

Original sponsor: The Special Committee
on the Alaska Permanent
Fund

Offered: 4/12/78
Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 682 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the renewable resources funds."

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

8 * Section 1. AS 37 is amended by adding a new chapter to read:

9 CHAPTER 12. ALASKA RENEWABLE RESOURCES CORPORATION.

10 Sec. 37.12.010. DECLARATION OF POLICY. It is the policy of the
11 state to

12 (1) rehabilitate, enhance, and develop its renewable re-
13 sources and, insofar as is consistent with sound resource management
14 policies, develop its human resources by providing maximum opportunities
15 for employment and a higher standard of living for its citizens; and

16 (2) utilize the funds set aside under ch. 11 of this title to
17 further the (A) development of renewable resources that will contribute
18 to a stable self-sustaining state economy, employment opportunities, and
19 lifestyle alternatives for its citizens, and (B) commercial, tradi-
20 tional, and common uses of the state's renewable resources.

21 Sec. 37.12.020. FINDINGS. (a) The legislature finds that Alaska
22 has renewable resources that are not being utilized to their full poten-
23 tial. Many problems which confront the state, including high unem-
24 ployment and unstable economy, could be mitigated by the expanded use
25 and development of its renewable resources.

26 (b) It is further found that Alaska's economy has historically
27 depended upon sporadic and non-stable development.

28 (c) It is further found that several key factors have contributed
29 to the slow development of renewable resource industries, including,

1 (1) insufficiency of research and development financing and
2 venture capital financing;

3 (2) a lack of knowledge within the business and financial
4 communities about conditions affecting renewable resource industrial
5 development in the state and a lack of scientific information concerning
6 many resources; and

7 (3) a lack of technology appropriate to Alaska.

8 (d) It is further found that the state's policy of assisting the
9 development of viable industries is best accomplished by providing
10 assistance to the private sector to identify and demonstrate new pro-
11 ducts, markets, and technologies.

12 Sec. 37.12.030. ALASKA RENEWABLE RESOURCES CORPORATION CREATED.
13 There is created the Alaska Renewable Resources Corporation to carry out
14 the purposes of this chapter. The corporation is a public corporation
15 of the state and an instrumentality of the state within the Department
16 of Revenue, but has a legal existence independent of and separate from
17 the state. The exercise by the corporation of the powers conferred by
18 this chapter is considered an essential function of the state.

19 Sec. 37.12.040. PURPOSES. The purposes of the corporation are to

20 (1) facilitate the rehabilitation, enhancement, and develop-
21 ment of the state's renewable resources so as to strengthen the self-
22 sustaining sectors of the state economy;

23 (2) sponsor research and development of technologies and
24 innovations for the rehabilitation and enhancement of the state's renew-
25 able resources to achieve an appropriate use of the resources;

26 (3) identify new products, markets, and technologies for
27 renewable resource industries in the state which will constitute an
28 appropriate use of the resources; stimulate the research and development
29 of these products, markets, and technologies; assist in the demonstra-

1 tion of their technical and economic feasibility; and assist in their
2 introduction into commercial markets.

3 Sec. 37.12.050. ALLOCATION. (a) There shall be allocated to the
4 corporation from the receipts described in AS 37.11.020 five per cent of
5 the total receipts paid the state from mineral lease bonuses and rentals
6 for state land and royalties derived from minerals produced on state
7 land. Payments of the amount allocated by this section shall be made to
8 the corporation by the Department of Revenue on a monthly basis.

9 (b) Fifty per cent of all actual receipts of the corporation, from
10 whatever source except receipts from the corporation's investments,
11 shall be deposited into the renewable resources investment fund (AS
12 37.11.050).

13 Sec. 37.12.060. BOARD OF TRUSTEES. A board of trustees of the
14 corporation is established as its governing body.

15 Sec. 37.12.070. COMPOSITION OF THE BOARD OF TRUSTEES. The board
16 of trustees consists of three members appointed by the governor and
17 confirmed by a majority of the members of the legislature in joint ses-
18 sion. The board shall annually elect a chairman from among its members.
19 A chairman may not succeed himself.

20 Sec. 37.12.080. TERM OF OFFICE. The members of the board of
21 trustees shall be appointed for terms of four years, and they may be
22 reappointed. Terms shall be staggered. The initial terms shall be one
23 member serving for two years, one member serving for three years, and
24 one member serving for four years.

