

Original sponsor: Resources Committee

Offered: 3/31/82
Referred: Finance

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 758 (Resources)

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 Alaska Power Authority."

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

8 * Section 1. AS 44.83.090(b) is amended to read:

9 (b) The authority is not subject to the jurisdiction of the Alaska
10 Public Utilities Commission. Except as provided in AS 44.83.398(h) -
11 (j), nothing [NOTHING] in AS 44.83.010 - 44.83.510 grants the authority
12 any jurisdiction over the services or rates of any public utility or
13 diminishes or otherwise alters the jurisdiction of the Alaska Public
14 Utilities Commission with respect to any public utility including any
15 right the commission may have to review and approve or disapprove con-
16 tracts for the purchase of electricity by a public utility.

17 * Sec. 2. AS 44.83.110 is amended by adding a new subsection to read:

18 (h) If the authority decides to covenant to issue bonds or to
19 issue bonds secured by a capital reserve fund, the bonds may not be
20 issued until 10 days after the authority has mailed notification to the
21 State Bond Committee and the Legislative Budget and Audit Committee by
22 certified mail of its intention to establish a capital reserve fund to
23 secure the bond issue. The notification shall include the amount of the
24 capital reserve fund to be established, the amount of bonds proposed to
25 be issued, and the total cost of the project for which the bonds are to
26 be issued. The notification shall be accompanied by an estimate by the
27 authority of the need to withdraw money from the capital reserve fund
28 during the term of the bond issue, the amount that it may be necessary
29 to withdraw, and the time at which withdrawals are estimated to be

1 needed. The authority shall annually prepare a revised estimate,
2 considering the same factors, and a statement of all withdrawals that
3 have occurred from the date of issuance of the bonds to the end of the
4 calendar year. The revised estimate and statement shall be submitted to
5 the State Bond Committee and the Legislative Budget and Audit Committee
6 by January 30 of the succeeding year.

7 * Sec. 3. AS 44.83.181(b)(1) is amended to read:

8 (1) information about the proposed project, including but
9 not limited to estimates of total project construction costs, total
10 project operating costs, the costs of transmission systems and reserve
11 power requirements, the timing and amount of anticipated returns from
12 the completed project, a benefit-to-cost ratio, the potential effect
13 of the project on the environment of the area which will be served by
14 the project when completed including, when appropriate, recommended
15 measures to mitigate damage to fisheries and wildlife resources and mea-
16 sures to protect or enhance fisheries and wildlife resources, and the
17 availability of alternative government financing;

18 * Sec. 4. AS 44.83.185(c) is amended to read:

19 (c) The legislature shall consider and must approve all proposed
20 new projects except proposed new projects that are exempt under AS 44.-
21 83.187. The legislature may approve a proposed new project only by
22 enacting law that authorizes the project and approves a maximum con-
23 struction cost for [AUTHORIZING] that project.

24 * Sec. 5. AS 44.83 is amended by adding a new section to read:

25 Sec. 44.83.186. FINAL COST ESTIMATE AND REAUTHORIZATION BY THE
26 LEGISLATURE. If a project is approved under AS 44.83.185(c), the
27 authority shall obtain a final cost estimate for the project from an
28 independent source qualified to make such an estimate. If the final
29 cost estimate does not exceed the cost estimate presented by the

1 authority to the legislature under AS 44.83.185 by more than five
2 percent, the authority may proceed with the construction of the project.
3 If the final cost estimate exceeds the cost estimate presented by the
4 authority to the legislature under AS 44.83.185 by more than five
5 percent, the authority shall revise its feasibility study and, if it
6 determines that the project remains feasible, the authority shall
7 submit the revised feasibility study and the independent cost estimate
8 to the legislature. A proposed project that is returned for reconsider-
9 ation by the legislature under this section may not be constructed
10 unless the legislature reauthorizes it by enacting law for that purpose.

11 * Sec. 6. AS 44.83.189 is amended by adding a new subsection to read:

12 (b) A contractor who has participated in the preparation of the
13 feasibility study for or in the engineering design of the project may
14 not participate in the construction management or the construction of
15 the project by the authority.

16 * Sec. 7. AS 44.83.380(b) is amended to read:

17 (b) The energy program for Alaska is a program by which the au-
18 thority may acquire or construct power projects with money appropriated
19 by the legislature to the power development fund established in AS 44.-
20 83.382. A power project may be acquired or constructed as part of the
21 energy program for Alaska only if

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

24 (A) the power project is submitted to and approved by
25 the legislature in accordance with procedures set out in AS 44.-
26 83.177 - 44.83.187; and

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

29 (2) for a power project that will generate more than 1.5

1 megawatts of power and on which construction has begun or is completed,
2 the authority makes the determinations required by AS 44.83.394 with re-
3 spect to the power project; and

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

9 * Sec. 8. AS 44.83.382(b) is amended to read:

10 (b) The fund consists of [INCLUDES

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

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

14 * Sec. 9. AS 44.83.384(b) is amended to read:

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

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

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

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

27 (B) coal or peat;

28 (C) energy derived from waste heat; or

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

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

3 * Sec. 10. AS 44.83 is amended by adding a new section to read:

4 Sec. 44.83.385. ELECTIONS ON POWER PROJECTS. (a) Before the
5 authority may use money in the power development fund established in
6 AS 44.83.382 to acquire or construct a power project, the power project
7 must be approved by a majority of the voters at an election held under
8 this section. However, the authority may use money in the power develop-
9 ment fund for a feasibility study required by AS 44.83.380(b) without
10 voter approval under this section.

