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1 IN THE SENATE

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2

SENATE BILL NO. 50

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to establishment of a downtown
7 development authority by a municipality."

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

9 * Section 1. AS 29.48 is amended by adding new sections to read:

10 ARTICLE 6. DOWNTOWN DEVELOPMENT AUTHORITY.

11 Sec. 29.48.340. ESTABLISHMENT OF AUTHORITY. (a) A municipality
12 may establish a downtown development authority. No parcel of property
13 shall be included in more than one authority established under AS 29.-
14 48.340 - 29.48.490. The authority shall be a corporate public body
15 that may sue and be sued in any court of the state. The authority
16 possesses all powers necessary to carry out the purpose of its incor-
17 poration. The enumeration of a power in AS 29.48.340 - 29.48.490 may
18 not be construed as a limitation on the general powers of the author-
19 ity.

20 (b) When the governing body of a municipality determines that it
21 is necessary for the best interests of the public to halt property
22 value deterioration and increase property tax valuation where possible
23 in its business district, to eliminate the causes of that deteriora-
24 tion, and to promote economic growth, the governing body of that
25 municipality may, by resolution, declare its intention to establish an
26 authority.

27 (c) In the resolution of intent, the governing body shall set a
28 date for the holding of a public hearing on the adoption of a proposed
29 ordinance establishing the authority and designating the boundaries of

1 the downtown district. Notice of the public hearing shall be pub-
2 lished twice in a newspaper of general circulation in the municipal-
3 ity, not less than 20 nor more than 40 days before the date of the
4 hearing. Notice shall also be mailed to the property taxpayers of
5 record in the proposed district not less than 20 days before the
6 hearing. Failure to receive the notice does not invalidate these
7 proceedings. Notice of the hearing shall be posted in at least 20
8 conspicuous and public places in the proposed downtown district not
9 less than 20 days before the hearing. The notice shall state the
10 date, time, and place of the hearing, and shall describe the bound-
11 aries of the proposed downtown district. A citizen, taxpayer, or
12 property owner of the municipality has the right to be heard in regard
13 to the establishment of the authority and the boundaries of the pro-
14 posed downtown district. The governing body of the municipality may
15 not incorporate land into the downtown district not included in the
16 description contained in notice of public hearing, but it may elimi-
17 nate described land from the downtown district in the final determina-
18 tion of the boundaries.

19 (d) After the public hearing, if the governing body of the
20 municipality intends to proceed with the establishment of the author-
21 ity, it must do so by ordinance.

22 (e) The governing body of the municipality may by ordinance
23 alter or amend the boundaries of the downtown district to include or
24 exclude land from the downtown district.

25 Sec. 29.48.350. BOARD. (a) An authority shall be under the
26 supervision and control of a board consisting of the chief executive
27 officer of the municipality and eight members appointed by the chief
28 executive officer of the municipality. The appointment of the members
29 is subject to approval by the governing body of the municipality. At

1 least five of the members shall be persons having an interest in
2 property located in the downtown district. At least one of the
3 members shall be a resident of the downtown district, if the downtown
4 district has 100 or more persons residing within it. Of the members
5 first appointed, two shall be appointed for one year, two for two
6 years, two for three years, and two for four years. A member shall
7 hold office until the member's successor is appointed. Thereafter, a
8 member shall serve for a term of four years. An appointment to fill a
9 vacancy shall be made by the chief executive officer of the municipal-
10 ity for the unexpired term only. Members of the board serve without
11 compensation, but shall be reimbursed for actual and necessary ex-
12 penses. The chairman of the board shall be elected by the board.

13 (b) The board shall adopt rules governing its procedure and the
14 holding of regular meetings, subject to the approval of the governing
15 body of the municipality. Special meetings may be held when called in
16 the manner provided in the rules of the board. Meetings of the board
17 shall be open to the public.

18 (c) On notice and an opportunity to be heard, a member of the
19 board may be removed for cause by the governing body. Removal of a
20 member is subject to review by the superior court.

21 Sec. 29.48.360. EXECUTIVE DIRECTOR AND EMPLOYEES. (a) The
22 board may employ and fix the compensation of a director, subject to
23 the approval of the governing body of the municipality. The director
24 shall serve at the pleasure of the board. A member of the board is
25 not eligible to hold the position of director.