25 Sec. 37.12.090. REMOVAL AND VACANCIES. (a) The governor may
26 remove a board member from office by and with the consent of a majority
27 of the members of the legislature in joint session. A removal by the
28 governor shall be in writing and state the reason for removal. If the
29 legislature is not in session, the governor may suspend a member of the

1 board. Upon suspension, a board member may not participate in board
2 business and may not be counted for the purpose of establishing a quo-
3 rum. A suspended member shall continue to receive his salary as a board
4 member until the legislature in joint session consents to his removal.
5 The joint session shall be held within 30 days from the date of removal
6 if the removal occurs while the legislature is in session or within 30
7 days of convening of the legislature if the legislature is not in ses-
8 sion. If the legislature refuses to consent to his removal, the board
9 member shall be reinstated to his position.

10 (b) A vacancy on the board shall be promptly filled by appointment
11 by the governor and confirmation by a majority of members of the legis-
12 lature in joint session. An appointee to fill a vacancy shall hold
13 office for the balance of the term for which his predecessor on the
14 board was appointed. If a vacancy arises on the board while the legis-
15 lature is not in session, the governor may appoint an interim board
16 member until such time as the legislature in joint session fails to
17 confirm the interim member's appointment.

18 (c) A vacancy on the board does not impair the authority of a
19 quorum of the board to exercise all the powers and perform all the
20 duties of the board.

21 Sec. 37.12.100. QUALIFICATIONS OF BOARD MEMBERS. (a) No person
22 may be appointed to the board who has not been a resident of the state
23 for at least three years.

24 (b) No member of the board may hold any other state or federal
25 office, position, or employment, whether elective or appointive, except
26 as a member of the armed forces of the United States or the state.

27 Sec. 37.12.110. QUORUM. Two members of the board constitute a
28 quorum for the transaction of business and the exercise of the powers
29 and duties of the board.

1 Sec. 37.12.120. COMPENSATION OF BOARD MEMBERS. Board members are
2 in the exempt service under AS 39.25 and receive an annual salary within
3 Range 30 of the salary schedule for state employees established by
4 AS 39.27.011.

5 Sec. 37.12.130. EMPLOYMENT OF PERSONNEL. The board may employ and
6 determine the salary of an executive director. The executive director
7 may, with the approval of the board, select and employ additional staff
8 as necessary. The executive director and all employees of the board are
9 in the exempt service under AS 39.25.

10 Sec. 37.12.140. CONFLICTS OF INTEREST. (a) Members of the board
11 of trustees are subject to the provisions of AS 39.50.

12 (b) No member or employee of the board may acquire an interest,
13 direct or indirect, in a corporation, company, association, or project
14 owned, controlled, or invested in by the corporation. If a member or
15 employee owns or controls such an interest, he shall immediately dis-
16 close the interest in writing to the board and refrain from participat-
17 ing in any manner in any activity relating to that interest.

18 Sec. 37.12.150. POWERS. In carrying out the corporate powers of
19 the corporation, the board may

- 20 (1) adopt, alter, and use a corporate seal;
- 21 (2) prescribe, adopt, amend, and repeal bylaws;
- 22 (3) sue and be sued in the name of the corporation;
- 23 (4) enter into any agreements necessary to the exercise of
24 its powers and functions;
- 25 (5) accept grants from and contract with the federal govern-
26 ment and the state or its political subdivisions and to that end comply
27 with the provisions of federal, state, or local programs where neces-
28 sary, except that it may not enter into any agreements whereby any
29 permanent state or local government position is funded or partially

1 funded in connection with a project;

2 (6) accept grants and loans from other sources than those in
3 (5) of this section to be held and used for the purposes of the corpora-
4 tion;

5 (7) appear in behalf of the corporation before boards, com-
6 missions, departments, or other agencies of municipal, state, or federal
7 government;

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

10 (9) hold, as a means of securing the providing of financial
11 assistance, patents, copyrights, trademarks, royalties, or any other
12 evidences of protection or exclusivity issued under the laws of the
13 United States or any state or nation;

14 (10) prepare, publish, and distribute technical studies,
15 reports, bulletins and other materials it considers appropriate;

16 (11) invest, in such form as it considers appropriate, in
17 projects which are economically viable and income-producing;

18 (12) provide grants for projects having broad public applica-
19 tion which do not have direct income-producing potential;

20 (13) adopt regulations governing the exercise of its corporate
21 powers;

22 (14) deposit funds, or invest surplus funds through the
23 treasury division of the Department of Revenue which may invest in any
24 investments authorized in AS 39.35.110 so long as its investment policy
25 is consistent with the prudent-man rule;

26 (15) do all acts and things necessary or desirable to carry
27 out the purposes of the corporation.

