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Offered: 4/21/80
Referred: Finance

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 754

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 power projects of the Alaska Power
7 Authority, and repealing the water resources revolving
8 loan fund; and providing for an effective date."

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

10 * Section 1. AS 44.56.080(13) is amended to read:

11 (13) to perform reconnaissance studies, feasibility

12 studies, and engineering and design with respect to power projects;

13 * Sec. 2. AS 44.56.080 is amended by adding a new paragraph to read:

14 (16) to recommend to the legislature

15 (A) the issuance of general obligation bonds of the
16 state to finance the construction of a power project if the autho-
17 rity first determines that the project cannot be financed by reve-
18 nue bonds of the authority at reasonable rates of interest;

19 (B) the pledge of the credit of the state to guarantee
20 repayment of all or any portion of revenue bonds issued to assist
21 in construction of power projects;

22 (C) an appropriation from the general fund

23 (i) for debt service on bonds or other project
24 purposes; or

25 (ii) to reduce the amount of debt financing for the
26 project;

27 (D) an appropriation to the power project fund for a
28 power project;

29 (E) an appropriation of a part of the income of the

1 renewable resources investment fund for a power project;

2 (F) development of a project under financing arrange-
3 ments with other entities using leveraged leases or other financing
4 methods.

5 * Sec. 3. AS 44.56.170(a) is amended to read:

6 (a) There is established as a separate fund the power project
7 [REVOLVING] fund which shall be [ADMINISTERED BY THE AUTHORITY AS A
8 TRUST FUND SEPARATE AND] distinct from any other money or funds of the
9 authority, and which includes only [SHALL BE COMPOSED OF APPROPRIATED]
10 money appropriated by the legislature [FUNDS AND INTEREST EARNED ON
11 LOANS BY THE FUND].

12 * Sec. 4. AS 44.56.170(b) is repealed and re-enacted to read:

13 (b) The authority may make loans from the fund

14 (1) to electric utilities, regional electric authorities,
15 cities, boroughs, regional and village corporations, village councils,
16 and nonprofit marketing cooperatives to pay the costs of

17 (A) reconnaissance studies, feasibility studies, license
18 and permit applications, preconstruction engineering, and design of
19 any power projects;

20 (B) constructing, equipping, modifying, improving, and
21 expanding small-scale power production facilities, conservation
22 facilities, bulk fuel storage facilities, and transmission and
23 distribution facilities, limited to fossil fuel, wind power, tidal,
24 geothermal, hydroelectric, or solar energy production, transmission
25 and distribution, and waste energy conservation facilities; and

26 (C) reconnaissance studies, preconstruction engineering,
27 design, construction, equipping, modification, and expansion of
28 potable water supply including surface storage and groundwater
29 sources and transmission of water from surface storage to existing

1 distribution systems;

2 (2) to a person for a power project if

3 (A) the loan is entered into under a leveraged lease
4 financing arrangement;

5 (B) the party which will be responsible for the project
6 is an electric utility, regional electric authority, city, borough,
7 regional or village corporation, village council, or nonprofit
8 marketing cooperative; and

9 (C) the person demonstrates to the authority that the
10 financing arrangement for the project will reduce project financing
11 costs below costs of comparable public power projects.

12 * Sec. 5. AS 44.56.170(e) is amended to read:

13 (e) Repayment of the loans shall be secured in any [SUCH] manner
14 which [AS] the authority determines is feasible to assure prompt repay-
15 ment under a loan agreement entered into with the borrower. The author-
16 ity may make an unsecured loan to a borrower regulated by the Alaska
17 Public Utilities Commission under AS 42.06 if the borrower has a sub-
18 stantial history of repaying long-term loans and the capacity to repay
19 the loan. [THE AUTHORITY MAY FORGIVE REPAYMENTS OF LOANS MADE FOR
20 RECONNAISSANCE STUDIES IF THE STUDY SHOWS THAT A PROJECT IS NOT FEASI-
21 BLE.] Under a loan agreement, repayment may be deferred for 10 years or
22 until the project for which the loan is made has achieved earnings from
23 its operations sufficient to pay the loan, whichever is earlier.

