenant as to charges to be established and charged,
24 the amount to be raised each year or other period of time by charges or
25 other revenues, and as to the use and disposition to be made of the
26 charges or other revenues;

27 (13) to covenant to create or authorize the creation of
28 special funds or money to be held in pledge or otherwise for operating
29 expenses, payment or redemption of bonds or notes, reserves or other

1 purposes and as to the use and disposition of the money held in those
2 funds;

3 (14) to establish the procedure, if any, by which the terms of
4 a contract or covenant with or for the benefit of the holders of bonds
5 or notes may be amended or abrogated, the amount of bonds or notes the
6 holders of which must consent to amendment or abrogation, and the manner
7 in which the consent may be given;

8 (15) to covenant as to the custody of any of its property or
9 investments, their safekeeping and insurance, and the use and disposi-
10 tion of insurance money;

11 (16) to covenant as to the time or manner of enforcement or
12 restraint from enforcement of any rights of the bond bank authority
13 arising by reason of or with respect to nonpayment of the principal or
14 interest of a municipal bond;

15 (17) to provide for the rights and liabilities, powers and
16 duties arising upon the breach of any covenant, condition or obligation
17 and to prescribe the events of default and the terms and conditions upon
18 which any or all of the bonds, notes or other obligation of the bond
19 bank authority become or may be declared due and payable before matur-
20 ity and the terms and conditions upon which the declaration and its
21 consequences may be waived;

22 (18) to vest in a trustee inside or outside the state such
23 property, rights, powers and duties in trust as the bond authority may
24 determine, which may include any of the rights, powers and duties of a
25 trustee appointed by the holders of the bonds or notes, and to limit or
26 abrogate the right of the holders of the bonds or notes of the bond bank
27 authority to appoint a trustee under this chapter or limit the rights,
28 powers and duties of the trustee;

29 (19) to pay the costs or expenses incident to the enforcement

1 of the bonds or notes or of the resolution or of a covenant or agreement
2 of the bond bank authority with the holders of its bonds or notes;

3 (20) to agree with a corporate trustee which may be a trust
4 company or bank having the powers of a trust company inside or outside
5 the state, as to the pledging or assigning of revenues or funds in which
6 the bond bank authority has a right or interest, and may further provide
7 for such other rights and remedies exercisable by the trustee as may be
8 proper for the protection of the holders of bonds or notes of the bond
9 bank authority and not otherwise in violation of law, and the agreement
10 may also provide for the restriction of the rights of an individual
11 holder of bonds or notes of the bond bank authority;

12 (21) to appoint and to provide for the duties and obligations
13 of a paying agent or paying agents, or other fiduciaries as the resolu-
14 tion may provide inside or outside the state;

15 (22) to limit the rights of the holders of bonds or notes to
16 enforce a pledge or covenant securing bonds or notes; and

17 (23) to make covenants other than and in addition to the
18 covenants expressly authorized in this section, of like or different
19 character, and to make covenants to do or refrain from doing acts and
20 things as may be necessary, or convenient and desirable, in order to
21 better secure bonds or notes or which, in the absolute discretion of the
22 bond bank authority, will tend to make bonds or notes more marketable,
23 notwithstanding that the covenants, acts or things may not be enumerated
24 in this section.

25 Sec. 44.58.240. PURCHASE AND DISPOSITION OF OWN OBLIGATIONS. The
26 bond bank authority may purchase bonds or notes of the bond bank author-
27 ity out of its funds or money available for the purchase of its own
28 bonds and notes. The bond bank authority may hold, cancel or resell the
29 bonds or notes subject to and in accordance with agreements with holders

1 of its bonds or notes.

2 Sec. 44.58.250. BOND ANTICIPATION NOTES. Notwithstanding any law
3 applicable to a municipality as to the period for temporary financing of
4 a public improvement or purpose by issuance of its notes in anticipation
5 of the issuance of permanent bonds or as to the renewal of bond antici-
6 pation notes, the bond bank authority may purchase and the municipality
7 may issue bond anticipation notes and may renew them from time to time;
8 however, the bond anticipation notes, including renewals, shall mature
9 in such amounts and in such years not exceeding five years from the date
10 of the original issuance as is agreed between the bond bank authority
11 and the municipality. In connection with the transaction and purchase
12 of bond anticipation notes, the bond bank authority may by agreement
13 with the municipality impose any terms, conditions and limitations as in
14 its opinion are proper for the purposes and security of the bond bank
15 authority and the holders of its bonds or notes. The failure of a
16 municipality to comply with the agreement constitutes a failure of the
17 municipality to pay principal of and interest on the bonds or notes, and
18 the bond bank authority shall enforce all rights, remedies, and provi-
19 sions of law as it has under this chapter or are elsewhere provided.