26 (b) The board may retain legal counsel to advise the board in
27 the proper performance of its duties. The legal counsel shall repre-
28 sent the authority in actions brought by or against the authority.

29 (c) The board may employ other personnel considered necessary by

1 the board.

2 (d) The employees of an authority may participate in municipal
3 retirement and insurance programs of the municipality.

4 Sec. 29.48.370. POWERS. The board may

5 (1) prepare an analysis of economic changes taking place in
6 the downtown district;

7 (2) study and analyze the impact of metropolitan growth on
8 the downtown district;

9 (3) plan and propose the construction, the renovation,
10 repair, remodeling, rehabilitation, restoration, preservation, or
11 reconstruction of a public facility, an existing building, or a
12 multiple-family dwelling unit that may be necessary or appropriate to
13 the execution of a plan that, in the opinion of the board, aids in the
14 economic growth of the downtown district;

15 (4) develop long-range plans, in cooperation with the
16 agency that is chiefly responsible for planning in the municipality,
17 designed to halt the deterioration of property values in the downtown
18 district and to promote the economic growth of the downtown district,
19 and take such steps as may be necessary to persuade property owners to
20 implement the plans to the fullest extent possible;

21 (5) implement any plan of development in the downtown
22 district necessary to achieve the purposes of AS 29.48.340 - 29.48.490
23 in accordance with the powers of the authority as granted by AS 29.-
24 48.340 - 29.48.490;

25 (6) make and enter into contracts necessary or incidental
26 to the exercise of its powers and the performance of its duties;

27 (7) acquire and convey, or otherwise dispose of, land and
28 other property that the authority determines is reasonably necessary
29 to achieve the purposes of AS 29.48.340 - 29.48.490;

1 (8) improve land and construct, reconstruct, rehabilitate,
2 restore and preserve, equip, improve, maintain, repair, and operate
3 any building within the downtown district for the use of any person;

4 (9) fix, charge, and collect fees, rents, and charges for
5 the use of a building or property under its control or any part of it,
6 or facility in it, and pledge the fees, rents, and charges for the
7 payment of revenue bonds issued by the authority;

8 (10) lease a building or property under its control;

9 (11) accept grants and donations from a public or private
10 source;

11 (12) acquire and construct public facilities.

12 Sec. 29.48.380. EMINENT DOMAIN. A municipality may take private
13 property under AS 09.55.420 - 09.55.460 for the purpose of transfer to
14 the authority, and may transfer the property to the authority for use
15 in an approved development, on terms and conditions it considers
16 appropriate, and the taking, transfer, and use shall be considered
17 necessary for public purposes and for the benefit of the public.

18 Sec. 29.48.390. FINANCING. (a) The activities of the authority
19 shall be financed from one or more of the following sources:

20 (1) donations to the authority for the performance of its
21 functions;

22 (2) money borrowed and to be repaid;

23 (3) revenue from any property, building, or facility owned,
24 leased, licensed, or operated by the authority or under its control,
25 subject to the limitations imposed upon the authority by trusts or
26 other agreements;

27 (4) proceeds of a tax increment financing plan established
28 under AS 29.48.410;

29 (5) money obtained from other sources approved by the

1 governing body of the municipality.

2 (b) Money received by the authority and not covered under (a) of
3 this section shall immediately be deposited to the credit of the
4 authority, subject to disbursement. Except as provided in AS 29.48.-
5 340 - 29.48.490 the municipality may not obligate itself and may not
6 in accordance with AS 29.48.340 - 29.48.490 be obligated to pay any
7 sums from public money other than money received by the municipality
8 in accordance with this section, for or on account of the activities
9 of the authority.

10 Sec. 29.48.400. BONDS. The authority may borrow money and issue
11 its negotiable revenue bonds established under the procedures in
12 AS 29.58. Revenue bonds issued by the authority are not a debt of the
13 municipality or the state.

14 Sec. 29.48.410. TAX INCREMENT FINANCING. (a) When the author-
15 ity determines that it is necessary for the achievement of the pur-
16 poses of AS 29.48.340 - 29.48.490, the authority shall prepare and
17 submit a tax increment financing plan to the governing body of the
18 municipality. The tax increment financing plan shall (1) include a
19 development plan as provided in AS 29.48.420, a detailed explanation
20 of the tax increment procedure, the amount of bonded indebtedness to
21 be incurred, the duration of the program and shall (2) be in compli-
22 ance with (d) - (f) of this section. The tax increment financing plan
23 shall contain a statement of the estimated impact of tax increment
24 financing on the assessed values of the municipality in which the
25 development area is located. The tax increment financing plan may
26 provide for the use of part or all of the captured assessed value,
27 but the portion intended to be used by the authority shall be clearly
28 stated in the financing plan.

