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Referred: State Affairs and  
Finance

1 IN THE HOUSE

BY OSTERBACK AND FULLER

2 HOUSE BILL NO. 522

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Industrial Development  
7 Authority and repealing the Small Business Development  
8 Corporation and the Alaska State Development Corpora-  
9 tion."

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

11 \* Section 1. AS 44.61.010(a)(4) is amended to read:

12 (4) the establishment of industrial and manufacturing facili-  
13 ties [PLANTS] in Alaska, including facilities for air and water trans-  
14 portation, pollution control and waste disposal, onshore and offshore  
15 fish harvesting and processing and onshore and offshore fish harvesting  
16 and processing support services, and for the local furnishing of elec-  
17 tric energy or gas, is essential to the development of the natural  
18 resources and the long term economic growth of the state, and will  
19 directly and indirectly alleviate unemployment in the state;

20 \* Sec. 2. AS 44.61.010(a)(5) is amended to read:

21 (5) the achievement of the goal of full employment, and of  
22 establishment and continuing operation and development of industrial and  
23 manufacturing facilities [PLANTS] in the state, including facilities for  
24 air and water transportation, pollution control and waste disposal,  
25 onshore and offshore fish harvesting and processing and onshore and off-  
26 shore fish harvesting and processing support services, and for the local  
27 furnishing of electric energy or gas, will be accelerated and facili-  
28 tated by the creation of an instrumentality of the state with powers to  
29 incur debt for acquiring or constructing industrial and manufacturing

1 facilities [PLANTS], including facilities for air and water transpor-  
2 tation, pollution control and waste disposal, onshore and offshore fish  
3 harvesting and processing and onshore and offshore fish harvesting and  
4 processing support services, and for the local furnishing of electric  
5 energy or gas, for private operation and thus provide financial assist-  
6 ance for the establishment, operation and development of these facili-  
7 ties [PLANTS] on a basis offsetting in whole or in part the construc-  
8 tion, marketing or other costs involved in the projects.

9 \* Sec. 3. AS 44.61.010(a) is amended by adding new paragraphs to read:

10 (6) it is in the public interest to promote the prosperity  
11 and general welfare of all citizens of the state by stimulating indus-  
12 trial growth and expansion by encouraging an increase of private invest-  
13 ment by banks, investment houses, insurance companies and other finan-  
14 cial institutions, including pension retirement funds, to help satisfy  
15 the need for industrial expansion;

16 (7) it is in Alaska's public interest, considering the lack  
17 of available capital in the Alaska private capital market, to create  
18 capital market perfecting instruments which import private capital from  
19 other states to create new economic activity which would not otherwise  
20 take place in Alaska.

21 \* Sec. 4. AS 44.61.030(a) is amended to read:

22 (a) The membership of the authority consists of the commissioner  
23 of commerce and economic development, the commissioner of revenue and  
24 the commissioner of natural resources, serving ex officio, and four mem-  
25 bers appointed by the governor. Each member appointed by the governor  
26 shall have experience in financial lending or in manufacturing and re-  
27 source development industries. If a state officer who is a member of  
28 the authority is unable for any reason to attend a meeting of the author-  
29 ity, he may by an instrument in writing filed with the authority, desig-

1 nate his deputy or assistant commissioner to act in his place as a  
2 member at the meeting. For all purposes of this chapter, the designee  
3 is a member of the authority at the meeting.

4 \* Sec. 5. AS 44.61.030 is amended by adding a new subsection to read:

5 (d) The four members of the authority appointed by the governor  
6 under (a) of this section shall serve for terms of four years. However,  
7 the term of office for initial appointments is one member serving for  
8 one year, one member serving for two years, one member serving for three  
9 years, and one member serving for four years. A vacancy occurring among  
10 the four appointed members shall be filled in the same manner as the  
11 original appointment and shall be for the duration of the term of office  
12 of the member replaced.

13 \* Sec. 6. AS 44.61.070 is amended to read:

14 Sec. 44.61.070. PURPOSE OF THE AUTHORITY. The purpose of the  
15 authority is to promote, develop and advance the general prosperity and  
16 economic welfare of the people of Alaska, to relieve problems of unem-  
17 ployment and to create additional employment by providing a means of  
18 financing industrial and manufacturing facility [PLANT] construction,  
19 conversion or expansion within the state, including the acquisition of  
20 real property, for lease or sale to business enterprises for industrial  
21 or manufacturing purposes.