20 Sec. 44.58.260. DOCUMENTATION. All municipal bonds purchased,
21 held or owned by the bond bank authority, upon delivery to the bond bank
22 authority, must be accompanied by all documentation required by the
23 authority.

24 Sec. 44.58.270. PRESUMPTION OF VALIDITY. After issuance, all
25 bonds or notes of the bond bank authority shall be conclusively presumed
26 to be fully authorized and issued under the laws of the state, and a
27 person or a municipality is estopped from questioning their authoriza-
28 tion, sale, issuance, execution or delivery by the bond bank authority.

29 Sec. 44.58.280. RESERVE FUND. (a) The bond bank authority shall

1 establish and maintain a special fund called the "Alaska municipal bond
2 bank authority reserve fund" in which there shall be deposited or
3 transferred

4 (1) all money appropriated by the legislature for the purpose
5 of the fund in accordance with the provisions of (g) of this section;

6 (2) all proceeds of bonds required to be deposited in the
7 fund by terms of a contract between the bond bank authority and its
8 bondholders or a resolution of the bond bank authority with respect to
9 the proceeds of bonds;

10 (3) all other money appropriated by the legislature to the
11 reserve fund; and

12 (4) any other money or funds of the bond bank authority which
13 it decides to deposit in the fund.

14 (b) Subject to the provisions of (h) of this section, money in the
15 reserve fund shall be held and applied solely to the payment of the
16 interest on and principal of bonds of the bond bank authority as the
17 interest and principal become due and payable and for the retirement of
18 bonds; and the money may not be withdrawn if a withdrawal would reduce
19 the amount in the reserve fund to an amount less than the required debt
20 service reserve except for payment of interest then due and payable on
21 bonds and the principal of bonds then maturing and payable and for the
22 retirement of bonds in accordance with the terms of a contract between
23 the bond bank authority and its bondholders and for which payments of
24 other money of the bond bank authority is not then available. As used
25 in this subsection, "required debt service reserve" means, as of the
26 date of computation, the amount required to be on deposit in the reserve
27 fund as provided by resolution of the bond bank authority.

28 (c) Money in the reserve fund in excess of the required debt
29 service reserve as defined in (b) of this section, whether by reason of

1 investment or otherwise, may be withdrawn at any time by the bond bank
2 authority and transferred to another fund or account of the bond bank
3 authority subject to the provision of (h) of this section.

4 (d) Money in the reserve fund may be invested in the same manner
5 and on the same conditions as permitted for investment of funds belong-
6 ing to the state or held in the treasury under AS 37.10.070; however,
7 the authority may agree with the bondholders to further limit these
8 investments.

9 (e) For purposes of valuation, investments in the reserve fund
10 shall be valued at par or if purchased at less than par, at cost unless
11 otherwise provided by resolution of the bond bank authority. Valuation
12 on a particular date shall include the amount of interest then earned or
13 accrued to that date on the money or investments in the reserve fund.

14 (f) Notwithstanding any other provision of this chapter, no bonds
15 may be issued by the bond bank authority unless there is in the reserve
16 fund the required debt service reserve for all bonds then issued and
17 outstanding and for the bonds to be issued; however, the bond bank
18 authority may satisfy this requirement by depositing as much of the
19 proceeds of the bonds to be issued, upon their issuance, as is needed to
20 meet the required debt service reserve. The bond bank authority may at
21 any time issue its bonds or notes for the purpose of increasing the
22 amount in the reserve fund to the required debt service reserve, or to
23 meet whatever higher or additional reserve that may be fixed by the bond
24 bank authority with respect to the fund.

25 (g) In order to assure the maintenance of the required debt ser-
26 vice reserve in the reserve fund, the legislature may appropriate
27 annually to the bond bank authority for deposit in the fund the sum,
28 certified by the chairman of the bond bank authority to the governor
29 and to the legislature, that is necessary to restore the fund to an

1 amount equal to the required debt service reserve. The chairman an-
2 nually, before January 30, shall make and deliver to the governor and to
3 the legislature his certificate stating the sum required to restore the
4 fund to that amount, and the sum so certified may be appropriated and
5 paid to the bond bank authority during the then current state fiscal
6 year. Nothing in this subsection creates a debt or liability of the
7 state.

8 (h) All amounts received on account of money appropriated to the
9 reserve fund referred to in (a)(3) of this section shall be held and
10 applied in accordance with (b) of this section; however, at the end of
11 each fiscal year any amount representing earnings or income received on
12 account of money appropriated to the reserve fund shall be transferred
13 to the general fund of the state.

14 Sec. 44.58.290. ADDITIONAL FUNDS AND ACCOUNTS. The bond bank
15 authority may establish additional reserves or other funds or accounts
16 as may be, in its discretion, necessary, desirable, or convenient to
17 further the accomplishment of its purposes or to comply with the provi-
18 sions of any of its agreements or resolutions.

