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Referred: Resources and  
Finance

1 IN THE HOUSE

BY THE RESOURCES-COMMITTEE

2 HOUSE BILL NO. 758

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the energy program for Alaska."

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

8 \* Section 1. AS 44.83.380(b) is amended to read:

9 (b) The energy program for Alaska is a program by which the au-  
10 thority may acquire or construct power projects with money appropriated  
11 by the legislature to the power development fund established in AS 44.-  
12 83.382. A power project may be acquired or constructed as part of the  
13 energy program for Alaska only if

14 (1) for a power project that will generate more than 1.5  
15 megawatts of power and on which construction has not begun

16 (A) the power project is submitted to and approved by  
17 the legislature in accordance with procedures set out in AS 44.-  
18 83.177 - 44.83.187; and

19 (B) the authority makes the determinations required by  
20 AS 44.83.394 with respect to the power project;

21 (2) for a power project that will generate more than 1.5  
22 megawatts of power and on which construction has begun or is completed,  
23 the authority makes the determinations required by AS 44.83.394 with re-  
24 spect to the power project; and

25 (3) for a power project that will generate 1.5 megawatts  
26 of power or less, on which construction has not begun, the authority  
27 prepares a feasibility study for the power project in accordance with  
28 AS 44.83.181 and makes the determinations required by AS 44.83.394 with  
29 respect to the power project.

1 \* Sec. 2. AS 44.83.382(b) is amended to read:

2 (b) The fund consists of [INCLUDES

3 (1)] money appropriated to it by the legislature [; AND

4 (2) REVENUES COLLECTED FROM THE SALE OF POWER THAT ARE NOT  
5 REQUIRED BY LAW TO BE DEPOSITED INTO THE GENERAL FUND].

6 \* Sec. 3. AS 44.83.384(b) is amended to read:

7 (b) Money in the fund may be used under (a) of this section only  
8 for a power project that

9 (1) meets the revenue requirements of AS 44.83.394; [AND]

10 (2) provides the lowest reasonable power cost to utility  
11 customers in the market area for the estimated life of the power project,  
12 whether operated by itself or in conjunction with other power projects  
13 in the market area, and that operates or will operate on one or more of  
14 the following:

15 (A) renewable energy resources, including but not  
16 limited to hydroelectric power, wind, biomass, geothermal, tidal or  
17 solar energy, or a method that uses temperature differentials or  
18 other physical properties of the ocean;

19 (B) coal or peat;

20 (C) energy derived from waste heat; or

21 (D) fossil fuel, including oil or natural gas; and

22 (3) has been approved by a majority of the voters in an  
23 election held under AS 44.83.385.

24 \* Sec. 4. AS 44.83 is amended by adding a new section to read:

25 Sec. 44.83.385. ELECTIONS ON POWER PROJECTS. (a) Before the  
26 authority may use money in the power development fund established in  
27 AS 44.83.382 to acquire or construct a power project, the power project  
28 must be approved by a majority of the voters at an election held under  
29 this section. However, the authority may use money in the power develop-

1 ment fund for a feasibility study required by AS 44.83.380(b) without  
2 voter approval under this section.

3 (b) Before an election is held under this section the authority  
4 shall determine in writing the amount of money from the power develop-  
5 ment fund the authority intends to use to acquire or construct a power  
6 project. The authority shall then provide a copy of its written deter-  
7 mination, together with a description of the area that will be served by  
8 the power project, to the division of elections, Office of the Lieutenant  
9 Governor, the division of budget and management, Office of the Governor,  
10 and to each member of the legislature. If the power project is subject  
11 to review under AS 44.83.177 - 44.83.187, the authority shall prepare  
12 its written determination under this subsection after the division of  
13 budget and management submits its report under AS 44.83.183(c). If the  
14 power project is not subject to review under AS 44.83.177 - 44.83.187,  
15 the authority shall prepare its written determination under this sub-  
16 section after the division of budget and management approves a deter-  
17 mination under AS 44.83.394 that the power project is economically  
18 feasible.

19 (c) After receipt of a written determination under (b) of this  
20 section, the division of elections shall conduct a special election in  
21 the area that will be served by the power project as that area is de-  
22 scribed by the authority under (b) of this section. The special election  
23 shall be held in accordance with the procedures in AS 29.68.090. The  
24 question that the voters will decide at the special election is whether  
25 the authority may acquire or construct the power project. The ballot  
26 must include a statement of the amount of money determined under (b) of  
27 this section to be used to acquire or construct the power project.