28 Sec. 37.12.160. DUTIES. In carrying out the purposes of this
29 chapter, the board shall

1 (1) seek to maintain the productivity of healthy renewable
2 resources and expand the productivity of depleted or underutilized
3 renewable resources;

4 (2) provide financial assistance for projects which the board
5 finds will accomplish the purposes of the corporation as set out in sec.
6 40 of this chapter;

7 (3) promote the utilization of the state's renewable re-
8 sources in the state and the development of import substitution and
9 export markets;

10 (4) annually prepare long-range operating and financial plans
11 and the budget for the forthcoming year;

12 (5) monitor approved projects for compliance with this chap-
13 ter and provide operational and performance evaluations (post-audits) of
14 projects receiving financial assistance and an overall assessment,
15 expressed in qualitative and quantitative terms, of the degree to which
16 the purposes of the corporation, as set out in sec. 40 of this chapter,
17 have been achieved; and

18 (6) attempt to fund activities which will tend to maximize
19 returns to the state and local governments and its citizens in such
20 forms as tax revenues and resident employment and income.

21 Sec. 37.12.170. FINANCIAL ASSISTANCE. (a) In providing financial
22 assistance, the board shall

23 (1) consider the proposals of qualified applicants only after
24 the applicant has submitted a detailed proposal in the form prescribed
25 by the board; no assistance may be approved by the board unless it
26 finds, in writing, that

27 (A) the proposed project, if successful, will further
28 the purposes of the corporation as set out in sec. 40 of this
29 chapter;

1 (B) the application contains an adequate plan for pro-
2 ject implementation, including, when applicable, a complete busi-
3 ness, financial and marketing plan for commercial activities;

4 (C) sufficient capital is not available from other
5 sources on reasonable terms;

6 (D) the applicant has agreed that if new renewable
7 resource industrial activity results from the proposed project, his
8 best efforts will be employed to keep that activity in the state
9 for a minimum period of time specified by the board;

10 (E) the applicant demonstrates that sufficient technical
11 and business expertise to accomplish the objectives of the proposed
12 project is available;

13 (F) all costs, including additional governmental cost,
14 associated with and ancillary to the project and future obligations
15 generated by the project have been identified, including any neces-
16 sary operating, maintenance, or other support costs for the life of
17 the project;

18 (G) potential resource use conflicts that may result
19 from the proposed project are identified and evaluated, and when
20 necessary, plans to mitigate or resolve those conflicts and to
21 preserve for the future options for the use of the state's renew-
22 able resources are included in the application;

23 (2) use the financial mechanism most appropriate to the
24 conditions of the applicant and the proposed project and which will most
25 effectively utilize the funds available; grants may be made by the board
26 of up to 90 per cent of the total project costs for the following pur-
27 poses:

28 (A) projects for the applied research and development of
29 products, technologies, or innovations for the rehabilitation,

1 enhancement, or development of the state's renewable resources;

2 (B) projects for the demonstration, on a one-time basis,
3 of the economic or technical feasibility of a new product, market,
4 or technology involving a renewable resource; or

5 (C) projects for the rehabilitation, enhancement, or
6 development of a common-property resource where the benefits from
7 the project cannot be captured by any single economic unit.

8 (3) in evaluating projects, consider the preferences and
9 priorities of the residents of the region in which the project is to be
10 located;

11 (4) require investments made by the corporation to be secured
12 by means determined to be appropriate by the board.

13 (b) The board may not

14 (1) invest or otherwise provide assistance of more than five
15 per cent of the resources of the corporation or \$1,500,000, whichever is
16 less, in a single project or applicant unless the legislature has ap-
17 proved the investment by concurrent resolution;

18 (2) invest in more than 49 per cent of the outstanding cor-
19 porate stock or other corporate obligations issued by an applicant
20 unless the legislature has approved the investment by concurrent resolu-
21 tion;

22 (3) make a loan for a period in excess of 30 years unless the
23 legislature has approved the loan by concurrent resolution;

24 (4) assume the responsibility for management of any project
25 in which it has invested and may not exercise voting rights for that
26 purpose or for any other purpose which is within the scope of managerial
27 control; or

28 (5) provide funds to any state agency unless that expenditure
29 is included in the corporation's annual budget;

1 (6) allocate to grants more than 10 per cent of the annual
2 appropriation of the corporation.

3 (c) Nothing in this section prevents the board from taking such
4 action and exercising such rights as it considers necessary for the
5 protection of its financial interests in the event of

6 (1) actual or threatened default on any of the board's in-
7 vestments;

8 (2) actual or threatened insolvency of a project in which the
9 board has made an investment; or

10 (3) any other immediate or actual circumstance or event which
11 jeopardizes an investment made by the board.

