

Introduced: 1/21/76
Referred: Commerce and Finance

1 IN THE SENATE

BY KERTTULA

2 SENATE BILL NO. 556

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act creating a renewable resources development bank
7 and providing for an effective date."

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

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

10 CHAPTER 55. RENEWABLE RESOURCES DEVELOPMENT BANK.

11 Sec. 44.55.010. PURPOSE. It is the purpose of this chapter to pro-
12 mote the development of Alaska's renewable resource industry as a means
13 of minimizing economic fluctuations and stabilizing employment oppor-
14 tunities by providing technical and financial assistance to development
15 production, processing, marketing and distribution of renewable resource
16 enterprises.

17 Sec. 44.55.020. RENEWABLE RESOURCES DEVELOPMENT BANK. There is
18 created the Renewable Resources Development Bank. The bank is a public
19 corporation and government instrument in the Department of Commerce and
20 Economic Development but has a legal existence independent of and sepa-
21 rate from the state. The exercise by the bank of the powers conferred
22 by this chapter is considered an essential governmental function of the
23 state.

24 Sec. 44.55.030. MEMBERSHIP AND VACANCIES. The bank is governed by
25 a board of directors consisting of 11 members. The commissioner of
26 commerce and economic development, the commissioner of natural resources,
27 one member of the senate appointed by the president of the senate and
28 one member of the house appointed by the speaker of the house are ex
29 officio members with power to vote. The ex officio members may not be

1 officers of the bank. The remaining seven members are appointed by the
2 governor subject to confirmation by the legislature in joint session.
3 Of these remaining members, one represents agriculture, one represents
4 fisheries, one represents forestry and one represents outdoor recreation.
5 These directors shall be chosen for their demonstrated interest in the
6 area they represent. A vacancy in the board occurring before the expira-
7 tion of the term is filled in the same manner as the original appointment
8 but for the unexpired term only.

9 Sec. 44.55.040. TERM OF OFFICE; COMPENSATION. The term of the
10 legislator directors is two years. The term of the directors appointed
11 by the governor is five years. The initial terms are: two members
12 appointed for a one-year term, two members appointed for a two-year term,
13 one member appointed for a three-year term, one member appointed for a
14 four-year term and one member appointed for a five-year term. The mem-
15 bers receive no salary for their services but are entitled to per diem
16 and travel expenses authorized by law for boards and commissions.

17 Sec. 44.55.050. OFFICERS AND QUORUM. The directors shall elect
18 from their members a chairman, a vice chairman, a secretary and a
19 treasurer. The same person may be elected to serve as secretary and
20 treasurer. The powers of the bank are vested in the directors and six
21 directors constitute a quorum for conducting business and exercising
22 the powers of the bank. The board shall meet at the call of the
23 chairman or, in his absence, the vice chairman. The board shall keep
24 minutes of each meeting and send a certified copy to the commissioner
25 of commerce and economic development.

26 Sec. 44.55.060. POWERS OF THE BANK (a) The bank has the general
27 power to:

- 28 (1) adopt, alter and use a corporate seal;
- 29 (2) prescribe, adopt, amend and repeal bylaws;

- 1 (3) sue and be sued in its own name;
- 2 (4) appoint officers, agents and employees and vest them with
3 powers and duties and to fix, change and pay compensation for their
4 services as the bank may determine;
- 5 (5) borrow money, make and issue bonds, notes and other evi-
6 dences of indebtedness of the bank for any of its corporate purposes in
7 an amount of not more than 50 per cent of its net assets and to secure
8 payment of its bonds and of other obligations by pledge of or lien on all
9 or any of its assets, contracts, revenue and income;
- 10 (6) make and issue bonds for the purpose of funding, refunding,
11 purchasing, paying or discharging any of the outstanding bonds or obli-
12 gations issued or assumed by it or bonds or obligations the principal
13 or interest of which is payable in whole or in part from its revenue;
- 14 (7) make and execute agreements, contracts and other instru-
15 ments necessary or convenient in the exercise of its powers and func-
16 tions, including contracts with any person, firm, corporation, govern-
17 ment agency or other entity;
- 18 (8) receive, administer and comply with the conditions and
19 requirements of an appropriation, gift, grant or donation of property or
20 money;
- 21 (9) invest or reinvest money or funds held by the bank in
22 obligations or other securities or investments in which the state or
23 its political subdivision may legally invest funds held in reserves or
24 sinking funds or funds not required for immediate disbursement, and in
25 certificates of deposits or time deposits;
- 26 (10) acquire, hold, use, lease, sell or otherwise dispose of
27 property of any kind, real, personal or mixed or any interest in it;
- 28 (11) plan, design, construct, reconstruct, extend or improve
29 any facility necessary or convenient in connection with its activities;