28 (d) The authority shall include with its written determination  
29 under (b) of this section a description of the power project which

1 includes a statement of the total cost of the power project and a state-  
2 ment of the anticipated social, environmental, and economic impacts of  
3 the power project in the area in which the power project will be lo-  
4 cated. The description shall be reviewed and approved by the division  
5 of budget and management. The division of elections shall deliver the  
6 description of the power project to the area in which the special elec-  
7 tion will be held. The delivery shall be by individual mailings to each  
8 registered voter in the area, by publication and distribution of a  
9 voters' pamphlet, by publication in a newspaper of general circulation  
10 in the area, or by another method that the division of elections deter-  
11 mines is reasonably likely to provide the voters with notice of the  
12 description. The delivery shall be completed at least three weeks  
13 before the special election is conducted.

14 (e) The authority may withdraw a written determination prepared  
15 under (b) of this section or a description prepared under (d) of this  
16 section at any time before the special election is conducted by notifying  
17 the division of elections, the division of budget and management, and  
18 each member of the legislature of the withdrawal in writing.

19 (f) If, due to a substantial change in or addition to the acquisi-  
20 tion or construction of a power project that has been approved by the  
21 voters in a special election held under (c) of this section, the author-  
22 ity determines that additional money from the power development fund is  
23 necessary for the power project, the authority must seek another a  
24 special election in accordance with (a) - (e) of this section before the  
25 additional money may be used. For the purposes of this subsection the  
26 division of budget and management shall determine whether a change in or  
27 addition to the acquisition or construction of a power project is sub-  
28 stantial.

29 (g) This section applies to a power project on which construction

1 has begun at the time the authority seeks to acquire the power project  
2 and to other power projects to be acquired or constructed by the author-  
3 ity.

4 \* Sec. 5. AS 44.83.394 is amended to read:

5 Sec. 44.83.394. REVENUE REQUIREMENTS. The authority may not use  
6 money in the fund for a power project [EXCEPT IN COMPLIANCE WITH AS 44.  
7 83.177 - 44.83.187, AND] unless, within one year before using the money,  
8 the authority determines that the power project is economically feasible  
9 and the division of budget and management in the Office of the Governor  
10 approves the authority's finding. In determining whether a power pro-  
11 ject is economically feasible under this section, the authority may rely  
12 upon a feasibility study prepared for the power project under AS 44.83.-  
13 181 if that feasibility study is not more than one year old. If the  
14 feasibility study is more than one year old, the authority may revise  
15 the feasibility study and rely upon the revised feasibility study  
16 [THAT, AFTER CONSTRUCTION, OPERATION OF THE POWER PROJECT WILL BE ABLE  
17 TO PROVIDE REVENUE SUFFICIENT TO RETURN ANNUALLY TO THE STATE FIVE  
18 PERCENT OF THE AMOUNT THAT THE AUTHORITY HAS SPENT FROM THE FUND FOR THE  
19 POWER PROJECT].

20 \* Sec. 6. AS 44.83.398(a) is amended by adding a new paragraph to read:

21 (3) to establish a rate structure for the sale of power at  
22 retail to all classes of consumers including industrial consumers that  
23 complies with the requirements of (h) - (k) of this section.

24 \* Sec. 7. AS 44.83.398(b) is repealed and reenacted to read:

25 (b) The authority shall establish and maintain a wholesale power  
26 rate applicable to a power project that it acquires or constructs under  
27 the energy program for Alaska. Beginning in the year in which a power  
28 project becomes functional, the authority annually shall compute the  
29 wholesale power rate applicable to the power project. The authority

1 shall, by regulation, establish a method for applying a wholesale power  
2 rate to various types of power projects and shall, by regulation, estab-  
3 lish a procedure for the adjustment of a wholesale power rate to compen-  
4 sate for an overestimate or underestimate in a previous year of the  
5 amounts described in (1) and (2) of this subsection. Except for adjust-  
6 ments provided by regulation under this subsection, the wholesale power  
7 rate must equal the rate that the authority estimates is necessary to  
8 provide

9 (1) program receipts sufficient to pay, beginning in the year  
10 in which the power project becomes functional,

11 (A) operation, maintenance, and equipment replacement  
12 costs, including costs of a loan attributable to this paragraph  
13 under AS 44.83.399 of the power project;

14 (B) debt service on bonds issued for the power project,  
15 if any; and

16 (C) safety inspections and investigations of the power  
17 project by the authority; and

18 (2) a return to the state of its investment in the power  
19 project, with adjustments for inflation, as provided in (f) - (h) of  
20 this section, over a 33-1/3 year period, or over a period equal to  
21 three-fourths of the life of the project as determined by the authority,  
22 whichever is less.

23 \* Sec. 8. AS 44.83.398 is amended by adding new subsections to read:

24 (f) For the purposes of (b)(2) of this section, the authority, at  
25 the time it initially establishes a wholesale power rate applicable to a  
26 power project, shall determine the average rate of inflation, based on  
27 the federal consumer price index for the United States for the 33-year  
28 period preceding the establishment of the wholesale power rate. Every  
29 10 years after the initial establishment of a wholesale power rate, the

1 authority shall reevaluate the average rate of inflation for the 33-year  
2 period preceding the recalculation.

