

Offered: 5/26/83  
Referred: Rules

Original sponsor: Rules/Governor

1 IN THE SENATE BY THE FINANCE COMMITTEE  
2 CS FOR SENATE BILL NO. 168 (Finance)  
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 the Alaska Power Authority; and  
7 providing for an effective date."  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
9 \* Section 1. AS 44.83.040 is amended to read:  
10 Sec. 44.83.040. OFFICERS; MEETINGS; [AND] QUORUM. The directors  
11 shall elect one of their number as chairman and may elect other offi-  
12 cers they determine desirable. The powers of the authority are vested  
13 in the directors, and four directors of the authority constitute a  
14 quorum. Action may be taken and motions and resolutions adopted by  
15 the authority at a meeting by the affirmative vote of a majority of  
16 the [AT LEAST THREE] directors present. The directors of the authori-  
17 ty serve without compensation, but they shall receive the same travel  
18 pay and per diem as provided by law for board members.  
19 \* Sec. 2. AS 44.83.040 is amended by adding new subsections to read:  
20 (b) The board may meet and transact business by an electronic  
21 medium if  
22 (1) public notice of the time and locations where the meet-  
23 ing will be held by an electronic medium has been given in the same  
24 manner as if the meeting were held in a single location;  
25 (2) participants and members of the public in attendance  
26 can hear and have the same right to participate in the meeting as if  
27 the meeting were conducted in person; and  
28 (3) copies of pertinent reference materials, statutes, reg-  
29 ulations, and audio-visual materials are reasonably available to

1 participants and to the public.

2 (c) A meeting by an electronic medium as provided in this sec-  
3 tion has the same legal effect as a meeting in person.

4 (d) A director of the authority may not vote on a resolution of  
5 the authority relating to a lease or contract to be entered into by  
6 the authority under this chapter if the director is a party to the  
7 lease or contract or has a direct ownership or equity interest in a  
8 firm, partnership, corporation, or association that is a party to the  
9 contract or lease. When abstaining from voting, the director must  
10 disclose the reason for the abstention. A director who is a member of  
11 an electric cooperative that is organized under or subject to the  
12 Electric and Telephone Cooperative Act (AS 10.25) may vote on a reso-  
13 lution relating to a contract or lease to which that cooperative is a  
14 party. The director shall disclose the cooperative membership at the  
15 time of voting. A resolution of the authority that is approved by a  
16 majority of the directors present who are not barred from voting under  
17 this subsection is a valid action of the authority for all purposes.

18 \* Sec. 3. AS 44.83.105 is amended to read:

19 Sec. 44.83.105. BONDS FOR POWER PROJECTS UNDER THE ENERGY PRO-  
20 GRAM FOR ALASKA. The authority may [SHALL] borrow money and [SHALL]  
21 issue its bonds for the acquisition or construction of power projects  
22 to be acquired or constructed under the energy program for Alaska.  
23 The [ON WHICH THE] principal of and interest on the bonds are payable  
24 from money derived from the sale of wholesale power from power proj-  
25 ects financed under AS 44.83.380 - 44.83.425 from the power develop-  
26 ment fund or from a source referred to in AS 44.83.100 as the author-  
27 ity determines. The bonds may be issued if

28 (1) appropriations to the power development fund for the  
29 power project are insufficient to cover the cost of acquiring or

1 constructing the power project; and

2 (2) the authority determines that the amount of interest  
3 the authority will pay on its bonds is not more than alternative costs  
4 of securing money from other sources, except for the general fund, to  
5 pay for the acquisition or construction of the power project.