24 * Sec. 6. AS 44.56.170(f) is repealed and re-enacted to read:

25 (f) Hydroelectric projects are subject to the limitations on
26 interest and specific restrictions set out after each:

27 (1) Projects for which loans are outstanding from the water
28 resources revolving loan fund (AS 45.86) on July 13, 1978, may receive
29 additional financing from the power project fund; the additional financ-

1 ing

2 (A) shall be granted for a term not exceeding 50 years;

3 (B) shall be granted at an interest rate of not less
4 than three or more than five percent a year on the unpaid balance;

5 (C) shall require repayment of loan principal and inter-
6 est to begin on the earlier of

7 (i) the date of the start of commercial operation
8 of the project; or

9 (ii) 10 years from the date the loan is granted.

10 (2) Loans for hydroelectric projects

11 (A) shall be granted for a term not to exceed 50 years;

12 and

13 (B) shall be granted at an interest rate of three per-
14 cent.

15 * Sec. 7. AS 44.56.170 is amended by adding new subsections to read:

16 (g) Loan repayments and interest earned by loans shall be de-
17 posited in the state general fund.

18 (h) The legislature may forgive the repayment of a loan made for a
19 reconnaissance study when, on the basis of that study or a feasibility
20 study, the authority finds that a project is not feasible.

21 * Sec. 8. AS 44.56 is amended by adding new sections in article 5 to
22 read:

23 Sec. 44.56.177. RECONNAISSANCE STUDY. (a) To identify power
24 project alternatives for a community, the authority shall complete a
25 reconnaissance study for each proposed new project.

26 (b) A reconnaissance study shall

27 (1) survey all power sources available to the community and
28 adjacent area and evaluate the relative social and economic merits of
29 using alternative sources of power;

1 (2) include an assessment of the effect of the development of
2 alternative sources on the environment so as to assure that there is no
3 adverse effect to the environment of a magnitude which is sufficient to
4 make the project inadvisable;

5 (3) include public comment from residents of the community
6 and adjacent area.

7 (c) The authority shall adopt regulations defining

8 (1) the techniques which it shall apply to determine that the
9 information required by (b) of this section is obtained; and

10 (2) standard criteria and measures to accommodate comparative
11 analysis among alternative power sources.

12 Sec. 44.56.179. REVIEW OF RECONNAISSANCE STUDY BY DIVISION OF
13 BUDGET AND MANAGEMENT. (a) The division of budget and management shall
14 review reconnaissance studies for proposed projects of the authority.

15 (b) The review shall examine the reconnaissance study for compli-
16 ance with the requirements of AS 44.56.177(b) and (c). The division may
17 approve or disapprove the reconnaissance study. If the division of
18 budget and management disapproves of the study, it shall return the
19 reconnaissance study to the authority together with a comprehensive
20 statement of the reasons for its disapproval. The authority may amend
21 the portions of the reconnaissance study which the division of budget
22 and management has identified as deficient to comply with the require-
23 ments of AS 44.56.177(b) and (c), and resubmit the reconnaissance study
24 to the division of budget and management for its reconsideration.

25 (c) For purposes of this section, a project is approved if it has
26 not been disapproved by the division of budget and management within 30
27 days of submission of the reconnaissance study for the project to it by
28 the authority.

29 Sec. 44.56.181. FEASIBILITY STUDY AND FINANCE PLAN. (a) Unless

1 the reconnaissance study has been disapproved by the division of budget
2 and management under AS 44.56.179, the authority shall complete a feasi-
3 bility study and plan of finance for each proposed project.