29 (b) Approval of the tax increment financing plan shall be in

1 accordance with the notice, hearing, and disclosure provisions of
2 AS 29.48.430. When the development plan is part of the tax increment
3 financing plan, only one hearing and approval procedure is required
4 for the two plans together.

5 (c) A tax increment financing plan may be modified if the modi-
6 fication is approved by the governing body upon notice and after
7 public hearings and agreements as are required for approval of the
8 original plan.

9 (d) The amount of tax increment to be transmitted to the author-
10 ity by the municipality is that portion of the tax levy paid each year
11 on real and personal property in the project area on the captured
12 assessed value.

13 (e) The authority shall expend the tax increments received for
14 the development program only in accordance with the tax increment
15 financing plan. Surplus money shall revert to the municipality. The
16 governing body of the municipality may abolish the tax increment
17 financing plan when it finds that the purposes for which it was estab-
18 lished are accomplished.

19 (f) Annually the authority shall submit to the governing body of
20 the municipality a report on the status of the tax increment financing
21 account. The report shall include the amount and source of revenue in
22 the account; the amount and purpose of expenditures from the account;
23 the amount of principal and interest on any outstanding bonded in-
24 debtedness; the initial assessed value of the project area; the
25 captured assessed value retained by the authority; the tax increments
26 received; and any additional information the governing body considers
27 necessary. The report shall be published in a newspaper of general
28 circulation in the municipality.

29 (g) As used in this section

1 (1) "captured assessed value" means the amount in any year
2 by which the current assessed value of the project area exceeds the
3 initial assessed value;

4 (2) "initial assessed value" means the most recently
5 assessed value of all the taxable property within the boundaries of
6 the development area at the time the ordinance establishing the tax
7 increment financing plan is approved; property exempt from taxation at
8 the time of the determination of the initial assessed value shall be
9 included as zero.

10 Sec. 29.48.420. DEVELOPMENT PLAN. When a board decides to
11 finance a project in the downtown district by the use of revenue bonds
12 or tax increment financing, it shall prepare a development plan. The
13 development plan shall contain:

14 (1) the designation of boundaries of the development area
15 in relation to highways, streets, streams, or otherwise;

16 (2) the location and extent of existing streets and other
17 public facilities within the development area and shall designate the
18 location, character, and extent of the categories of public and pri-
19 vate land uses proposed for the development area, and shall include a
20 legal description of the development area;

21 (3) a description of existing improvements in the develop-
22 ment area to be demolished, repaired, or altered, a description of any
23 repairs and alterations, and an estimate of the time required for
24 completion;

25 (4) the location, extent, character, and estimated cost of
26 the improvements including rehabilitation contemplated for the devel-
27 opment area and an estimate of the time required for completion;

28 (5) a statement of the construction or stages of con-
29 struction planned, and the estimated time of completion of each stage;

- 1 (6) a description of any parts of the development area to
2 be left as open space and the use contemplated for the space;
- 3 (7) a description of any portions of the development area
4 that the authority desires to sell, donate, exchange, or lease to or
5 from the municipality and the proposed terms;
- 6 (8) a description of desired zoning changes and changes in
7 streets, street levels, intersections, and utilities;
- 8 (9) an estimate of the cost of the development and a state-
9 ment of the proposed method of financing the development and the
10 ability of the authority to arrange the financing;
- 11 (10) designation of the person to whom all or a portion of
12 the development is to be leased, sold, or conveyed in any manner and
13 for whose benefit the project is being undertaken if that information
14 is available to the authority;
- 15 (11) the procedures for bidding for the leasing, purchasing,
16 or conveying in any manner of all or a portion of the development upon
17 its completion, if there is no express or implied agreement between
18 the authority and persons, that all or a portion of the development
19 will be leased, sold, or conveyed in any manner to those persons;
- 20 (12) estimates of the number of persons residing in the
21 development area and the number of families and individuals to be
22 displaced; if occupied residences are designated for acquisition and
23 clearance by the authority, a development plan shall include a survey
24 of the families and individuals to be displaced, including their
25 income and racial composition, a statistical description of the hous-
26 ing supply in the community, including the number of private and
27 public units in existence or under construction, the condition of
28 those in existence, the number of owner-occupied and renter-occupied
29 units, the annual rate of turnover of the various types of housing and