6 \* Sec. 4. AS 44.83.110(b) is amended to read:

7 (b) Notwithstanding any other provisions of this chapter, the  
8 trust indenture, trust agreement, secured loan agreement, or other  
9 instrument or the resolution constituting a contract with bondholders  
10 shall contain a covenant by the authority that it will at all times  
11 maintain rates, fees or charges sufficient to pay, and that a contract  
12 entered into by the authority for the sale, transmission or distribu-  
13 tion of power shall contain rates, fees or charges sufficient to pay  
14 the costs of operation and maintenance of the project, the principal  
15 of and interest on bonds issued under the trust agreement as the same  
16 severally become due and payable, to provide for debt service coverage  
17 as considered necessary by the authority for the marketing of its  
18 bonds and to provide for renewals, replacements and improvements of  
19 the project, and to maintain reserves required by the terms of the  
20 trust agreement. This subsection does not require a covenant that  
21 varies from a covenant entered into in accordance with the provisions  
22 of AS 44.83.380 - 44.83.425.

23 \* Sec. 5. AS 44.83.120 is amended to read:

24 Sec. 44.83.120. VALIDITY OF PLEDGE. It is the intention of the  
25 legislature that a pledge made in respect of bonds is considered  
26 perfected and is [SHALL BE] valid and binding from the time the pledge  
27 is made; that the money or property so pledged and thereafter received  
28 by the authority shall immediately be subject to the lien of the  
29 pledge without physical delivery or further act; and that the lien of

1 the pledge shall be valid and binding as against all parties having  
2 claims of any kind in tort, contract or otherwise against the authori-  
3 ty irrespective of whether the parties have notice. Neither the  
4 resolution, trust agreement nor any other instrument by which a pledge  
5 is created need be recorded or filed under the provisions of the  
6 Uniform Commercial Code to be perfected or to be valid, binding or  
7 effective against the parties.

8 \* Sec. 6. AS 44.83.185(a) is amended to read:

9 (a) The authority shall submit a feasibility study and plan of  
10 finance, including a cost estimate from an independent source, for a  
11 proposed new project to the legislature. When the report of the divi-  
12 sion of budget and management examining the feasibility study and plan  
13 of finance is completed as required by AS 44.83.183, it shall be sub-  
14 mitted to the legislature.

15 \* Sec. 7. AS 44.83.195(a) is amended to read:

16 (a) When a project is operated by the authority, the authority  
17 shall enter into one or more contracts for the sale of electrical  
18 power, energy, transmission capacity, or service from the project.  
19 Unless the contract is entered into under AS 44.83.380 - 44.83.425, a  
20 [A] contract entered into under this section shall meet all require-  
21 ments of AS 44.83.090.

22 \* Sec. 8. AS 44.83.361(a)(2) is amended to read:

23 (2) principal [AND INTEREST] payments on loans made under  
24 this section.

25 \* Sec. 9. AS 44.83.361(c) is amended to read:

26 (c) A loan from the rural electrification revolving loan fund  
27 shall bear an annual rate of interest of two percent of the unpaid  
28 balance of the loan. Interest received on a loan made under this sec-  
29 tion must be transferred monthly to the commissioner of revenue for

1       deposit in the general fund.

2       \* Sec. 10. AS 44.83.361(d)(2)(B) is amended to read:

3                       (B) payments on the unpaid balance of the principal of  
4                       the loan for each new consumer served by the electric service  
5                       extended with the loan proceeds [DURING THE PRECEDING YEAR FOR  
6                       WHICH THE LOAN WAS MADE]; payments on the unpaid balance of the  
7                       principal of the loan shall be made at a rate equal to the dif-  
8                       ference between the actual cost of making the service connection  
9                       to the consumers and the minimum investment per consumer required  
10                      of the utility before a loan is made under (b) of this section.