19 Sec. 44.58.300. APPLICATION OF FUNDS. Money or investments in a
20 fund or account of the bond bank authority established or held for
21 bonds, notes, indebtedness or liability to be paid, funded, or refunded
22 by issuance of bonds or notes, unless the resolution authorizing the
23 bonds or notes provides otherwise, shall be applied to the payment or
24 retirement of the bonds, notes, indebtedness or liability, and to no
25 other purpose.

26 Sec. 44.58.310. RIGHTS OF HOLDERS PARAMOUNT. In order to carry
27 out its purpose under this chapter of making loans to municipalities by
28 purchase of the municipal bonds of those municipalities and by receipt
29 of its income from service charges and from payments of interest on the

1 maturing principal of municipal bonds purchased and held by it, and in
2 order to produce revenues or income to the bond bank authority suffi-
3 cient at all times to meet its costs and expenses of operation under
4 this chapter and to pay the principal of and interest on its outstanding
5 bonds and notes when due, the bond bank authority must at all times, and
6 to the greatest extent possible, plan to issue its bonds and notes and
7 lend money to political subdivisions so that the purpose is achieved
8 without in any way jeopardizing any rights of the holders of bonds or
9 notes of the bond bank authority or affecting other matters under this
10 chapter.

11 Sec. 44.58.320. DEFAULT IN PAYMENT. If the bond bank authority
12 defaults in the payment of principal or interest on an issue of notes or
13 bonds after they become due, whether at maturity or upon call for
14 redemption, and the default continues for 30 days, or if the bond bank
15 authority fails or refuses to comply with this chapter or defaults in an
16 agreement made with the holders of an issue of notes or bonds, the
17 holders of 25 per cent in the aggregate principal amount of the out-
18 standing notes or bonds of that issue, by instrument filed in the office
19 of the clerk of the district court of the first judicial district and
20 executed in the same manner as a deed to be recorded, may appoint a
21 trustee to represent the holders of those notes or bonds for the pur-
22 poses provided in this chapter.

23 Sec. 44.58.330. POWERS AND DUTIES OF TRUSTEE ON DEFAULT. (a) A
24 trustee appointed under sec. 320 of this chapter may, and shall in his
25 or its name, upon written request of the holders of 25 per cent in
26 principal amount of the outstanding notes or bonds,

27 (1) by civil action enforce all rights of the noteholders or
28 bondholders, including the right to require the bond bank authority to
29 collect rates, charges and other fees and to collect interest and

1 amortization payments on municipal bonds and notes held by it adequate
2 to carry out an agreement as to, or pledge of, the rates, charges and
3 other fees and of the interest and amortization payments, and to require
4 the bond bank authority to carry out any other agreements with the
5 holders of the notes or bonds and to perform its duties under this
6 chapter;

7 (2) bring a civil action upon the notes or bonds;

8 (3) by civil action require the bond bank authority to
9 account as if it were the trustee of an express trust for the holders of
10 the notes or bonds;

11 (4) by civil action enjoin anything which may be unlawful or
12 in violation of the rights of the holders of the notes or bonds;

13 (5) declare all the notes or bonds due and payable, and if
14 all defaults are made good, then with the consent of the holders of 25
15 per cent of the principal amount of the outstanding notes or bonds,
16 annul the declaration and its consequences;

17 (6) the trustee, in addition to the foregoing, has all the
18 powers necessary for the exercise of functions specifically set out or
19 incident to the general representation of bondholders or noteholders in
20 the enforcement and protection of their rights.

21 (b) Before declaring the principal of notes or bonds due and
22 payable, the trustee must first give 30 days notice in writing to the
23 governor, the bond bank authority, the commissioner of community and
24 regional affairs, and the attorney general of the state.

25 Sec. 44.58.340. PERSONAL LIABILITY. Neither a member of the bond
26 bank authority nor a person executing bonds or notes issued under this
27 chapter is liable personally on the bonds or notes.

28 Sec. 44.58.350. EXEMPTION FROM EXECUTION AND SALE. All property
29 of the bond bank authority is exempt from levy and sale by virtue of an

1 execution and no execution or other judicial process may issue against
2 the property. A judgment against the bond bank authority may not be a
3 charge or lien upon its property; however, nothing in this section
4 applies to or limits the rights of the holder of bonds or notes to
5 pursue a remedy for the enforcement of a pledge or lien given by the
6 bond bank authority on its revenues or other money.

7 Sec. 44.58.360. LIEN OF PLEDGE. A pledge of revenues or other
8 money made by the bond bank authority is binding from the time the
9 pledge is made. Revenues or other money so pledged and thereafter
10 received by the bond bank authority are immediately subject to the lien
11 of the pledge without any further act, and the lien of a pledge is
12 binding against all parties having claims of any kind in tort, contract
13 or otherwise against the bond bank authority, regardless of whether the
14 parties have notice of the lien. Neither the resolution nor any other
15 instrument by which a pledge is created needs to be filed or recorded
16 except in the records of the bond bank authority.