1 the range of rents and sale prices, an estimate of the total demand
2 for housing in the community, and the estimated capacity of private
3 and public housing available to displaced families and individuals;

4 (13) a plan for establishing priority for the relocation of
5 persons displaced by the development in any new housing in the devel-
6 opment area;

7 (14) provision for the costs of relocating persons displaced
8 by the development and financial assistance and reimbursement of
9 expenses, including litigation expenses and expenses incident to the
10 transfer of title, in accordance with the standards and provisions of
11 the federal Uniform Relocation Assistance and Real Property Acquisi-
12 tion Policies Act of 1970 (P.L. 91-646, 42 U.S.C. secs. 4601, et seq).

13 Sec. 29.48.430. APPROVAL OF DEVELOPMENT PLAN. (a) Before
14 adoption of an ordinance approving a development plan or tax increment
15 financing plan, the governing body shall hold a public hearing on the
16 development plan. Notice of the time and place of the hearing shall
17 be given by publication twice in a newspaper of general circulation
18 designated by the municipality, the first of which shall be not less
19 than 20 days before the date set for the hearing. Notice of the
20 hearing shall be posted in at least 20 conspicuous and public places
21 in the downtown district not less than 20 days before the hearing.
22 Notice shall also be mailed to all property taxpayers of record in the
23 downtown district not less than 20 days before the hearing.

24 (b) Notice of the time and place of hearing on a development
25 plan shall contain a description of the proposed development area in
26 relation to highways, streets, streams, or otherwise; a statement that
27 maps, plats, and a description of the development plan, including the
28 method of relocating families and individuals who may be displaced
29 from the area, are available for public inspection at a place

1 designated in the notice, and that all aspects of the development plan
2 will be open for discussion at the public hearing; and other informa-
3 tion that the governing body considers appropriate. At the time set
4 for hearing, the governing body shall provide an opportunity for
5 interested persons to be heard and shall receive and consider commu-
6 nications in writing with reference to the development plan. The
7 hearing shall provide the fullest opportunity for expression of opin-
8 ion, for argument on the merits, and for introduction of documentary
9 evidence pertinent to the development plan. The governing body shall
10 make and preserve a record of the public hearing, including all data
11 presented at the hearing.

12 (c) After a public hearing on the development plan or the tax
13 increment financing plan, or both, the governing body shall determine
14 whether the development plan or tax increment financing plan consti-
15 tutes a public purpose. If it determines that the development plan or
16 tax increment financing plan constitutes a public purpose, the govern-
17 ing body shall approve or reject the plan, or approve it with modi-
18 fication by ordinance based on the following considerations:

19 (1) the findings and recommendations of a development area
20 citizens council, if a development area citizens council was formed;

21 (2) the plan meets the requirements set out in AS 29.-
22 48.420;

23 (3) the proposed method of financing the development is
24 feasible and the authority has the ability to arrange the financing;

25 (4) the development is reasonable and necessary to carry
26 out the purposes of AS 29.48.340 - 29.48.490;

27 (5) the land included in the development area to be
28 acquired is reasonably necessary to carry out the purposes of the plan
29 and of AS 29.48.340 - 29.48.490 in an efficient and economically

1 satisfactory manner;

2 (6) the development plan is in reasonable accord with the
3 master plan of the municipality;

4 (7) public services, such as fire and police protection and
5 utilities, are or will be adequate to service the project area;

6 (8) changes in zoning, streets, street levels, inter-
7 sections, and utilities are reasonably necessary for the project and
8 for the municipality.

9 (d) Amendments to an approved development plan or tax increment
10 financing plan must be submitted by the authority to the governing
11 body for approval or rejection.

12 Sec. 29.48.440. RELOCATION. A person to be relocated under
13 AS 29.48.340 - 29.48.490 shall be given not less than 90 days written
14 notice to vacate unless modified by court order for good cause.

