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1 IN THE SENATE

2 SENATE BILL NO. 70

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Alaska Energy Dividend Fund
7 and providing for the use of Alaska Permanent Fund
8 income to finance electrical generating facilities in
9 the state; and providing for an effective date."

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

11 * Section 1. AS 44.83 is amended by adding new sections to read:

12 ARTICLE 10. ALASKA ENERGY DIVIDEND FUND.

13 Sec. 44.83.500. ESTABLISHMENT. (a) The Alaska Energy Dividend
14 Fund is established as a separate fund in the authority, distinct from
15 other money or funds of the authority, consisting of money transferred
16 from the income of the Alaska Permanent Fund (AS 37.13) under AS 44.-
17 83.520.

18 (b) The authority shall administer the dividend fund and invest
19 the dividend fund in the same manner provided in AS 37.10.070.

20 Sec. 44.83.510. PURPOSE OF DIVIDEND FUND. The authority may
21 make grants from the dividend fund to projects that serve eligible
22 energy project service districts in amounts and under terms and condi-
23 tions established under AS 44.83.500 - 44.83.620, and under regula-
24 tions adopted in accordance with AS 44.83.500 - 44.83.620 for the
25 purpose of constructing electrical generating facility projects in the
26 state.

27 Sec. 44.83.520. TRANSFER OF MONEY FROM PERMANENT FUND. Notwith-
28 standing any other provision of law, each year the Commissioner of
29 Revenue shall transfer to the dividend fund 50 percent of the income

1 of the Alaska Permanent Fund (AS 37.13) earned during the fiscal year
2 ending on June 30 of the current year.

3 Sec. 44.83.530. ELIGIBILITY FOR GRANTS. A district that has
4 been certified by the authority under AS 44.83.570 is eligible to
5 receive a grant for an electrical generating facility project under
6 AS 44.83.500 - 44.83.620.

7 Sec. 44.83.540. APPLICATION FOR FORMATION OF ENERGY PROJECT
8 SERVICE DISTRICTS. (a) Any of the following entities or a combina-
9 tion of two or more of the following entities may make an applica-
10 tion to the authority for formation of a district under AS 44.83.500 -
11 44.83.620:

- 12 (1) an electric utility
- 13 (2) a regional electric authority;
- 14 (3) a city or borough;
- 15 (4) a regional or village corporation;
- 16 (5) a village council; or
- 17 (6) a nonprofit marketing cooperative.

18 (b) An application for formation of a district shall describe

- 19 (1) the project proposed;
- 20 (2) the size and scope of the project;
- 21 (3) the proposed service area for the project;
- 22 (4) the persons and entities participating in the applica-
23 tion for formation of the district;
- 24 (5) the entity that proposes to operate the project; and
- 25 (6) any other information that the authority may require by
26 regulation.

27 Sec. 44.83.545. ENERGY PROJECT SERVICE DISTRICTS FOR AUTHORITY
28 PROJECTS. (a) The authority may authorize a district for a project
29 for which reconnaissance studies, feasibility studies and finance

1 plans have been performed or are underway under AS 44.83.177 -
2 44.83.185.

3 (b) The authority may propose a district for a project and shall
4 approve or deny that district in the manner provided for other pro-
5 posed districts under AS 44.83.500 - 44.83.620.

6 Sec. 44.83.550. APPROVAL OF SERVICE DISTRICTS. (a) The author-
7 ity shall approve or deny an application for a district within three
8 months after receipt of a completed application under AS 44.83.540.

9 (b) In determining whether a district should be approved the
10 authority shall determine whether the district's proposed project has
11 a reasonable possibility of successful completion.

12 (c) If the application is denied, the authority shall state the
13 reasons for denial. If the denial is based on deficiencies in appli-
14 cation information, the authority shall allow resubmission of an
15 amended application within a reasonable time after the denial.

16 Sec. 44.83.560. ELECTION TO CERTIFY SERVICE DISTRICT. (a)
17 Within 30 days of approval of an application for the establishment of
18 a district, the authority shall submit to the Director of Elections

19 (1) a description of the geographic area covered by the
20 district, prepared with sufficient precision to allow the director of
21 elections to determine the election districts and precincts that are
22 included in whole or in part in the proposed district; and

23 (2) information necessary to enable the director of elec-
24 tions to prepare an official ballot under (c) of this section.

