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1 IN THE SENATE

BY KERTTULA

2 SENATE BILL NO. 282

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 construction of the Devil's Canyon
7 Dam, the issuance of revenue bonds for the project;
8 and creating a division of hydroelectric power and
9 dams within the Department of Public Works."

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

11 * Section 1. AS 35.05 is amended by adding a new section to read:

12 Sec. 35.05.035. DIVISION OF HYDROELECTRIC POWER AND DAMS CREATED.

13 There is created within the Department of Public Works the hydroelectric
14 power and dams division.

15 * Sec. 2. AS 35.25.010 is amended to read:

16 Sec. 35.25.010. PURPOSE AND INTENT. The purpose of this title
17 is to establish a public works department capable of carrying out a
18 public works planning and construction program which will provide public
19 buildings necessary to efficient government, and boat harbors, jetties,
20 dikes, dams and breakwaters necessary to the economy of Alaska communi-
21 ties, all of which is to the advantage and benefit of the general welfare
22 of the public.

23 * Sec. 3. AS 37.15 is amended by adding new sections to read:

24 ARTICLE 4. DEVIL'S CANYON DAM REVENUE BONDS.

25 Sec. 37.15.570. BOND AUTHORIZATION. For the purpose of providing
26 part or all of the money to be used, with or without any grants or other
27 money which may become available, the issuance and sale of revenue bonds
28 of the state in the total principal sum of not to exceed \$800,000,000 is
29 authorized to acquire, equip, and construct the dam and any additions,

1 improvements, and facilities authorized by sec. 670 of this chapter.
2 The principal of and interest on these bonds shall be paid out of and
3 secured by the gross revenues derived by the state from the ownership,
4 lease, use and operation of the dam, and of all the facilities and out
5 of any other revenues or money which the state legislature may provide
6 exclusive of any state tax or license.

7 Sec. 37.15.580. CONSTRUCTION FUND. (a) There is a special fund
8 of the state known as the "Devil's Canyon Dam Construction Fund," into
9 which shall be paid the proceeds of the sale of the bonds (except any
10 accrued interest paid on them, which shall be paid into the bond redemp-
11 tion fund) and any grant or other money which is legally provided for
12 the same purposes for which the bonds are authorized. The money in the
13 construction fund shall be used to pay the costs of acquiring, equip-
14 ping, and constructing the dam and any additions and improvements,
15 including costs of the authorization, issuance and sale of the bonds.
16 To the extent provided in the bond resolution, money in the construction
17 fund may also be used for the payment of interest on the bonds during
18 the period of actual construction, and for such further period, not
19 exceeding one year after the period of construction, as may be provided
20 in the bond resolution. Money in the construction fund may also be
21 transferred to the bond redemption fund, to the extent provided in the
22 bond resolution, to establish a reserve for the payment of the principal
23 of and interest on the bonds.

24 (b) The bond resolution may provide for the investment of money in
25 the construction fund in such manner as the committee may determine.
26 The interest earned upon or any profits derived from the sale of this
27 investment shall be deposited in and become a part of the construction
28 fund.

29 Sec. 37.15.590. REVENUE FUND. (a) There is another special fund

1 of the state, known as the "Devil's Canyon Dam Revenue Fund," which
2 shall be completely segregated and set apart from all other funds of the
3 state, which is a trust fund for the uses and purposes provided in
4 secs. 570 - 710 of this chapter, and into which shall be paid all
5 revenues, fees, and charges derived by the state from the ownership, use
6 and operation of the dam and all of its facilities and improvements and
7 facilities and improvements used in connection with it. The money in
8 the revenue fund shall only be used for the purpose of paying or securing
9 the payment of the principal of and interest on the bonds and of and on
10 any other revenue bonds issued by authorization of the legislature to
11 provide funds for construction and to acquire, equip, construct and
12 install additions and improvements to the dam and to be payable out of
13 the revenue fund, the purpose of paying the normal and necessary costs
14 of maintaining and operating the dam and all of its improvements and
15 facilities, the purpose of paying the costs of replacements and extra-
16 ordinary repairs to the dam and all its improvements and facilities, the
17 purpose of redeeming before their fixed maturities any and all revenue
18 bonds issued for the purposes of the dam, the purpose of providing
19 funds to acquire, construct and install necessary additions and improve-
20 ments to and facilities for the dam and all its facilities, and the
21 purpose of providing funds to pay any and all other costs relating to the
22 ownership, use and operation of the dam.