1 (12) adopt, amend and repeal rules and regulations necessary
2 for the exercise and performance of its powers and duties;

3 (13) make loans to renewable resource industries;

4 (14) make grants to renewable resource development projects
5 which, under guidelines established by regulation, are projects that
6 contribute significantly to the long term viability of the renewable re-
7 source industries of the state.

8 (15) purchase currently sound evidence of indebtedness from
9 the tourism fund, the agriculture revolving loan fund and the small
10 business development loan fund if the loan was made after the effective
11 date of this chapter in support of renewable resource development;

12 (16) contract with or make grants to other state agencies to
13 develop needed information and analyses;

14 (17) do all acts and things necessary, convenient or desirable
15 to carry out the powers granted or implied in this chapter.

16 (b) The bank shall:

17 (1) establish management and developmental expertise in agri-
18 culture, fisheries, forestry, and outdoor recreation in order to assist
19 in the formulation of and evaluation of feasibility studies, and to pro-
20 vide management assistance to renewable resources enterprises;

21 (2) provide a minimum of 15 per cent of its financial support
22 and technical assistance to each of four renewable resource groups:
23 agriculture, fisheries, forestry, and outdoor recreation;

24 (3) seek to create investment opportunities by bringing to-
25 gether local and out-of-state investors and experienced management, and
26 by investigations and analyses of investment possibilities;

27 (4) endeavor to stimulate the flow of private capital into
28 productive investments in renewable resources development;

29 (5) manage the Alaska renewable resources development fund

1 and the Alaska renewable resources permanent fund created by AS 37.11.

2 Sec. 44.55.070. PRESIDENT. There is a president of the bank
3 appointed by the board but the appointment is subject to approval by the
4 governor and confirmation by the legislature in joint session. The
5 president is the chief executive officer of the bank, appoints and
6 removes bank personnel, is responsible to the board of directors for
7 all operations of the bank, and serves at the pleasure of the board.
8 The compensation for the president shall be determined by the board.

9 Sec. 44.55.080. CONFLICT OF INTEREST. No officer, employee or
10 agent of the bank may have an interest, direct or indirect, in any con-
11 tract or proposed contract for services or materials to be furnished to
12 or used by the bank, other than for his contract of appointment or
13 employment.

14 Sec. 44.55.090. CONDITIONS APPLICABLE TO LOANS. (a) The bank may
15 make loans under this chapter only after the board has determined for
16 each project that sufficient private capital is not available or is not
17 available on terms the bank determines reasonable.

18 (b) No loan may be made until the board determines that the pro-
19 ject to be financed by the loan is technically and economically fea-
20 sible, and that the project will be financially self-sustaining and
21 fully amortized within the term of the loan and in accordance with other
22 terms and conditions of the loan or that a project is necessary to es-
23 tablish those infrastructural components which are determined by docu-
24 mented economic analysis to be missing and to be vital to development of
25 the renewable resource enterprise as a whole.

26 Sec. 44.55.100. TAX EXEMPTION. (a) The bank is not required to
27 pay a tax on property owned by it or upon income from it.

28 (b) All obligations issued under this chapter are issued by a body
29 corporate and public which is a political subdivision of the state and

1 for an essential public and governmental purpose, and the obligations,
2 and the interest and income on and from the obligations, and all fees,
3 charges, funds, revenues, income and other money pledged or available to
4 pay or secure the payment of the obligations or interest are exempt from
5 taxation except for transfer, inheritance and estate taxes.

6 (c) All obligations or liabilities of the bank remain its own and
7 are not liabilities or obligations of the state.