4 (b) A feasibility study shall include

5 (1) information about the proposed project, including but not
6 limited to total project construction costs, total project operating
7 costs, the timing and amount of anticipated returns from the completed
8 project, a benefit-to-cost ratio, the potential effect of the project on
9 the environment of the area which will be served by the project when
10 completed, and the availability of alternative government financing;

11 (2) a statement of all assumptions which affect the economic
12 feasibility of the project, including but not limited to the discount
13 rate and interest rate of amounts of money used for the project, antici-
14 pated fuel prices, an escalation rate, state and local electric load
15 growth, and estimates of indirect costs and benefits; and

16 (3) a comparative analysis of all reasonable alternatives to
17 construction of the proposed project.

18 (c) The plan of finance shall include recommendations of the most
19 appropriate means to finance a project, including, but not limited to,

20 (1) the issuance of revenue bonds of the authority;

21 (2) the issuance of

22 (A) general obligation bonds of the state; or

23 (B) revenue bonds of the authority which are guaranteed
24 or partially guaranteed by the state;

25 (3) an appropriation from the general fund

26 (A) to pay debt service on bonds or for other project
27 purposes; or

28 (B) to reduce the amount of debt financing for the
29 project;

- 1 (4) a loan from the general fund;
2 (5) financing arrangements with other entities using lever-
3 aged leases or other financing methods;
4 (6) assistance from any federal agency, including, but not
5 limited to, the Rural Electrification Administration;
6 (7) a loan from the power project fund (AS 44.56.170(a)), or
7 from the renewable resources investment fund (AS 37.11.050); or
8 (8) any combination of financing arrangements authorized by
9 this subsection.

10 (d) The authority shall adopt regulations defining

- 11 (1) the techniques which it shall apply to determine that the
12 information required by (b) and (c) of this section is obtained; and
13 (2) standard criteria and measures to accommodate comparative
14 analysis among alternative financing arrangements.

15 Sec. 44.56.183. REVIEW OF FEASIBILITY STUDIES BY DIVISION OF
16 BUDGET AND MANAGEMENT. (a) The division of budget and management in
17 the Office of the Governor shall review feasibility studies for projects
18 of the authority for compliance with the provisions of AS 44.56.181(b).

19 (b) In its review of a project under this section, the division of
20 budget and management may obtain an independent evaluation of the feasi-
21 bility studies to determine compliance with the provisions of AS 44.56.-
22 181(b).

23 (c) When the division of budget and management has completed a
24 review of the feasibility study for a project under (a) and (b) of this
25 section, it shall submit a report to the governor. The report shall
26 examine the feasibility study for compliance with the requirements of
27 AS 44.56.181(b). The report of the division of budget and management
28 shall include a recommendation for approval or disapproval of the pro-
29 ject based on the division's examination of the feasibility study for

1 compliance with the requirements of AS 44.56.181(b).

2 (d) The report for a proposed project required by (c) of this
3 section shall be prepared and submitted not later than 60 days after the
4 feasibility study and plan of finance for the proposed project have been
5 received by the division of budget and management.

6 Sec. 44.56.185. SUBMISSION TO THE LEGISLATURE. (a) The authority
7 shall submit a feasibility study and plan of finance for a proposed new
8 project to the legislature. When the feasibility study and plan of
9 finance are submitted to the legislature under this section, they shall
10 be accompanied by the report of the division of budget and management
11 prepared under AS 44.56.183.

12 (b) The authority may not proceed with the engineering or design
13 phase of a project for which legislative approval is required until the
14 legislature approves a proposed new project. The legislature may
15 approve a proposed new project only by enacting legislation authorizing
16 that project.

17 Sec. 44.56.187. APPLICABILITY OF SECTIONS. The provisions of
18 AS 44.56.177 - 44.56.185 apply only to a proposed new project which

19 (1) generates more than 1.5 megawatts of power;

20 (2) requires an appropriation of more than \$1,000,000 from
21 the state general fund, from the power project fund, or from the renew-
22 able resources investment fund; or

23 (3) is based on a plan of financing which requires the issu-
24 ance of general obligation bonds or other pledge of the credit of the
25 state.