23 (b) The investment of money in the revenue fund may be made in
24 such manner as the committee may determine. The interest earned upon
25 or any profits derived from the sale of this investment shall be de-
26 posited in and become a part of the revenue fund.

27 Sec. 37.15.600. REDEMPTION FUND. There is another special fund
28 of the state, known as the "Devil's Canyon Dam Revenue Bond Redemption
29 Fund," which is a trust fund for paying and securing the payment of the

1 principal of and interest and redemption premium, if any, on the bonds
2 and which shall be at all times completely segregated and set apart from
3 all other funds of the state. The committee, on behalf of the state,
4 shall obligate and bind the state to set aside and pay into the bond
5 redemption fund any part or parts of, or all of, or a fixed proportion
6 of, or a fixed amount of the money in the revenue fund sufficient to
7 pay the principal of and interest and redemption premium, if any, on the
8 bonds as the payments become due and, if it considers it necessary, to
9 set aside and maintain reserves for this purpose. The bond redemption
10 fund shall be drawn upon for the purpose of paying the principal of and
11 interest and redemption premium, if any, on the bonds, and the bonds do
12 not constitute a general obligation of the state.

13 Sec. 37.15.610. BOND TERMS. (a) The bonds shall be sold in such
14 amounts or series and at such time or times as determined by the com-
15 mittee. Before selling a series of bonds, the committee shall give
16 notice inviting sealed bids in such manner as it may prescribe. If
17 satisfactory bids are received, the bonds offered for sale shall be
18 awarded to the highest responsible bidder. If the committee determines
19 that the bids received are not satisfactory as to price or responsi-
20 bility of the bidders, it may reject all bids received. Interest shall
21 be payable annually or semiannually.

22 (b) The bonds shall mature at such time or times as fixed by the
23 committee. The bonds may be subject to redemption before their fixed
24 maturities as determined by the committee and with such premium or premi-
25 ums as fixed by the committee, but no bond may be subject to redemption
26 before its fixed maturity date unless the right so to redeem that bond
27 is expressly mentioned on the face of the bond. The bonds may be in
28 denominations determined by the committee; may be issued in coupon form
29 or in fully registered form, and may be registrable as to principal or

1 both principal and interest, all under such regulations and conditions
2 as the committee shall provide; shall be payable as to principal and
3 interest at such place or places as may be determined by the committee;
4 shall be signed on behalf of the state by the governor and shall be
5 attested by the lieutenant governor, both of which signatures may be
6 facsimile signatures; shall have the seal of the state impressed, printed
7 or lithographed on them, and each of the interest coupons attached to
8 them shall be signed by the facsimile signatures of these officials;
9 shall be issued under and subject to such terms, conditions and covenants
10 providing for the payment of the principal of them and interest on them
11 and such other terms, conditions, covenants and protective features
12 safeguarding this payment and relating to the maintenance, operation
13 and improvement of the dam as found necessary by the committee, which
14 covenants may include a provision requiring the setting aside and maintenance
15 of certain reserves to secure the payment of this principal and
16 interest. The committee may provide that any additional bonds authorized
17 (after the effective date of this Act) by the legislature to be payable
18 out of the same source or sources as the bonds authorized as of that
19 date may later be issued on a parity with the bonds authorized as of that
20 date upon compliance with any conditions which the committee may pre-
21 scribe.