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

27 (c) After receipt of a written determination under (b) of this
28 section, the division of elections shall conduct a special election in
29 the area that will be served by the power project as that area is de-

1 scribed by the authority under (b) of this section. The special election
2 shall be held in accordance with the procedures in AS 29.68.090. The
3 question that the voters will decide at the special election is whether
4 the authority may acquire or construct the power project. The ballot
5 must include a statement of the amount of money determined under (b) of
6 this section to be used to acquire or construct the power project.

7 (d) The authority shall include with its written determination
8 under (b) of this section a description of the power project that
9 includes a statement of the total cost of the power project and a state-
10 ment of the anticipated social, environmental, and economic impacts of
11 the power project in the area in which the power project will be lo-
12 cated. The description shall be reviewed and approved by the division
13 of budget and management. The division of elections shall deliver the
14 description of the power project to the area in which the special elec-
15 tion will be held. The delivery shall be by individual mailings to each
16 registered voter in the area, by publication and distribution of a
17 voters' pamphlet, by publication in a newspaper of general circulation
18 in the area, or by another method that the division of elections deter-
19 mines is reasonably likely to provide the voters with notice of the
20 description. The delivery shall be completed at least three weeks
21 before the special election is conducted.

22 (e) The authority may withdraw a written determination prepared
23 under (b) of this section or a description prepared under (d) of this
24 section at any time before the special election is conducted by notify-
25 ing the division of elections, the division of budget and management,
26 and each member of the legislature of the withdrawal in writing.

27 (f) If, due to a substantial change in or addition to the acquisi-
28 tion or construction of a power project that has been approved by the
29 voters in a special election held under (c) of this section, the author-

1 ity determines that additional money from the power development fund is
2 necessary for the power project, the authority must seek another special
3 election in accordance with (a) - (e) of this section before the addi-
4 tional money may be used. For the purposes of this subsection the
5 division of budget and management shall determine whether a change in or
6 addition to the acquisition or construction of a power project is sub-
7 stantial.

8 (g) This section applies to a power project on which construction
9 has begun at the time the authority seeks to acquire the power project
10 and to other power projects to be acquired or constructed by the author-
11 ity.

12 * Sec. 11. AS 44.83.394 is amended to read:

13 Sec. 44.83.394. REVENUE REQUIREMENTS. The authority may not use
14 money in the fund for a power project [EXCEPT IN COMPLIANCE WITH AS 44.-
15 83.177 - 44.83.187, AND] unless, within one year before using the money,
16 the authority determines that the power project is economically feasible
17 and the division of budget and management in the Office of the Governor
18 approves the authority's finding. In determining whether a power pro-
19 ject is economically feasible under this section, the authority may rely
20 upon a feasibility study prepared for the power project under AS 44.83.-
21 181 if that feasibility study is not more than one year old. If the
22 feasibility study is more than one year old, the authority may revise
23 the feasibility study and rely upon the revised feasibility study
24 [THAT, AFTER CONSTRUCTION, OPERATION OF THE POWER PROJECT WILL BE ABLE
25 TO PROVIDE REVENUE SUFFICIENT TO RETURN ANNUALLY TO THE STATE FIVE
26 PERCENT OF THE AMOUNT THAT THE AUTHORITY HAS SPENT FROM THE FUND FOR THE
27 POWER PROJECT].

28 * Sec. 12. AS 44.83.398(a) is amended to read:

29 (a) The authority shall sell power produced from power projects

1 acquired or constructed under the energy program for Alaska. A utility
2 that purchases power produced by a power project of the authority shall
3 agree with the authority

4 (1) to give preference in the sale of power at retail to all
5 classes of customers [CONSUMERS] of power except industrial customers
6 [CONSUMERS];

7 (2) to charge industrial customers [CONSUMERS] of power a
8 rate determined by the authority in accordance with (d) of this section;

9 (3) to establish a rate structure for the sale of power at
10 retail to all classes of customers including industrial customers that
11 complies with the requirements of (h) - (k) of this section.

12 * Sec. 13. AS 44.83.398(b) is repealed and reenacted to read:

13 (b) The authority shall establish and maintain a wholesale power
14 rate applicable to a power project that it acquires or constructs under
15 the energy program for Alaska. Beginning in the year in which a power
16 project becomes functional, the authority annually shall compute the
17 wholesale power rate applicable to the power project. The authority
18 shall, by regulation, establish a method for applying a wholesale power
19 rate to various types of power projects and shall, by regulation, estab-
20 lish a procedure for the adjustment of a wholesale power rate to compen-
21 sate for an overestimate or underestimate in a previous year of the
22 amounts described in (1) and (2) of this subsection. Except for adjust-
23 ments provided by regulation under this subsection, the wholesale power
24 rate must equal the rate that the authority estimates is necessary to
25 provide

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

28 (A) operation, maintenance, and equipment replacement
29 costs, including costs of a loan attributable to this paragraph

1 under AS 44.83.399 of the power project;

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

4 (C) safety inspections and investigations of the power
5 project by the authority; and

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

11 * Sec. 14. AS 44.83.398(d) is amended to read:

12 (d) A rate for an industrial customer [CONSUMER] under (a)(2) of
13 this section

14 (1) may exceed the wholesale power rate determined under (b)
15 of this section;

16 (2) may not be less than the rate charged residential cus-
17 tomers [CONSUMERS].

