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Referred: Resources and
Finance

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 646

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 which 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 the procedures set out in
18 AS 44.83.177 - 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 which 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 which 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(1)] money appropriated to it by
3 the legislature [; AND (2) REVENUES COLLECTED FROM THE SALE OF POWER
4 THAT ARE NOT REQUIRED BY LAW TO BE DEPOSITED INTO THE GENERAL FUND].

5 * Sec. 3. AS 44.83.384(b) is amended by adding a new paragraph to read:

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

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

9 Sec. 44.83.385. ELECTIONS. (a) Before the authority may use
10 money in the power development fund established in AS 44.83.382 to
11 acquire or construct a power project, the power project must be approved
12 by a majority of the voters at an election held under this section.
13 However, the authority may use money in the power development fund for a
14 feasibility study required by AS 44.83.380(b) without voter approval
15 under this section.

16 (b) The authority shall determine in writing the amount of money
17 from the power development fund the authority intends to use to acquire
18 or construct a power project. The authority shall provide a copy of its
19 written determination, together with a description of the area which
20 will be served by the power project to the division of elections in the
21 Office of the Lieutenant Governor, the division of budget and management
22 in the Office of the Governor, and to each legislator. If the power
23 project is subject to review under AS 44.83.177 - 44.83.187, the author-
24 ity shall prepare its written determination under this subsection after
25 the division of budget and management submits its report under AS 44.-
26 83.183(c). If the power project is not subject to review under AS 44.-
27 83.177 -- 44.83.187, the authority shall prepare its written determina-
28 tion under this subsection after the division of budget and management
29 approves the authority's finding under AS 44.83.394 that the power

1 project is economically feasible.

2 (c) After receipt of a written determination under (b) of this
3 section, the division of elections shall conduct a special election in
4 the area described by the authority under (b) of this section. The
5 special election shall be held in accordance with the procedures des-
6 cribed in AS 29.68.090. The question which the voters will decide at
7 the special election is whether the authority may acquire or construct
8 the power project. The ballot must include a statement of the amount of
9 money indicated under (b) of this section to be used to acquire or
10 construct the power project.

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

25 (e) The authority may withdraw a written determination prepared
26 under (b) of this section or a description prepared under (d) of this
27 section at any time before the election provided for in (c) of this
28 section is held by notifying the division of elections, the division of
29 budget and management, and each legislator of the withdrawal in writing.

1 (f) If, as a result of a substantial change in or a substantial
2 addition to the acquisition or construction of a power project which
3 has been approved by the voters in a special election held under (c) of
4 this section, the authority determines that additional money from the
5 power development fund is necessary for the power project, the authority
6 must seek a special election in accordance with (a) - (e) of this sec-
7 tion before the authority may use the additional money. The division of
8 budget and management shall determine whether a change in or addition to
9 the acquisition or construction of a power project is substantial for
10 the purposes of this section.

11 (g) This section applies to a power project on which construction
12 has begun at the time the authority seeks to acquire the power project
13 as well as to other power projects to be acquired or constructed by the
14 authority.

15 * Sec. 5. AS 44.83.394 is amended to read:

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

1 POWER PROJECT].

2 * Sec. 6. AS 44.83.398(b) is repealed and reenacted to read:

3 (b) The authority shall establish and maintain a wholesale power
4 rate applicable to a power project which it acquires or constructs under
5 the energy program for Alaska. Beginning in the year in which a power
6 project becomes functional, the authority annually shall compute the
7 wholesale power rate applicable to the power project. The authority
8 shall, by regulation, establish a method for applying a wholesale power
9 rate to various types of power projects and shall, by regulation, estab-
10 lish a procedure for the adjustment of a wholesale power rate to compen-
11 sate for an overestimate or underestimate in a previous year of the
12 amounts described in (1) and (2) of this subsection. Except for adjust-
13 ments provided by regulation under this subsection, the wholesale power
14 rate must equal the rate which the authority estimates is necessary to
15 provide

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

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

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

23 (C) safety inspections and investigations of the power
24 project by the authority; and

25 (2) over a 33 1/3 year period, a return to the state of its
26 investment in the power project, with adjustments for inflation, as pro-
27 vided in (f) -- (h) of this section.

28 * Sec. 7. AS 44.83.398 is amended by adding new subsections to read:

29 (f) For the purposes of (b)(2) of this section, the authority, at

1 the time it initially establishes a wholesale power rate applicable to a
2 power project, shall determine the average rate of inflation, based upon
3 the federal consumer price index for the United States for the 33-year
4 period preceding the establishment of the wholesale power rate. Every
5 10 years after the initial establishment of a wholesale power rate, the
6 authority shall recalculate the average rate of inflation for the 33-
7 year period preceding the recalculation.

8 (g) For the first year in which a wholesale power rate is in
9 effect, the authority shall determine the amount to be returned to the
10 state under (b)(2) of this section by multiplying the state's investment
11 in the power project by .03. For each subsequent year, the authority
12 shall determine the amount to be returned to the state under (b)(2) of
13 this section by multiplying the amount determined under this subsection
14 for the preceding year by the sum of one plus the average rate of infla-
15 tion calculated by the authority under (f) of this section. After 33
16 1/3 years, the amount to be returned to the state under (b)(2) of this
17 section is zero unless other state investments in the power project are
18 made after the wholesale power rate is initially established. For a
19 state investment in a power project made after the initial wholesale
20 power rate is established, the authority shall separately determine the
21 amount to be returned to the state under (b)(2) of this section in the
22 manner provided in this subsection.

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

29 * Sec. 8. AS 44.83 is amended by adding a new section to read:

1 Sec. 44.83.399. POWER PROJECT EMERGENCY MAINTENANCE FUND. There
2 is established in the authority the power project emergency maintenance
3 fund. The power project emergency maintenance fund consists of money
4 appropriated to it by the legislature. The authority may use money in
5 the power project emergency maintenance fund to pay the cost of mainten-
6 ance, including equipment replacement, of a power project it acquires or
7 constructs under the energy program for Alaska if other appropriations
8 are not available or are insufficient to pay that cost. For the pur-
9 poses of AS 44.83.398(h), the use of money in the power project mainten-
10 ance fund for a power project is a loan to the power project for a
11 purpose described in AS 44.83.398(b)(1) bearing interest at nine percent
12 and with a term determined by the authority but not to exceed 30 years.
13 However, the authority shall, in its annual budget request under AS 44.-
14 83.210, seek an appropriation to repay the loan. If the appropriation
15 is made, the use of the money is a grant which is a state investment in
16 the power project for the purposes of AS 44.83.398(h).

17 * Sec. 9. The provisions of AS 44.83.384(b)(3), added by sec. 3 of this
18 Act, and AS 44.83.385, added by sec. 4 of this Act, do not apply to a power
19 project on which construction has begun before the effective date of this Act
20 notwithstanding the provisions of AS 44.83.385(g).

21 * Sec. 10. AS 44.83.390 and 44.83.398(c) are repealed.
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