22 \* Sec. 7. AS 44.61.080(5) is amended to read:

23 (5) to acquire, whether by construction, purchase, gift, be-  
24 quest, devise, in satisfaction of debt, foreclosure of mortgage or  
25 lease, real or personal property [AND TO IMPROVE AND EQUIP PROJECTS] in  
26 the state;

27 \* Sec. 8. AS 44.61.080(8) is amended to read:

28 (8) to sell, exchange, donate, convey, hold, maintain,  
29 operate, or encumber in any manner by mortgage or by creation of any

1 other security interest, real or personal property owned by it, or in  
2 which it has an interest, when, in the judgment of the authority, the  
3 action is in furtherance of its corporate purposes;

4 \* Sec. 9. AS 44.61.080(9) is amended to read:

5 (9) to accept gifts, grants or loans from, and enter into  
6 contracts or other transactions regarding them, with a federal agency or  
7 an agency or instrumentality of the state, a municipality, private  
8 organization or other source, and when necessary to receive gifts, grants  
9 or loans, to comply with federal, state or local programs;

10 \* Sec. 10. AS 44.61.080(11) is amended to read:

11 (11) to enter into contracts or agreements with respect to the  
12 exercise of any of its powers, and do all things necessary or convenient  
13 to carry out its corporate purposes and exercise the powers granted in  
14 this chapter or in other state law or in the law and regulations of the  
15 federal government;[.]

16 \* Sec. 11. AS 44.61.080 is amended by adding new paragraphs to read:

17 (12) to issue loan insurance, in accordance with AS 44.61.097,  
18 with respect to the financing of an industrial facility or a manufactur-  
19 ing facility;

20 (13) to borrow money and issue secured and unsecured evidence  
21 of indebtedness, including negotiable revenue debentures, for a purpose  
22 of the authority, or to finance, refinance, pay or discharge obligations  
23 of the authority, and to enter into agreements and contracts concerning  
24 these obligations;

25 (14) to secure the payment of its obligations by pledge or  
26 mortgage or other lien on its contracts, revenues, or property;

27 (15) to acquire, hold, and dispose of stocks, memberships,  
28 contracts, bonds, or other interests in a corporation or legal entity,  
29 and to exercise the powers or rights connected with those interests;

1 (16) to enter into contracts or agreements for the packaging  
2 and marketing of bonds of private corporations if, in the opinion of the  
3 authority, the issuance of the bonds will further any of the purposes of  
4 this chapter.

5 \* Sec. 12. AS 44.61.090 is amended by adding new subsections to read:

6 (g) The authority may combine for the purposes of a single offer-  
7 ing bonds financing more than one project.

8 (h) The authority may insure, in accordance with AS 44.61.097, the  
9 bonds which it issues, whether the bonds are for a single project or for  
10 more than one project combined in a single offering.

11 \* Sec. 13. AS 44.61 is amended by adding new sections to read:

12 Sec. 44.61.095. INDUSTRIAL MORTGAGE INSURANCE FUND. There is  
13 established an industrial mortgage insurance fund to which shall be  
14 credited (1) all premiums received by the authority; (2) other sums  
15 realized by the authority in accordance with its industrial mortgage  
16 loan insurance agreements, whether by way of subrogation or otherwise;  
17 and (3) state appropriations or other money and assets made available to  
18 the fund. The fund shall be held in the custody of one or more banks or  
19 trust companies having a principal place of business in the state. The  
20 fund shall be held for the security of the holders of industrial mort-  
21 gage loans insured under AS 44.61.097. The fund shall be governed by a  
22 trust agreement entered into by the authority with the banks or trust  
23 companies. The trust agreement may contain provisions and limitations  
24 as to the investment and disbursement of money in the fund, the payment of  
25 expenses of the fund, the appointment, resignation and discharge of  
26 trustees of the fund, the delegation of enforcement and collection  
27 powers under the insurance agreements to the trustees of the fund, the  
28 duties of the trustees of the fund, amendments of the trust agreement,  
29 and other provisions the authority considers appropriate. Income earned

1 by the fund may be used for the purposes of the authority. The trust  
2 agreement may pledge premiums and other money deposited in the fund.  
3 The pledge shall be valid and binding from the time it is made. The  
4 premiums and other money received by the fund or by the trustees of the  
5 fund in its behalf after they have been pledged shall immediately be  
6 subject to the lien of the pledge. The pledge is valid and binding as  
7 against all parties having claims of any kind against the fund, irres-  
8 pective of whether the parties have notice of the claims.

9 Sec. 44.61.097. LOAN INSURANCE. (a) The authority may insure  
10 loans, including debt service, made to finance a project under this  
11 chapter. The authority shall fix the rate or rates of premiums for the  
12 insurance. The insurance provided by the authority may be paid from the  
13 industrial mortgage insurance fund established in AS 44.61.095 or from  
14 other insurance sources. Insurance provided by the authority does not  
15 constitute a debt of the state or pledge of the faith and credit of the  
16 state or of a subdivision of the state.

