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1 IN THE HOUSE

BY THE COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 327

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Alaska Energy Corporation."

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

8 * Section 1. AS 41 is amended by adding a new chapter to read:

9 CHAPTER 45. ALASKA ENERGY CORPORATION.

10 Sec. 41.45.010. LEGISLATIVE FINDING AND POLICY. (a) The legisla-
11 ture finds, determines and declares that

12 (1) there exist many areas of the state which suffer from
13 exorbitant energy costs;

14 (2) energy sufficient to supply the heating and other basic
15 needs of all the people of the state can be made available at reasonable
16 cost;

17 (3) the accelerated development of heretofore untapped fossil
18 fuel resources and the establishment of energy distribution systems at
19 reasonable cost to the consumer will benefit all Alaskans.

20 (b) It is declared to be the policy of the state, in the interests
21 of promoting the general welfare of all the people of the state, to
22 reduce consumer energy costs, to establish reasonable energy price
23 parity throughout the state and otherwise to encourage the long-term
24 economic growth of the state, including the development of its natural
25 resources, through the utilization of proximate fossil fuel resources
26 and the development of low-cost distribution systems by creating a
27 public corporation with powers, duties and functions as provided in this
28 chapter.

29 Sec. 41.45.020. CREATION OF CORPORATION. There is created the

1 Alaska Energy Corporation. The corporation is a public corporation of
2 the state in the Department of Commerce and Economic Development but
3 with separate and independent legal existence.

4 Sec. 41.45.030. DIRECTORS OF THE CORPORATION. The corporation is
5 governed by a board of directors which consists of the commissioner of
6 commerce and economic development and four public members appointed by
7 the governor. Directors other than the commissioner of commerce and
8 economic development serve at the pleasure of the governor and shall be
9 appointed to give representation to the major geographic areas of the
10 state. The directors must be residents of the state and qualified
11 voters at the time of appointment and shall comply with the requirements
12 of AS 39.50 (conflict of interest). The term of office of each director
13 appointed by the governor is four years except that the directors first
14 appointed shall have terms of one, two, three, and four years, res-
15 pectively. A vacancy in a directorship occurring other than by ex-
16 piration of term shall be filled in the same manner as the original
17 appointment but for the unexpired term only.

18 Sec. 41.45.040. OFFICERS AND QUORUM. The directors shall elect
19 one of the public members as chairman and other officers they determine
20 desirable. The powers of the corporation are vested in the directors,
21 and three directors of the corporation constitute a quorum. Action may
22 be taken and motions and resolutions adopted by the corporation at a
23 meeting by the affirmative vote of at least three directors. The direc-
24 tors of the corporation serve without compensation, but they shall
25 receive the same travel pay and per diem as provided by law for board
26 members.

27 Sec. 41.45.050. STAFF. The corporation shall employ an executive
28 director who may with the approval of the corporation select and employ
29 additional staff as necessary. In addition to its staff of regular

1 employees, the corporation may contract for and engage the services of
2 the bond counsel, consultants, experts, and financial advisors the
3 corporation considers necessary for the purpose of developing informa-
4 tion, or conducting studies, investigations, hearings, or other pro-
5 ceedings. The executive director and other personnel of the corpora-
6 tion are exempt from the provisions of AS 39.25.

7 Sec. 41.45.070. PURPOSE OF THE CORPORATION. The purpose of the
8 corporation is to promote, develop and advance the general prosperity and
9 economic welfare of the people of Alaska by providing low-cost energy
10 for heating and lighting use by residences, small businesses and public
11 facilities.

12 Sec. 41.45.080. POWERS OF THE CORPORATION. In furtherance of its
13 corporate purposes, the corporation has the following powers in addition
14 to its other powers:

15 (1) to sue and be sued;

16 (2) to have a seal and alter it at pleasure;

17 (3) to make and alter bylaws for its organization and inter-
18 nal management;

19 (4) to make rules and regulations governing the exercise of
20 its corporate powers;

21 (5) to acquire, whether by construction, purchase, gift or
22 lease, and to improve, equip and operate energy supply and distribution
23 facilities;

24 (6) to sell, lease as lessor or lessee, exchange, donate,
25 convey or encumber in any manner by mortgage or by creation of any other
26 security interest, real or personal property owned by it, or in which it
27 has an interest, when, in the judgment of the corporation, the action is
28 in furtherance of its corporate purposes;

29 (7) to accept gifts, grants or loans from, and enter into

1 contracts or other transactions regarding them, with a federal agency or
2 an agency or instrumentality of the state, municipality, private organ-
3 ization or other source;

4 (8) to enter into contracts with the United States or any
5 person and, subject to the laws of the United States and subject to
6 concurrence of the legislature, with a foreign country or its agencies,
7 for the construction, acquisition, operation and maintenance of all or
8 any part of an energy supply or distribution facility, either inside or
9 outside the state, and for the sale, transportation or transmission of
10 energy;

11 (9) to enter into contracts for the purchase, sale, exchange,
12 transportation, transmission, or use of energy with any person and with
13 the United States, and, subject to the laws of the United States and
14 subject to the concurrence of the legislature, with a foreign country or
15 its agencies;

16 (10) to apply to the appropriate agencies of the state, the
17 United States and to a foreign country and any other proper agency for
18 the permits, licenses, or approvals as may be necessary, and to con-
19 struct, maintain and operate energy supply or distribution facilities in
20 accordance with the licenses or permits, and to obtain, hold and use the
21 licenses and permits in the same manner as any other person or operating
22 unit;

23 (11) to perform feasibility studies with respect to electrical
24 and fossil fuel sources and distribution methods;

25 (12) to enter into contracts or agreements with respect to the
26 exercise of any of its powers, and do all things necessary or convenient
27 to carry out its corporate purposes and exercise the powers granted in
28 this chapter;

29 (13) to exercise the power of eminent domain in accordance

1 with AS 09.55.250 - 09.55.410.