26 Sec. 44.56.189. PROJECT CONSTRUCTION. (a) If the new project is
27 to be designed, acquired and constructed by the authority, it shall be
28 designed, acquired and constructed as a public work of the state. For
29 the purpose of this section a new project does not include (1) an addi-

1 tion or modification to an existing project if the total cost of the
2 addition or modification does not exceed \$1,000,000; (2) repair or
3 reconstruction of a project; or (3) design, acquisition or construction
4 necessary to complete a project for which bonds have been issued. An
5 addition, modification, repair, reconstruction, design, acquisition or
6 construction for the purpose of completing a project may be undertaken
7 by the authority without any of the approvals necessary for a new pro-
8 ject.

9 (b) The authority may not issue bonds except after 60 days noti-
10 fication of its intent to issue bonds given to the governor and to the
11 legislature, if the legislature is in session, or to the Legislative
12 Budget and Audit Committee, if the legislature is not in session.

13 Sec. 44.56.195. OPERATION OF POWER PROJECTS. When a power project
14 is operated by the authority, revenues earned by the authority which
15 exceed (1) operating and maintenance expenses of the project and (2) the
16 interest on and amortization charges sufficient to retire bonds of the
17 authority issued for the project, and reserves for them, shall be trans-
18 mitted to the commissioner of revenue for deposit in the state general
19 fund.

20 * Sec. 9. AS 44.56.230(7) is repealed and re-enacted to read:

21 (7) "reconnaissance study" means a study conducted for the
22 purpose of assessing the present and future power needs of an area under
23 AS 44.56.177;

24 * Sec. 10. AS 44.56.230 is amended by adding new paragraphs to read:

25 (8) "feasibility study" means a study conducted for the
26 purpose of establishing the economic, environmental, and social prac-
27 ticality of completing a proposed power project under AS 44.56.181;

28 (9) "small-scale power production facility" means a facility
29 which, by design, is to produce less than 25 megawatts of power.

1 * Sec. 11. AS 44.56.180 and AS 45.86 are repealed.

2 * Sec. 12. TRANSITION: CURRENT PROJECTS OF THE AUTHORITY. On the effec-
3 tive date of this Act, unless a proposed project is exempt under AS 44.56.187
4 added by sec. 8 of this Act,

5 (1) if the division of budget and management determines that the
6 Alaska Power Authority has completed a reconnaissance study as that term was
7 defined by AS 44.56.230(7) before re-enactment of AS 44.56.230(7) by sec. 9
8 of this Act, the project for which the reconnaissance study was done is
9 exempt from the provisions of AS 44.56.177 and 44.56.179, added by sec. 8 of
10 this Act; the Alaska Power Authority shall proceed with preparation of a
11 feasibility study and plan of finance under AS 44.56.181 added by sec. 8 of
12 this Act;

13 (2) if the division of budget and management determines that the
14 Alaska Power Authority has completed both a reconnaissance study under
15 AS 44.56.080(13) and a statement under AS 44.56.180(c),

16 (A) and that statement has been approved by the legislature
17 under AS 44.56.180(c), the Alaska Power Authority may proceed with that
18 project under AS 44.56.189 added by sec. 8 of this Act;

19 (B) and that statement has not been approved by the legis-
20 lature under AS 44.56.180(c), the statement which the Alaska Power
21 Authority has prepared constitutes a feasibility study and plan of
22 finance for purposes of AS 44.56.181; the division of budget and manage-
23 ment may not review the statement for compliance with the requirements
24 of AS 44.56.183 added by sec. 8 of this Act before the statement is
25 submitted under AS 44.56.185, added by sec. 8 of this Act, to the gover-
26 nor and legislature.

27 * Sec. 13. (a) The balance of the water resources revolving loan fund
28 lapses into the general fund on the effective date of this Act.

29 (b) The principal and interest due on obligations created by loans made

1 by the water resources revolving loan fund shall be repaid to the commis-
2 sioner of commerce and economic development, and shall be transmitted by him
3 to the commissioner of revenue for deposit in the state general fund.

4 * Sec. 14. This Act takes effect July 1, 1980.
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