8 Sec. 44.55.110. ANNUAL AUDIT. The board shall provide for an an-
9 nual independent audit of the accounts and financial transactions of
10 the bank. To make the audit the board shall designate a certified
11 public accountant who has no personal interest, direct or indirect, in
12 the fiscal affairs of the bank. Copies of the audit shall be fur-
13 nished to the legislature within the first 10 days of each regular ses-
14 sion.

15 Sec. 44.55.120. BONDS AND NOTES. (a) The bank, by board resolu-
16 tion, may issue bonds and bond anticipation notes in order to provide
17 funds to carry out and effectuate its purposes.

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

27 (c) Bonds or bond anticipation notes may be issued as provided by
28 board resolution, in one or more series and shall (1) be dated; (2) bear
29 interest at the prescribed rate per year or within the maximum rate; (3)

1 be in a certain denomination or form, either coupon or registered; (4)
2 carry the conversion or registration provisions; (5) have rank or
3 priority; (6) be executed in a certain manner and form; (7) be payable
4 from the sources in the medium of payment and place or places inside or
5 outside the state; (8) be subject to authentication by a trustee or
6 fiscal agent; and (9) be subject to terms of redemption, with or without
7 premium. Bond anticipation notes mature at a time determined by the
8 bank. Bonds mature at a time, not exceeding 50 years from the date
9 of their issuance, as determined by the bank. Before the preparation of
10 definitive bonds or bond anticipation notes, the bank may issue interim
11 receipts or temporary bonds or bond anticipation notes, with or without
12 coupons, exchangeable for bonds or bond anticipation notes when the
13 definitive bonds or bond anticipation notes have been executed and are
14 available for delivery.

15 (d) Bond or bond anticipation notes may be sold in the manner, on
16 the terms, and at the price the bank determines.

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

21 (f) In a resolution of the bank authorizing or relating to the
22 issuance of bonds or bond anticipation notes, the bank may, with the
23 holders of the bonds or bond anticipation notes

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

28 (2) covenant against pledging all or any part of its revenues
29 or against permitting or suffering a lien on the revenues or its prop-

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

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

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

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

12 (7) covenant as to the issuance of additional bonds or notes,
13 or as to limitations on the issuance of additional bonds or notes and
14 the incurring of the other debts;

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

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

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

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

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

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

6 (14) covenant as to the custody of any of its properties or
7 investments, their safekeeping and insurance, and the use and disposit-
8 ion of insurance money;

9 (15) covenant as to the time or manner of enforcement or
10 restraint from enforcement of any rights of the bank arising by reason
11 of or with respect to nonpayment of principal or interest of any mort-
12 gage loans or construction loans;

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

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

27 (18) pay the costs or expenses incident to the enforcement of
28 the bonds or notes or of the provisions of the resolution or of a
29 covenant or agreement of the bank with the holders of its bonds or

1 notes;

2 (19) agree with a corporate trustee which may be a trust
3 company or bank having the powers of a trust company inside or outside
4 the state as to the pledging or assigning of revenues or funds to which
5 or in which the bank has any rights or interest; and further provide for
6 other rights and remedies exercisable by the trustee as may be proper
7 for the protection of the holders of any bonds or notes of the bank
8 and not otherwise in violation of law and may provide for the restric-
9 tion of the rights of an individual holder of bonds or notes of the bank;

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

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

15 (22) make covenants other than expressly authorized in this
16 section, of like or different character, and to make covenants as may be
17 necessary or desirable, to better secure bonds or notes or which, in the
18 discretion of the bank will tend to make bonds or notes more marketable,
19 notwithstanding the fact that the covenants are not enumerated in this
20 section.

21 Sec. 44.55.130. VALIDITY OF PLEDGE. The pledge of assets or
22 revenues of the bank to the payment of the principal or interest of
23 obligations of the bank is valid and binding from the time the pledge is
24 made and assets or revenues pledged are immediately subject to the lien
25 of the pledge without physical delivery or further action. The lien of
26 a pledge is valid and binding against all parties having claims of any
27 kind in tort, contract or otherwise against the bank, irrespective of
28 whether those parties have notice of the lien of the pledge. Nothing
29 prohibits the bank from selling assets subect to a pledge, except that

1 a sale may be restricted by the trust agreement or resolution providing
2 for the issuance of the obligations.