12 (d) Projects for which financial assistance is granted shall
13 comply with all applicable provisions of law.

14 Sec. 37.12.180. ELIGIBILITY FOR FINANCIAL ASSISTANCE. The board
15 may provide financial assistance if it finds that an applicant is quali-
16 fied to receive assistance. An applicant is qualified if

17 (1) he has submitted a proposal to the board in accordance
18 with sec. 170(a)(1) of this chapter;

19 (2) he is a resident of the state for three years or, if the
20 applicant is a partnership, corporation, or other association, the
21 majority interest is beneficially owned by residents of the state and a
22 majority of the owners are residents of the state; and

23 (3) his projects which have previously received financial
24 assistance from the corporation, if any, have complied with all require-
25 ments of that assistance and have performed with sufficient success or
26 promise to warrant further aid.

27 Sec. 37.12.190. REPORTS AND PUBLICATIONS. (a) The board shall
28 prepare and distribute in non-technical language materials describing
29 the purposes and activities of the corporation.

1 (b) The board shall publish an annual report for the governor, the
2 legislature, and the public at the time of submitting its annual budget
3 request. Each annual report shall include financial statements and
4 audit reports, a statement detailing the sources from which the corpora-
5 tion received money, a statement detailing the investments made by the
6 corporation, a summary and evaluation of the data required by sec.
7 160(5) and (6) of this chapter, a list of public facilities required by
8 or complementary to the corporation's investment activity, and any other
9 information that the board of trustees believes would be of interest to
10 the recipients of the report.

11 Sec. 37.12.200. BUDGET AND APPROPRIATIONS. (a) The corporation
12 may expend money only as appropriated by the legislature. The corpora-
13 tion is subject to the Executive Budget Act (AS 37.07) except as pro-
14 vided in (b) and (c) of this section.

15 (b) The budget of the corporation shall include the categories and
16 amounts of proposed financial assistance broken down by financing
17 mechanism and resource sector affected and all funds received by the
18 corporation whether through allocations made by this chapter, appropria-
19 tion, or otherwise. The total amount of the corporation's operating
20 budget shall be specified separately in its budget and be appropriated
21 from the general fund.

22 (c) The unexpended and unobligated portion of the appropriations,
23 other than appropriations for operating expenses, does not lapse into
24 the general fund at the end of a fiscal year, but remains available for
25 appropriation as provided in this section in subsequent fiscal years.

26 Sec. 37.12.210. ANNUAL AUDIT. The corporation shall have its
27 financial record audited annually by an independent outside auditor.
28 The legislative auditor may prescribe the form and content of the finan-
29 cial record of the corporation and shall have access to these records at

1 any time.

2 Sec. 37.12.220. COOPERATION WITH OTHER AGENCIES. All departments,
3 agencies, and public corporations of the state shall provide informa-
4 tion, services and facilities to the corporation on its request. The
5 corporation shall reimburse the department, agency, or corporation for
6 expenses reasonably incurred on the corporation's behalf.

7 Sec. 37.12.230. TAX EXEMPTION. The corporation is exempt from all
8 taxes and assessments in the state. All security instruments issued by
9 the corporation, their transfer, and their income are exempt from all
10 taxes and assessments in the state.

11 Sec. 37.12.240. TECHNICAL ASSISTANCE. (a) The corporation may
12 provide financing for pre-investment activities including feasibility
13 studies, when, in its opinion, the proposed project is of high priority
14 and the financing is not available from other sources on reasonable
15 terms and conditions. Amounts so advanced may form a part of a later
16 investment if the enterprise or project is financed by the corporation.

17 (b) The corporation may provide funding for technical and manage-
18 ment advice and assistance to qualified applicants as it considers
19 necessary in the circumstances.

20 Sec. 37.12.250. PUBLIC ACCESS TO INFORMATION. Information in the
21 possession of the corporation is a public record, except that informa-
22 tion which discloses the particulars of the business or affairs of a
23 private enterprise or investor is confidential and is not a public
24 record. Confidential information may be disclosed only for the purposes
25 of an official law enforcement investigation or when its production is
26 required in a court proceeding. These restrictions do not prohibit the
27 publication of statistics presented in a manner that prevents the iden-
28 tification of reports, items, persons, or enterprises.