15 Sec. 29.48.450. CITIZENS COUNCIL. (a) If a proposed develop-
16 ment area has residing within it 100 or more residents, a development
17 area citizens council shall be established at least 90 days before the
18 public hearing on the development plan or tax increment financing
19 plan. The development area citizens council shall be established by
20 the governing body of the municipality and shall consist of not less
21 than nine members. The members of the development area citizens
22 council shall be residents of the development area and shall be ap-
23 pointed by the governing body.

24 (b) A development area citizens council shall be representative
25 of the development area.

26 (c) A development area citizens council shall act as an advisory
27 body to the authority and the governing body in the adoption of the
28 development plan or tax increment financing plan.

29 (d) Periodically a representative of the authority responsible

1 for preparation of a development plan or tax increment financing plan
2 within the development area shall consult with and advise the develop-
3 ment area citizens council regarding the aspects of a development
4 plan, including the development of new housing for relocation purposes
5 located either inside or outside of the development area. The consul-
6 tation shall begin before any final decisions by the authority and the
7 governing body regarding a development or tax increment financing
8 plan. The consultation shall continue throughout the preparation and
9 implementation of the development plan or tax increment financing
10 plan.

11 (e) Meetings of the development area citizens council shall be
12 open to the public. Notice of the time and place of the meetings
13 shall be given by publication in a newspaper of general circulation
14 not less than five days before the dates set for meetings of the
15 development area citizens council. A person present at those meetings
16 shall have reasonable opportunity to be heard.

17 (f) A record of the meetings of a development area citizens
18 council, including information and data presented, shall be maintained
19 by the council.

20 (g) A development area citizens council may request and receive
21 from the authority information and technical assistance relevant to
22 the preparation of the development plan for the development area.

23 (h) Failure of a development area citizens council to organize
24 or to consult with and be advised by the authority, or failure to
25 advise the governing body, as provided in AS 29.48.340 - 29.48.490
26 does not preclude the adoption of a development plan by a municipality
27 if the municipality complies with the other provisions of AS 29.48.-
28 340 - 29.48.490.

29 (i) Within 20 days after the public hearing on a development

1 plan or tax increment financing plan, the development area citizens
2 council shall notify the governing body, in writing, of its findings
3 and recommendations concerning a proposed development plan.

4 (j) A development area citizens council may not be required and,
5 if formed, may be dissolved

6 (1) on petition of not less than 20 percent of the adult
7 resident population of the development area by the last federal de-
8 cennial or municipal census, a governing body, after public hearing
9 and by a two-thirds vote, may adopt an ordinance for the development
10 area to eliminate the necessity of a development area citizens coun-
11 cil;

12 (2) when there are less than 18 residents, real property
13 owners, or representatives of establishments located in the develop-
14 ment area eligible to serve on the development area citizens council;

15 (3) upon termination of the authority by ordinance of the
16 governing body.

17 Sec. 29.48.460. BUDGET. (a) The director of the authority
18 shall prepare and submit for the approval of the board a budget for
19 the operation of the authority for the ensuing fiscal year. The
20 budget shall be prepared in the manner and contain the information
21 required of municipal departments. Before the budget may be adopted
22 by the board, it shall be approved by the governing body of the munic-
23 ipality. Money of the municipality may not be included in the budget
24 of the authority except that money authorized in AS 29.48.340 - 29.-
25 48.490 or by the governing body of the municipality.

26 (b) The governing body of the municipality may assess a reason-
27 able pro rata share of the money for the cost of handling and auditing
28 the money against the money of the authority, other than that com-
29 mitted. This cost shall be paid annually by the board from an

1 appropriate item in its budget.

2 Sec. 29.48.470. HISTORIC SITE. A public facility, building, or
3 structure that is determined by the municipality to have significant
4 historical interests shall be preserved in a manner considered neces-
5 sary by the municipality in accordance with laws relative to the
6 preservation of historical sites.

7 Sec. 29.48.480. DISSOLUTION. An authority that has completed
8 the purpose for which it was organized shall be dissolved by ordinance
9 of the governing body of the municipality. The property and assets of
10 the authority remaining after the satisfaction of the obligations of
11 the authority shall belong to the municipality.

12 Sec. 29.48.490. DEFINITIONS. In AS 29.48.340 - 29.48.490

13 (1) "authority" means a downtown development authority
14 established by a municipality;

15 (2) "board" means the board of a downtown development
16 authority.