25 (b) The director of elections shall notify the authority within
26 30 days after receipt of the submission under (a) of this section of
27 the sufficiency of the submission. If the director of elections
28 determines that there is insufficient information to place the dis-
29 trict question on the ballot, the director shall notify the authority

1 not more than 30 days after receiving the information and shall speci-
2 fy the additional information that is required. The authority shall
3 provide the additional information within 30 days of receipt of notice
4 from the director of elections under this subsection.

5 (c) The question of approval or disapproval of the formation of
6 a proposed district shall be placed on an official ballot in all
7 election precincts that are located in whole or in part in the pro-
8 posed district at a special election held under (d) of this section.

9 (d) The director of elections shall call a special election on
10 approval or disapproval of a district under (c) of this section to be
11 held on a date not less than 60 days or more than 90 days after the
12 date that notification is given that the submission is sufficient. If
13 a primary, general, or special statewide election is held not less
14 than 60 days or more than 90 days after the date that notification is
15 given that the submission is sufficient, the special election under
16 this subsection shall be combined with the primary, general, or spe-
17 cial statewide election.

18 (e) The ballot required by (c) of this section shall, in clear
19 and easily understood language, indicate the size and nature of the
20 project for which the district is proposed and the population and
21 geographic area of the district, and shall state that ratification of
22 the district does not involve a direct appropriation of state money
23 but authorizes the district to receive a grant to develop and con-
24 struct the proposed project. The question shall appear on the ballot
25 in substantially the following form:

26 QUESTION

27 "Shall the proposed energy project service district be
28 approved?"

29 Yes []

No []

1 Sec. 44.83.570. CERTIFICATION OF ENERGY PROJECT SERVICE DIS-
2 TRICTS FOLLOWING ELECTION. (a) The director of elections shall
3 certify to the authority the results of an election required under
4 AS 44.43.560.

5 (b) Within 30 days after the receipt of certification of elec-
6 tion results under (a) of this section, the authority shall

7 (1) certify establishment of the district if the proposal
8 was approved in the certification election; or

9 (2) deny certification of the proposed district if the
10 proposal was not approved in the certification election.

11 (c) A district that is not certified under this section may not
12 receive a grant under AS 44.83.500 - 44.83.620. A qualified applicant
13 may reapply to establish a district after failure to gain voter ap-
14 proval at a certification election if the reapplication is made more
15 than two years after that election.

16 Sec. 44.83.580. GRANTS FOR PROJECTS. (a) A district that has
17 been approved and certified under AS 44.83.500 - 44.83.620 is eligible
18 for a grant to construct an electrical generating facility project to
19 serve that district.

20 (b) A grant to a district shall be made for the purpose of
21 providing development money for that district's project. Receipt of a
22 grant under AS 44.83.500 - 44.83.620 does not disqualify a district
23 from receiving other financial assistance from the federal or state
24 government, or from municipalities or other public sources.

25 Sec. 44.83.590. LIMITATION OF GRANT AMOUNTS. (a) Except as
26 provided in (b) and (c) of this section, a grant made under AS 44.83.-
27 500 - 44.83.620 may not exceed an amount equal to \$5,000 multiplied by
28 the total population of the energy project service district in which
29 the project is located in the year the district is certified by the

1 authority.

2 (b) In each state fiscal year after June 30, 1983 the base
3 amount stated in (a) of this section shall be increased by a percen-
4 tage equal to the percentage increase, if any, in the consumer price
5 index for the state of Alaska as prepared by the Bureau of Labor
6 Statistics, United States Department of Labor or a successor agency,
7 for the preceding 12 calendar months.

8 (c) The base amount stated in (a) of this section shall be
9 adjusted for different areas of the state to reflect differences in
10 the cost of living and in construction costs in different districts.
11 The cost of living and construction costs in Anchorage shall be used
12 as the base for the adjustment required by this subsection. The
13 authority shall implement this subsection by the adoption of regula-
14 tions.

15 (d) The maximum available grant amount for a second or subse-
16 quent proposed electrical generating facility project serving a dis-
17 trict or portion of a district shall be the amount calculated under
18 (a) - (c) of this section, less the amount already granted to the
19 district or portion of the district.

20 (e) The reduction in the available grant for a proposed electri-
21 cal generating facility project that serves a district that overlaps
22 another district shall be an amount calculated as follows:

23 (1) Amounts previously granted to each existing district
24 contained in the new or proposed districts shall be determined and
25 adjusted under (b) of this section.