3 Sec. 44.55.140. REMEDIES. A holder of obligations or coupons
4 attached to them issued under the provisions of this chapter, and a
5 trustee under a trust agreement or resolution authorizing the issuance
6 of the obligations, if not restricted by the trust agreement or resolu-
7 tion, either at law or in equity, may enforce all rights granted under
8 the coupons or under the trust agreement or resolution, or under any
9 other contract executed by the bank under this chapter, and may enforce
10 and compel the performance of all duties required by this chapter or by
11 the trust agreement or resolution to be performed by the bank or by
12 an officer of it.

13 Sec. 44.55.150. NEGOTIABLE INSTRUMENTS. All obligations and
14 interest coupons attached to the obligations are negotiable instruments
15 under the laws of this state, subject only to applicable registration
16 provisions.

17 Sec. 44.55.160. OBLIGATIONS ELIGIBLE FOR INVESTMENT. Obligations
18 issued under the provisions of this chapter are securities in which all
19 public officers and public bodies of the state and its political subdivi-
20 sions, all insurance companies, trust companies, banking associations,
21 investment companies, executors, administrators, trustees and other
22 fiduciaries may properly and legally invest funds, including capital in
23 their control or belonging to them. These obligations may be deposited
24 with the state or municipal officer of an agency or political subdivision
25 of the state for any purpose for which the deposit of bonds, notes or
26 obligations of the state is authorized by law.

27 Sec. 44.55.170. REFUNDING OBLIGATIONS. (a) The bank may
28 provide for the issuance of refunding obligations for the purpose of
29 refunding obligations then outstanding which have been issued under the

1 provisions of this chapter, including the payment of redemption premium
2 on them and interest accrued or to accrue to the date of redemption of
3 the obligations. The issuance of the obligations, the maturities and
4 other details of them, the rights of the holders of them, and the rights,
5 duties and obligations of the bank in respect of them are governed by
6 the provisions of this chapter which relate to the issuance of appro-
7 priate obligations.

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

25 Sec. 44.55.180. CREDIT OF STATE NOT PLEDGED. Obligations issued
26 under the provisions of this chapter do not constitute a debt, liability
27 or obligation of the state or of any other political subdivision of the
28 state or a pledge of the faith and credit of the state or a political
29 subdivision of the state but are payable solely from the revenues or

1 assets of the bank. Each obligation issued under this chapter shall
2 contain on its face a statement that the bank is not obligated to pay
3 it nor the interest on it except from the revenues or assets pledged for
4 it and that neither the faith and credit nor the taxing power of the
5 state or of a political subdivision of the state is pledged to the pay-
6 ment of the principal of or interest on the obligation.

7 Sec. 44.55.190. DEFINITION. In this chapter "renewable resource
8 industry" means agricultural, fisheries, forestry or outdoor recreation
9 industries.

10 * Sec. 2. AS 37.11.030 is repealed and re-enacted to read:

11 Sec. 37.11.030. FUND UTILIZATION. Appropriations from this fund
12 shall provide funding for capital and operating expenditures of the
13 Alaska renewable resources bank. Plans for expenditures from this fund
14 shall be prepared in detail by the board of directors of the bank and
15 shall be submitted by the governor in accordance with the Executive
16 Budget Act (AS 37.07) as part of his annual presentation to the legis-
17 lature.

18 * Sec. 3. AS 37.11.070 is amended to read:

19 Sec. 37.11.070. UTILIZATION OF FUND INCOME. Income received from
20 investment of permanent fund principal shall not be held in trust, but
21 shall be used to provide funding for capital and operating appropria-
22 tions of the Alaska renewable resources bank [CAPITAL AND OPERATING AP-
23 PROPRIATIONS FOR THE REHABILITATION, ENHANCEMENT AND DEVELOPMENT OF
24 RENEWABLE RESOURCES PROGRAMS]. Plans for expenditures from fund income
25 shall be prepared in detail by the board of directors of the bank
26 [APPROPRIATE STATE DEPARTMENT OR AGENCY] and shall be submitted by the
27 governor in accordance with the Executive Budget Act (AS 37.07) as part
28 of his annual budget presentation to the legislature.

29 * Sec. 4. This Act takes effect July 1, 1976.