3 (g) For the first year in which a wholesale power rate is in  
4 effect, the authority shall determine the amount to be returned to the  
5 state under (b)(2) of this section by multiplying the state's investment  
6 in the power project by the quotient achieved from dividing the period  
7 of time described in (b)(2) of this section into one. For each subse-  
8 quent year, the authority shall determine the amount to be returned to  
9 the state under (b)(2) of this section by multiplying the amount deter-  
10 mined under this subsection for the preceding year by the sum of one  
11 plus the average rate of inflation calculated by the authority under (f)  
12 of this section. After the period of time described in (b)(2) of this  
13 section, the amount to be returned to the state under (b)(2) of this  
14 section is zero unless other state investments in the power project are  
15 made after the wholesale power rate is initially established. For a  
16 state investment in a power project made after the initial wholesale  
17 power rate is established, the authority shall separately determine the  
18 amount to be returned to the state under (b)(2) of this section in the  
19 manner provided in this subsection.

20 (h) A rate structure established under (a)(3) of this section  
21 shall consist of at least two rates. The utility shall charge the  
22 lowest rate to consumers for the first 250 kilowatt hours of power used  
23 during a monthly billing period. For residential consumers the utility  
24 shall specify successively higher ranges of power usage to which suc-  
25 cessively higher rates within its rate structure apply. A rate struc-  
26 ture established under (a)(3) of this section must, to the maximum  
27 extent possible, encourage efficient use of power by residential con-  
28 sumers.

29 (i) The lowest rate charged to a consumer under (h) of this sec-

1 tion may not exceed an amount that represents the consumer's propor-  
2 tionate share of the utility's administrative costs, the utility's costs  
3 under (b)(1) of this section, the utility's cost of providing supple-  
4 mental power generation within the area served by the utility, the  
5 utility's distribution costs, and the utility's return on its invest-  
6 ment. However, if the authority determines that a higher rate is neces-  
7 sary in order to allow a utility to pay the wholesale power rate re-  
8 quired by (b) of this section, the authority may authorize that higher  
9 rate.

10 (j) At least two weeks before a utility establishes or amends a  
11 rate structure under (a)(3) of this section, the utility shall conduct a  
12 public hearing within the area served by the utility to explain the  
13 proposed rate structure or amendment and to receive comments from the  
14 public. The utility shall provide public notice of the hearing at least  
15 two weeks before the hearing is held. The utility may provide the  
16 public notice by newspaper or radio or by posting the notice within the  
17 area served by the public utility.

18 (k) The authority shall adopt regulations in accordance with the  
19 Administrative Procedure Act (AS 44.62) to implement (a)(3) and (h) -  
20 (j) of this section.

21 (l) In this section, "the state's investment in the power project"  
22 means the total amount invested by the state for the acquisition or  
23 construction of a power project, including loans and grants from the  
24 state, other than loans or grants made for the purposes described in  
25 (b)(1) of this section and other than loans made from the proceeds of  
26 bonds issued for the power project.

27 \* Sec. 9. AS 44.83 is amended by adding a new section to read:

28 Sec. 44.83.399. POWER PROJECT EMERGENCY MAINTENANCE FUND. There  
29 is established in the authority the power project emergency maintenance

1 fund. The power project emergency maintenance fund consists of money  
2 appropriated to it by the legislature. The authority may use money in  
3 the power project emergency maintenance fund to pay the cost of mainte-  
4 nance, including equipment replacement, of a power project it acquires  
5 or constructs under the energy program for Alaska if other appropria-  
6 tions are not available or are insufficient to pay that cost. For the  
7 purposes of AS 44.83.398(h), the use of money in the power project  
8 maintenance fund for a power project is a loan to the power project for  
9 a purpose described in AS 44.83.398(b)(1) bearing interest at nine  
10 percent a year and with a term determined by the authority but not to  
11 exceed 30 years. The authority shall, in its annual budget request under  
12 AS 44.83.210, request an appropriation to repay a loan under this  
13 section. If the appropriation is made, the use of the money is a grant  
14 that is a state investment in the power project for the purposes of  
15 AS 44.83.398(h).

16 \* Sec. 10. The provisions of AS 44.83.384(b)(3), added by sec. 3 of this  
17 Act, and AS 44.83.385, added by sec. 4 of this Act, do not apply to a power  
18 project on which construction has begun before the effective date of this Act  
19 notwithstanding the provisions of AS 44.83.385(g).

20 \* Sec. 11. AS 44.83.390 and 44.83.398(c) are repealed.  
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