2 Sec. 41.45.090. ENERGY DISTRIBUTION PROGRAMS. (a) The corpora-
3 tion shall provide to each municipality in the state in which the energy
4 cost index established by sec. 100 of this chapter exceeds 120 an energy
5 distribution program to provide to the residents of the municipality
6 electrical or fossil fuel energy for use for residences and for the
7 heating and lighting of small businesses and public facilities and, to
8 the extent economically feasible, to public utilities.

9 (b) An energy distribution program required by (a) of this section
10 may be operated directly by the corporation through the purchase, trans-
11 portation or transmission and retail sale of fossil fuel or electrical
12 energy, through arrangements for the distribution of state-owned royalty
13 oil or gas, by the direct local production and sale of fossil fuel or
14 electrical energy, or under a contractual agreement or subsidy arrange-
15 ment with a person or business capable of meeting the energy needs of
16 the municipality.

17 (c) The price charged to residential or business customers in the
18 municipality under a distribution program established under (a) of this
19 section may not result in a base index cost to the consumer in excess of
20 120.

21 (d) The corporation, in establishing an energy distribution pro-
22 gram under this section, shall choose the most economical form of energy
23 which will meet the needs of the community.

24 Sec. 41.45.100. ENERGY COST INDEX. Each year, on or before
25 December 15, the department shall establish and publish a state energy
26 cost index. The energy cost index number shall be established for each
27 municipality in the state. An index number of 100 shall represent the
28 average of the mean cost per British Thermal Unit of energy from the
29 most economical, widely available source in each of the four largest

1 municipalities in the state.

2 Sec. 41.45.110. ACCESS TO STATE ROYALTY OIL AND GAS. (a) The
3 corporation shall be offered and have access to available state royalty
4 oil and gas at 15 per cent below the prevailing market price at the
5 point of delivery to carry out the purposes of this chapter.

6 (b) Oil or gas received by the state as royalty shall not be con-
7 sidered surplus to the needs of the state and for sale to other parties
8 unless the requirements of the corporation have been satisfied.

9 Sec. 41.45.120. TAX EXEMPTION. All property of the corporation is
10 public property devoted to an essential public and governmental function
11 and purpose and is exempt from all taxes of the state or a municipality.

12 Sec. 41.45.130. PLANNING OF DISTRIBUTION PROGRAMS. The corpora-
13 tion shall submit a statement outlining the general plan of, demonstra-
14 tion of financial feasibility, and cost for each new distribution
15 program to the legislature and the commissioner of commerce and economic
16 development, together with a statement that the corporation intends to
17 operate the program itself or that it intends that the program be oper-
18 ated by another person under agreement with the corporation.

19 Sec. 41.45.140. ANNUAL AUDIT. The corporation shall have its
20 financial records audited annually by a certified public accountant.
21 The legislative auditor may prescribe the form and content of the finan-
22 cial records of the corporation and shall have access to these records
23 at any time.

24 Sec. 41.45.150. ANNUAL REPORT. Before March 1 of each year, the
25 corporation shall submit to the governor and the legislature a compre-
26 hensive report describing operations, income and expenditures for the
27 preceding 12-month period.

28 Sec. 41.45.160. BUDGET AND APPROPRIATIONS. The corporation shall
29 submit its annual budget to the legislature through the governor as

1 provided for state agencies by the Executive Budget Act (AS 37.07). It
2 may expend money directly appropriated by the legislature only as autho-
3 rized by the legislature.

4 Sec. 41.45.170. PUBLIC RECORDS; OPEN MEETINGS. The provisions of
5 AS 09.25.110 - 09.25.120 and AS 44.62.310 - 44.62.312 apply to the cor-
6 poration. The corporation shall publish a proposed agenda of its
7 meetings and afford the public an opportunity to be heard in accordance
8 with AS 44.62.312.

9 Sec. 41.45.180. DEFINITIONS. In this chapter, unless the context
10 requires otherwise,

11 (1) "corporation" means the Alaska Energy Corporation estab-
12 lished by this chapter;

13 (2) "department" means the Department of Commerce and Econo-
14 mic Development;

15 (3) "energy" includes any and all fossil fuel or electrical
16 energy distributed, bought or sold for purposes of lighting, heating,
17 and power;

18 (4) "facility" means a plant, works, system, facility, water
19 rights, fuel deposits or sources, and real estate and personal property
20 of any nature whatsoever, together with all facilities and appurtenances
21 related to them or necessary for the purposes of them used or useful in
22 the generation by means of water or fossil fuel of electric power and
23 the production, transmission, transportation, purchase, sale, exchange
24 and interchange of fossil fuel or electric power, and shall include any
25 interest in them, whether divided or undivided, or any right to the
26 capacity of them;

27 (5) "public agency" means any city or other municipal corpor-
28 ation, political subdivision, governmental unit, or public corporation
29 created by or under the laws of this state or of another state of the

1 United States, and any state or the United States, and any person, board
2 or other body declared by the laws of any state or the United States to
3 be a department, agency, or instrumentality of them;

4 (6) "small business" means a business with annual gross re-
5 cepts less than \$100,000.

6 Sec. 41.45.190. SHORT TITLE. This chapter may be cited as the
7 Alaska Energy Corporation Act.