17 (b) The authority may not insure a loan unless it finds:

18 (1) that the loan is to be secured by a first mortgage of  
19 real or personal property or both satisfactory to the authority;

20 (2) that the mortgagor and mortgagee are responsible parties;

21 (3) that the person who is or will be the occupant of the  
22 project or projects financed by the loan is or will be a responsible  
23 industrial occupant;

24 (4) that the provisions of the loan are reasonable and pro-  
25 per; in making this finding, the authority may consider any relevant  
26 factors including, but not limited to, the provisions for maintaining,  
27 insuring and repairing the project by the mortgagor and the remedies of  
28 the authority upon default of the mortgagor;

29 (5) that the project financed by the loan will provide or

1 retain employment reasonably related to the principal amount of the loan  
2 to be insured, considering among other things, the amount of investment  
3 per employee for comparable facilities;

4 (6) that adequate provision is or will be made to meet any  
5 increased demand upon community public facilities that might result from  
6 the project financed by the loan;

7 (7) that the scope of the project financed by the loan is  
8 sufficient to provide a reasonable expectation of a benefit to the  
9 economy of the state;

10 (8) that the principal amount of the loan does not exceed the  
11 sum of (A) 90 percent of the value of the real property involved in the  
12 project; and (B) 80 percent of the cost of the machinery and equipment  
13 involved in the project;

14 (9) that the duration of the loan does not exceed 30 years on  
15 real property and the depreciable life on machinery and equipment;

16 (10) that the insurance agreement or the loan agreement pro-  
17 vides for subrogation of the authority to the claims and rights of the  
18 lender on terms satisfactory to the authority upon repayment of the  
19 insured loan from the industrial mortgage insurance fund;

20 (11) that the public interest is adequately protected by the  
21 terms of the loan and of the insurance agreement;

22 (12) that insurance of the loan will not cause the insured  
23 debt service coming due in any one calendar year on account of an in-  
24 sured loan or loans for any one mortgagor to exceed 20 percent of the  
25 amount in the industrial mortgage insurance fund when the finding is  
26 made; and

27 (13) that insurance of the loan will not cause the balance of  
28 all insured loans to exceed nine times the amount in the industrial  
29 mortgage insurance fund when the finding is made.

1           Sec. 44.61.165. ALTERNATIVE ASSISTANCE. When appropriate in the  
2 discretion of the authority, the authority shall inform sponsors of  
3 projects of available federal and private market programs to guarantee  
4 or otherwise assist in financing projects and shall assist sponsors in  
5 implementing the federal and private market programs through commercial  
6 and investment banks.

7           Sec. 44.61.215. TAXING POWER OF STATE. The authority may not  
8 pledge the credit or the taxing power of the state or its political  
9 subdivisions. The state and its political subdivisions are not liable  
10 for the debts of the authority.

11 \* Sec. 14. AS 44.61.220(5) is amended to read:

12           (5) "industrial facility [PLANT]" or "manufacturing facility  
13 [PLANT]" means a facility [PLANT] used or intended for use in connection  
14 with making, processing, preparing, or producing in any manner, goods,  
15 products or substances of any kind or nature or in connection with  
16 developing or utilizing a natural resource, or extracting, smelting,  
17 transporting, converting, assembling or producing in any manner,  
18 minerals, raw materials, chemicals, compounds, alloys, fibers, com-  
19 modities and materials, products or substances of any kind or nature,  
20 any [PLANT OR] facility used or intended for use in connection with air  
21 and water transportation, or any [PLANT OR] facility for the prevention,  
22 limitation or control of air or water pollution, for the disposal of  
23 sewage or solid waste, for onshore or offshore fish harvesting or pro-  
24 cessing, for onshore or offshore fish harvesting or processing support  
25 services, or for the local furnishing of electric energy or gas;

26 \* Sec. 15. AS 44.61.220(6) is amended to read:

27           (6) "facility" ["PLANT"] means real property, whether above  
28 or below mean high water, or an interest in it, and the buildings,  
29 improvements and structures constructed or to be constructed on or in

1 it, whether above, at or below ground or water level, and may include  
2 fixtures, machinery and equipment on it or in it; "facility" also means  
3 a vessel used to harvest, process or transport fishery resources and  
4 the gear and equipment on it or in it;

5 \* Sec. 16. AS 44.61.220(7) is amended to read:

6 (7) "project" means a manufacturing or industrial facility or  
7 facilities [PLANT OR PLANTS], the construction or acquisition of which  
8 is to be financed in whole or in part by the authority under this chap-  
9 ter;

10 \* Sec. 17. AS 44.61.220 is amended by adding a new paragraph to read:

11 (12) "sponsor" means a person endeavoring to secure the assis-  
12 tance of the authority in financing a project.

13 \* Sec. 18. All property, rights in land, buildings and equipment and any  
14 funds, money, revenues and assets of the Small Business Development Corpora-  
15 tion of Alaska (AS 44.60.020), repealed by sec. 19 of this Act, and of the  
16 Alaska State Development Corporation (AS 44.59.010), repealed by sec. 19 of  
17 this Act, shall immediately be transferred to the Alaska Industrial Develop-  
18 ment Authority (AS 44.61.020) as successor to the Small Business Development  
19 Corporation of Alaska and the Alaska State Development Corporation. Upon  
20 this transfer, all liabilities of the Small Business Development Corporation  
21 of Alaska and of the Alaska State Development Corporation are liabilities of  
22 the Alaska Industrial Development Authority.

23 \* Sec. 19. AS 44.59.010 - 44.59.450 and AS 44.60.010 - 44.60.390 are  
24 repealed.

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