17 Sec. 44.58.370. INSURANCE OR GUARANTY. The bond bank authority
18 may obtain from a department or agency of the United States, or a non-
19 governmental insurer available insurance or guaranty for the payment or
20 repayment of interest or principal, or both, or any part of interest or
21 principal, on bonds or notes issued by the bond bank authority, or on
22 municipal bonds of municipalities purchased or held by the bond bank
23 authority.

24 Sec. 44.58.380. SURETY FOR DEPOSITS BY BANK. All banks, trust
25 companies, savings banks, investment companies and other persons carry-
26 ing on a banking business are authorized to give to the bond bank
27 authority a good and sufficient undertaking with such sureties as are
28 approved by the bank to the effect that the bank or banking institution
29 shall faithfully keep and pay over to the order of or upon the warrant

1 of the bond bank authority or its authorized agent all those funds
2 deposited with it by the bank and agreed interest under or by reason of
3 this chapter, at such times or upon such demands as may be agreed with
4 the bank or in lieu of these sureties, deposit with the bond bank
5 authority or its authorized agent or a trustee or for the holders of
6 bonds, as collateral, those securities as the bond bank authority may
7 approve. The deposits of the bond bank authority may be evidenced by an
8 agreement in the form and upon the terms and conditions that may be
9 agreed upon by the bond bank authority and the depository bank or
10 banking institution.

11 Sec. 44.58.390. EXPENSES OF ADMINISTRATION. All expenses incurred
12 in carrying out this chapter are payable solely from revenues or funds
13 appropriated under this chapter and nothing in this chapter authorizes
14 the bond bank authority to incur an indebtedness or liability on behalf
15 of or payable by the state.

16 Sec. 44.58.400. COOPERATION BY GOVERNMENT AGENCIES. All officers,
17 departments, boards, agencies, divisions and commissions of the state
18 shall render services to the bond bank authority that are within the
19 area of their respective governmental functions and that may be re-
20 quested by the bond bank authority and must comply promptly with any
21 reasonable request by the bond bank authority relating to making of a
22 study or review as to desirability, need, cost or expense, or financial
23 feasibility with respect to a public project, purpose or improvement, or
24 the financial or fiscal responsibility or ability of a political sub-
25 division making application for loan to the bond bank authority and for
26 the purchase by the bond bank authority of municipal bonds to be issued
27 by that municipality. The cost and expense of a service requested by
28 the bond bank authority, at the request of the officer, department,
29 board, agency, division or commission rendering the service, shall be

1 paid by the bond bank authority.

2 Sec. 44.58.410. PUBLIC RECORDS; OPEN MEETINGS. The provisions of
3 AS 09.25.110 - 09.25.120 (public records) and AS 44.62.310 - 44.62.312
4 (agency public meetings) apply to the bond bank authority.

5 Sec. 44.58.420. DEFINITIONS. In this chapter, unless the context
6 requires otherwise,

7 (1) "bond bank authority" means the Alaska Municipal Bond
8 Bank Authority established by sec. 20 of this chapter;

9 (2) "bonds" means bonds of the bond bank authority issued
10 under this chapter;

11 (3) "municipal bond" means a bond or note or evidence of debt
12 which constitutes a direct and general obligation of a political sub-
13 division of the state, all the taxable property within which is subject
14 to taxation to pay the bond, note or evidence of debt, and the interest
15 without limitation, as to rate or amount generally or to avoid a default
16 as provided for second class cities under AS 29.53.410;

17 (4) "municipality" means a home rule or general law city or
18 borough including but not limited to a unified municipality organized
19 under AS 29.68;

20 (5) "notes" means notes of the bond bank authority issued
21 under this chapter;

22 (6) "public body" means a public body corporate and politic
23 or a political subdivision of the state established under any law of the
24 state which may issue municipal bonds;

25 (7) "reserve fund" means the Alaska municipal bond bank
26 reserve fund established under sec. 280 of this chapter;

27 (8) "revenues" means all fees, charges, money, profits,
28 payments of principal of or interest on municipal bonds and other
29 investments, gifts, grants, contributions, appropriations and all other

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income derived or to be derived by the bond bank authority under this chapter.

Sec. 44.58.430. SHORT TITLE. This chapter may be cited as the Alaska Municipal Bond Bank Authority Act.

* Sec. 2. AS 39.25.110 is amended by adding a new paragraph to read:

(16) the members, executive secretary and legal counsel of the Alaska Municipal Bond Bank Authority.

* Sec. 3. AS 39.50.200(9) is amended by adding a new subparagraph to read:

(JJ) Alaska Municipal Bond Bank Authority (AS 44.58.020).

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