22 (c) If found reasonably necessary, the committee may select a
23 trustee or trustees for the holders of the bonds or any series of them,
24 for the safeguarding and disbursement of any of the money in any of the
25 funds created by secs. 580, 590 and 600 of this chapter, or for such
26 duties with respect to the authentication, delivery and registration
27 of the bonds as the committee may determine, and shall fix the rights,
28 duties, powers and obligations of the trustee or trustees.

29 (d) In its determination of all of the matters and questions

1 relating to the issuance and sale of the bonds and the fixing of the
2 maturities, terms, conditions and covenants of them as provided in (a),
3 (b) and (c) of this section, the decisions of the committee shall be
4 those found to be reasonably necessary for the best interests of the
5 state and its inhabitants, and those which will accomplish the most
6 advantageous sale of the bonds, with due regard, however, to necessary
7 or normal costs of maintenance, operation, and repairs to the dam and
8 to all its improvements and facilities owned, used, or operated in
9 connection with it. Any such decisions of the committee, as expressed
10 in any bond resolution, are final and conclusive when any bonds have
11 been issued pursuant to the bond resolution.

12 (e) A bond resolution may provide that the bonds issued shall
13 contain a recital that they are issued under secs. 570 - 710 of this
14 chapter, and any such bonds containing this recital shall be conclusively
15 considered to be valid and to have been issued in conformity with secs.
16 570 - 710 of this chapter.

17 (f) The validity of the authorization and issuance of bonds is not
18 affected by any proceedings for the acquisition or construction of the
19 additions, improvements, extensions or facilities for which the bonds
20 have been issued or by any contracts in connection with the acquisition
21 or construction.

22 Sec. 37.15.620. BOND RESOLUTION. The committee is authorized and
23 directed to adopt the bond resolution and prepare all other documents
24 and proceedings necessary for the issuance, sale and delivery of the
25 bonds or any part or series of them. The bond resolution shall fix the
26 principal amount, denomination, date, maturities, place or places of
27 payment, rights of redemption, if any, terms, form, conditions and
28 covenants of the bonds or each series of them. The committee shall also
29 determine and provide for the date and manner of sale of the bonds, and

1 shall provide whether the notice of sale is to be published elsewhere in
2 addition to the publication required by sec. 610 of this chapter.

3 Sec. 37.15.630. ENFORCEMENT BY HOLDER. The holder of any bonds
4 or the trustee for the holders of the bonds or any series of them, may
5 by appropriate proceedings in the courts of record of the state, require
6 and compel the transfer, setting aside and payment of money and the
7 enforcement of all of the terms, conditions and covenants as required
8 and provided in secs. 570 - 710 of this chapter and in the bond resolu-
9 tion.

10 Sec. 37.15.640. AMOUNTS REQUIRED FOR PAYMENTS. The committee
11 shall before December 31 of each year, commencing with the year in which
12 the bonds are issued, certify to the commissioners of revenue and public
13 works the amounts required in the next ensuing calendar year by the bond
14 resolution or resolutions to be paid out of the revenue fund into the
15 bond redemption fund and to be paid into and maintained in any reserve
16 fund or account or any other fund or account created by the bond resolu-
17 tion or resolutions, and shall also certify to the commissioners the
18 last date or dates upon which payments may be made.

19 Sec. 37.15.650. BOND NEGOTIABILITY. The bonds and the coupons
20 attached to them are fully negotiable instruments under the laws of the
21 state.

22 Sec. 37.15.660. ELECTRICITY CHARGES. The commissioner of public
23 works shall fix and collect, subject to the approval of the Public
24 Utilities Commission, such fees and charges derived by the state from
25 the ownership, use and operation of the dam and all of its facilities
26 and improvements as will provide revenues sufficient to comply with all
27 of the covenants of the bond resolution.

28 Sec. 37.15.670. STATE IMPROVEMENTS TO DAM. The state is authorized
29 to acquire, equip and construct the dam and to install additions and

1 improvements to the dam, as found to be necessary by the commissioner of
2 public works.