18 * Sec. 15. AS 44.83.398 is amended by adding new subsections to read:

19 (f) For the purposes of (b)(2) of this section, the authority, at
20 the time it initially establishes a wholesale power rate applicable to a
21 power project, shall determine the average rate of inflation, based on
22 the federal consumer price index for the United States for the 33-year
23 period preceding the establishment of the wholesale power rate. Every
24 10 years after the initial establishment of a wholesale power rate, the
25 authority shall calculate the average rate of inflation for the preceding
26 33-year period and increase the wholesale power rate by a percentage
27 equal to the increase in the average rate of inflation for the preceding
28 33 years or for the preceding 10 years, whichever is less.

29 (g) For the first year in which a wholesale power rate is in

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

17 (h) A rate structure established under (a)(3) of this section
18 shall consist of at least three rates. The lowest rate shall be known
19 as the "equity rate" and shall be the rate charged by the utility to
20 customers for the first 250 kilowatt hours of power used during a monthly
21 billing period. For residential customers the utility shall specify
22 successively higher ranges of power usage to which successively higher
23 rates within its rate structure apply.

24 (i) The lowest rate charged to a customer under (h) of this sec-
25 tion may not exceed an amount that represents the customer's propor-
26 tionate share of the utility's non-capital costs. However, if the
27 authority determines that a higher rate is necessary in order to allow a
28 utility to pay the wholesale power rate required by (b) of this section,
29 the authority may authorize that higher rate.

1 (j) At least two weeks before a utility establishes or amends a
2 rate structure under (a)(3) of this section, the utility or the Alaska
3 Public Utilities Commission shall conduct a public hearing within the
4 area served by the utility to explain the proposed rate structure or
5 amendment and to receive comments from the public. The utility shall
6 provide public notice of the hearing at least two weeks before the
7 hearing is held. The utility may provide the public notice by newspaper
8 or radio or by posting the notice within the area served by the public
9 utility.

10 (k) In addition to the requirements of (h) - (j) of this section
11 relating to a utility's rate structure, a utility that is subject to the
12 jurisdiction of the Alaska Public Utilities Commission must comply with
13 the provisions of AS 42.05.361 - 42.05.441. Nothing in this section
14 affects the authority of the Alaska Public Utilities Commission under
15 AS 42.05.361 - 42.05.441.

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

19 (m) In this section,

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

26 (2) "non-capital costs" means a utility's costs other than
27 costs under (b)(1)(B) and (b)(2) of this section.

28 * Sec. 16. AS 44.83 is amended by adding a new section to read:

29 Sec. 44.83.399. POWER PROJECT EMERGENCY MAINTENANCE FUND. There

1 is established in the authority the power project emergency maintenance
2 fund. The power project emergency maintenance fund consists of money
3 appropriated to it by the legislature. The authority may use money in
4 the power project emergency maintenance fund to pay the cost of mainte-
5 nance, including equipment replacement, of a power project it acquires
6 or constructs under the energy program for Alaska if other appropria-
7 tions are not available or are insufficient to pay that cost. For the
8 purposes of AS 44.83.398(h), the use of money in the power project main-
9 tenance fund for a power project is a loan to the power project for a
10 purpose described in AS 44.83.398(b)(1) bearing interest at nine percent
11 a year and with a term determined by the authority but not to exceed 30
12 years. The authority shall, in its annual budget request under AS 44.83.-
13 210, request an appropriation to repay a loan under this section. If
14 the appropriation is made, the use of the money is a grant that is a
15 state investment in the power project for the purposes of AS 44.83.-
16 398(h).

17 * Sec. 17. AS 44.83.425(4) is amended to read:

18 (4) "industrial customer [CONSUMER]" means a customer of a
19 utility which customer has a peak power demand in excess of 500 kilowatts
20 and uses the power principally for

21 (A) manufacturing;

22 (B) pipeline transportation;

23 (C) the recovery or processing of minerals;

24 (D) the processing of timber, agricultural, or seafood
25 products or their by-products; or

26 (E) the operation of facilities owned by the federal
27 government;

28 * Sec. 18. AS 44.83.390 and 44.83.398(c) are repealed.

29 * Sec. 19. The provisions of AS 44.83.384(b)(3), added by sec. 9 of this

1 Act, and AS 44.83.385, added by sec. 10 of this Act, do not apply to a power
2 project on which construction has begun before the effective date of this Act
3 notwithstanding the provisions of AS 44.83.385(g).

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