29 Sec. 37.12.260. DEFINITIONS. In this chapter, unless the context

1 otherwise requires,

2 (1) "applicant" means a person making application to the
3 corporation for financial assistance;

4 (2) "board" means the Board of Trustees of the Alaska Renew-
5 able Resources Corporation;

6 (3) "corporation" means the Alaska Renewable Resources Corpo-
7 ration;

8 (4) "project" means products, markets, innovation, or tech-
9 nological developments for the rehabilitation, enhancement, or develop-
10 ment of renewable resources and includes applied research for those
11 products, markets, or technological developments;

12 (5) "rehabilitation, enhancement, and development" means any
13 activity or program which improves the health and well-being of a renew-
14 able resource or renewable resource population leading to an increase in
15 the quality or productivity of the resource and to an increase in the
16 benefits derived from the resource to the citizens of the state;

17 (6) "renewable resource" means non-human living organisms;
18 natural components of the environment, including the air, land, and
19 water; and energy systems which are naturally recurring or replenished.

20 * Sec. 2. AS 37.11.040 is amended to read:

21 Sec. 37.11.040. FUND BALANCES. Unappropriated or otherwise unen-
22 cumbered balances remaining in the Alaska renewable resources develop-
23 ment fund at the close of each fiscal year shall be transferred to the
24 Alaska renewable resources investment [PERMANENT] fund.

25 * Sec. 3. AS 37.11.050 is amended to read:

26 Sec. 37.11.050. ALASKA RENEWABLE RESOURCES INVESTMENT [PERMANENT]
27 FUND. There is established as a separate fund the Alaska renewable re-
28 sources investment [PERMANENT] fund. Funds apportioned by sec. 60 of
29 this chapter for deposit in the investment [PERMANENT] fund are to be

1 held perpetually in trust for the benefit of both present and future
2 generations of Alaskans.

3 * Sec. 4. AS 37.11.060 is amended to read:

4 Sec. 37.11.060. FUND PRINCIPAL. Unappropriated or otherwise un-
5 encumbered balances remaining in the Alaska renewable resources develop-
6 ment fund at the close of each fiscal year shall be deposited in the
7 investment [PERMANENT] fund. These deposits shall be considered fund
8 principal and shall be invested in perpetuity in accordance with sec. 90
9 of this chapter [AS 37.10.070 (INVESTMENT OF SURPLUS STATE FUNDS)].

10 * Sec. 5. AS 37.11.070 is amended to read:

11 Sec. 37.11.070. UTILIZATION OF FUND INCOME. (a) Income received
12 from investment of investment [PERMANENT] fund principal shall not be
13 held in trust, but shall be used to provide funding for capital and
14 operating appropriations for the rehabilitation, enhancement and de-
15 velopment of renewable resources programs. The primary purpose of the
16 programs shall be to restore the renewable resources of the state for
17 common beneficial uses [PLANS FOR EXPENDITURES FROM FUND INCOME SHALL BE
18 PREPARED IN DETAIL BY THE APPROPRIATE STATE DEPARTMENT OR AGENCY AND
19 SHALL BE SUBMITTED BY THE GOVERNOR IN ACCORDANCE WITH THE EXECUTIVE
20 BUDGET ACT (AS 37.07) AS PART OF HIS ANNUAL BUDGET PRESENTATION TO THE
21 LEGISLATURE].

22 (b) Plans for expenditures from fund income shall be prepared in
23 detail by the cooperative efforts of the Departments of Natural Re-
24 sources, Fish and Game, Environmental Conservation, and Commerce and
25 Economic Development, and shall be submitted by the governor in accor-
26 dance with the Executive Budget Act (AS 37.07) as part of his annual
27 budget presentation to the legislature. Not less than 80 per cent of
28 the total plan submitted each year shall be apportioned for direct
29 capital expenditures or investments.

1 * Sec. 6. AS 37.11.080 is amended to read:

2 Sec. 37.11.080. PROTECTION OF PRINCIPAL. A transaction involving
3 investment [PERMANENT] fund principal which results in an actual dollar
4 loss of principal shall be reimbursed in full from fund income before
5 any additional income is expended.

6 * Sec. 7. AS 37.11 is amended by adding a new section to read:

7 Sec. 37.11.090. INVESTMENTS. Investment responsibility for the
8 Alaska renewable resources investment fund shall reside with the trea-
9 sury division of the Department of Revenue. The treasury division may
10 invest the Alaska renewable resources investment fund in any investments
11 authorized in AS 39.35.110 so long as its investment policy is consis-
12 tent with the prudent-man rule.

13 * Sec. 8. AS 44.66.010(a) is amended by adding a new paragraph to read:

14 (6) Alaska Renewable Resources Corporation (AS 37.12.030) --
15 June 30, 1982.

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