3 Sec. 37.15.680. REFUNDING. (a) The bonds or any part of them may
4 be refunded at or before their maturity by the issuance of refunding
5 revenue bonds of the state if in the opinion of the committee refunding
6 is advantageous to and in the best interests of the state and its inhabi-
7 tants.

8 (b) The issuance of refunding bonds need not be authorized by an
9 Act of the legislature, and the committee is authorized and directed to
10 adopt the resolution or resolutions and prepare all other documents and
11 proceedings necessary for the issuance, exchange or sale, and delivery
12 of such bonds. All provisions of secs. 570 - 710 of this chapter appli-
13 cable to revenue bonds are applicable to the refunding bonds and to the
14 issuance, sale or exchange of them, except as otherwise provided in this
15 section.

16 (c) Refunding bonds may be issued in a principal amount sufficient
17 to provide funds for the payment of all bonds to be refunded by them,
18 and, in addition, for the payment of all expenses incident to the
19 calling, retiring or paying of the outstanding bonds, and the issuance
20 of the refunding bonds. These expenses include the difference in amount
21 between the par value of the refunding bonds and any amount less than
22 par for which the refunding bonds are sold, any amount necessary to be
23 made available for the payment of interest upon the refunding bonds
24 from the date of sale of them to the date of payment of the bonds to be
25 refunded or to the date upon which the bonds to be refunded will be
26 paid pursuant to the call of them or agreement with the holders of them,
27 and the premium, if any, necessary to be paid in order to call or retire
28 the outstanding bonds and the interest accruing on them to the date of
29 the call or retirement.

1 Sec. 37.15.690. BONDS AS LEGAL INVESTMENTS. The bonds are legal
2 investments for all banks, trust companies, savings banks, savings and
3 loan associations and other persons carrying on a banking business, all
4 insurance companies and other persons carrying on an insurance business,
5 and all executors, administrators, trustees and other fiduciaries. The
6 bonds may be accepted as security for deposits of all funds of the state
7 and its political subdivisions.

8 Sec. 37.15.700. STATUTORY CONSTRUCTION. Sections 570 - 710 of
9 this chapter shall be liberally construed in order to carry out the
10 purposes for which they were enacted, and all existing laws in conflict
11 with any of these sections are superseded insofar as necessary to accom-
12 plish the purposes of and carry out the provisions of these sections.

13 Sec. 37.15.710. DEFINITIONS. As used in secs. 570 - 710 of this
14 chapter, unless the context otherwise requires:

15 (1) "bond redemption fund" means the Devil's Canyon Dam
16 Revenue Bond Redemption Fund created by sec. 600 of this chapter, includ-
17 ing any accounts which are created in that fund after the effective date
18 of this Act;

19 (2) "bond resolution" means the resolution or resolutions
20 authorizing the issuance of bonds, adopted by the committee under sec.
21 620 of this chapter;

22 (3) "bonds" means the Devil's Canyon Dam revenue bonds author-
23 ized by secs. 570 - 710 of this chapter;

24 (4) "commissioner of public works" means the principal execu-
25 tive officer of the Department of Public Works of the state as provided
26 in AS 44.43.010, or his successor;

27 (5) "commissioner of revenue" means the principal executive
28 officer of the Department of Revenue of the state as provided in AS 44.-
29 25.010, or his successor;

1 (6) "committee" means the state bond committee created by
2 sec. 110 of this chapter, or any other committee, body, department or
3 officer of the state which or who succeeds to the rights, powers, duties
4 and obligations of the state bond committee by lawful Act of the legis-
5 lature;

6 (7) "construction fund" means the Devil's Canyon Dam Construc-
7 tion Fund created by sec. 580 of this chapter;

8 (8) "dam" means the dam across the Susitna River at Devil's
9 Canyon;

10 (9) "revenue fund" means the Devil's Canyon Dam Revenue Fund
11 created by sec. 590 of this chapter.

12 * Sec. 4. For the purpose of carrying out the provisions of AS 37.15.570 -
13 37.15.710, there is appropriated from the Devil's Canyon Dam Construction
14 Fund the sum of \$800,000,000.