26 (2) The previous grant amount determined in (1) of this
27 subsection shall be multiplied by a fraction, the numerator of which
28 is the population at the time of the previous grant of the portion of
29 the existing district contained in the new or proposed district, and

1 the denominator of which is the total population of the existing
2 district at the time of the previous grant.

3 (3) The available grant for the new or proposed district is
4 the amount determined under (a) - (c) of this section less the amount
5 determined under (2) of this subsection.

6 Sec. 44.83.600. TERMS OF GRANTS. (a) A grant made under
7 AS 44.83.500 - 44.83.620 is final upon approval by the authority and
8 shall remain available to the grantee district unless it is revoked
9 under AS 44.83.610. Disbursements for a proposed electrical generat-
10 ing facility project shall be made as follows:

11 (1) Amounts disbursed by the authority for construction of
12 a proposed electrical generating project before the project receives
13 final licensing authority from state and federal agencies, shall be
14 made at times that the authority may determine, but prelicensing
15 disbursements may not exceed five percent of the total grant amount.

16 (2) Amounts disbursed by the authority for construction of
17 a proposed electrical generating project after the project receives
18 final state and federal licensing authority, shall be on a schedule
19 determined by the authority. The authority shall determine a disbur-
20 sement schedule with reference to

21 (A) the construction schedule of the project;

22 (B) the financing schedule of the project, including
23 the timing and amount of project debt to be incurred; and

24 (C) indenture or other debt financing agreements
25 entered into or contemplated on behalf of the project.

26 (b) The balance of a grant may not be disbursed under (a)(2) of
27 this section until the authority makes a final determination that the
28 project is feasible, based on a review of a plan of implementation
29 submitted by the grantee district that contains

- 1 (1) a financial plan for the project;
2 (2) an analysis of the market for the power to be produced
3 by the project; and
4 (3) a comparative analysis of the proposed project with
5 alternative sources for the electrical power.

6 (c) A disbursement schedule determined by the authority under
7 (a) of this section shall, to the maximum extent possible, reduce
8 project costs and maximize earnings of the dividend fund by appro-
9 priate timing of disbursements.

10 Sec. 44.83.610. TERMINATION OF GRANT. (a) A grant that has
11 been approved by the authority under AS 44.83.580 but from which
12 disbursements have not been made shall be reviewed annually by the
13 authority. If, after consultation with sponsors and other interested
14 parties, the authority determines that the proposed electrical gen-
15 erating facility will not be built, or that construction will be
16 substantially and unreasonably delayed, the authority may revoke the
17 grant.

18 (b) A grant that has been approved by the authority and from
19 which disbursements have been made may not be revoked unless

20 (1) in the case of prelicensing disbursements, five years
21 has elapsed after the project has received state and federal licensing
22 authority for the project and the authority determines that the proj-
23 ect cannot be financed, constructed and operated under the license
24 terms; or

25 (2) in the case of a project for which post-licensing
26 disbursements have been made, the authority determines that the pro-
27 ject cannot be further financed, constructed, and operated.

28 Sec. 44.83.620. DEFINITIONS. In AS 44.83.500 - 44.83.620

29 (1) "district" means an energy project service district;

1 and

2 (2) "dividend fund" means the Alaska Energy Dividend Fund.

3 * Sec. 2. AS 42.05.381 is amended by adding a new subsection to read:

4 (e) The cost of capital or return on investment for a hydroelec-
5 tric project for which a grant has been received under AS 43.83.500 -
6 43.83.620 may not be included in a rate or charge established for
7 residential customers of a utility regulated by this chapter for the
8 first 1,000 kilowatt hours a month per residential connection.

9 * Sec. 3. AS 43.23 is repealed.

10 * Sec. 4. Money and other assets held in the dividend fund repealed by
11 this Act (AS 43.23.045), except for money needed to pay 1982 permanent fund
12 dividends due but not paid on the effective date of this Act, are trans-
13 ferred to the Alaska Energy Dividend Fund (AS 44.83.500) on the effective
14 date of this Act.

15 * Sec. 5. Section 3 of this Act applies to permanent fund dividend
16 distributions for years after 1982.

17 * Sec. 6. This Act takes effect immediately in accordance with AS 01.-
18 10.070(c).