11       \* Sec. 11. AS 44.83.361 is amended by adding a new subsection to read:

12                      (f) In this section,

13                      (1) "consumer" means a person, as defined in AS 01.10.-  
14                      060(7), or a governmental agency, if the person or governmental agency  
15                      requests and offers to pay for electrical service to a facility or  
16                      part of a facility; the authority shall consider a person who, or a  
17                      governmental agency that, offers to pay for electrical service to  
18                      several facilities to be a separate consumer for each facility, if  
19                      each facility is physically separate from another facility, other than  
20                      through electric service lines, and if the person or governmental  
21                      agency requests and offers to pay for electrical service to each  
22                      facility;

23                      (2) "facility" means a structure capable of receiving and  
24                      using electrical energy; and

25                      (3) "governmental agency" includes, with respect to the  
26                      state or federal government or a municipal government, a legislative  
27                      body, board of regents, administrative body, board, commission, com-  
28                      mittee, subcommittee, authority, council, agency, public corporation,  
29                      school board, department, division, bureau, or other subordinate unit,

1 whether advisory or otherwise, of the state, federal, or municipal  
2 government.

3 \* Sec. 12. AS 44.83.384(b)(1) is amended to read:

4 (1) is economically feasible [MEETS THE REVENUE REQUIRE-  
5 MENTS OF AS 44.83.394]; and

6 \* Sec. 13. AS 44.83.384(c) is amended to read:

7 (c) Notwithstanding (b)(1) of this section and AS 44.83.396 -  
8 44.83.398 [AS 44.83.394 - 44.83.398], the fund may be used by the  
9 authority to provide money for the cost of a power project that is or  
10 was either constructed or [AND] owned by the United States government  
11 if the requirements of this subsection are met. The provisions of  
12 AS 44.83.177 - 44.83.187 do not apply to a power project financed  
13 under this subsection. The authority may use money in the fund for  
14 the cost of a power project under this subsection if

15 (1) the legislature enacts a law approving the project;

16 (2) the division of budget and management in the Office of  
17 the Governor reviews a feasibility study and a plan of finance for the  
18 project and determines that the feasibility study complies with the  
19 requirements for a feasibility study submitted under AS 44.83.181(b)  
20 and that the plan of finance complies with the requirements for a plan  
21 of finance submitted under AS 44.83.181(c); and

22 (3) the project meets the other requirements of this chap-  
23 ter.

24 \* Sec. 14. AS 44.83.386 is amended to read:

25 Sec. 44.83.386. INVESTMENT OF FUND. The Department of Revenue  
26 shall invest the money in the fund in accordance with AS 37.10.070 and  
27 37.10.075. The Department of Revenue shall provide money in the fund  
28 to the authority only after costs have been [A COST FOR A PROJECT IS]  
29 incurred or amounts in the fund have been otherwise obligated under

1 contracts for the acquisition and construction of a project. Amounts  
2 that have been obligated, but for which costs have not yet been incur-  
3 red, may be segregated by the Department of Revenue or transferred to  
4 the authority only with the prior approval or agreement of the commis-  
5 sioner of revenue. Interest received on money that is segregated or  
6 transferred under this section must be deposited in the general fund.

7 \* Sec. 15. AS 44.83.396(a) is amended to read:

8 (a) A power project that is acquired or constructed as part of  
9 the energy program for Alaska is owned, [BY THE STATE] and shall be  
10 administered, by the authority.

11 \* Sec. 16. AS 44.83.396(c) is amended to read:

12 (c) The authority shall enter into a contract or lease under  
13 reasonable terms and conditions to permit the applicant utility to  
14 operate the power project when the applicant utility is the only  
15 wholesale power customer to be served directly by the power project  
16 unless the authority determines a utility making application for a  
17 contract or lease to operate a power project is not a qualified util-  
18 ity or is not capable of operating that power project efficiently and  
19 in a manner that is consistent with national standards for the indus-  
20 try and with agreements with bondholders.

21 \* Sec. 17. AS 44.83.396(e) is amended to read:

22 (e) When the authority permits a power project to be operated by  
23 a qualified utility under a contract or lease, the authority shall

24 (1) review and approve the annual budget for the operation  
25 and maintenance of the power project; and

26 (2) assure that the project is being operated efficiently  
27 and in a manner that is consistent with national standards for the  
28 industry and agreements with bondholders.

29 \* Sec. 18. AS 44.83.398(b)(2) is amended to read:

1           (2) If, by July 1, 1990 [1986], the legislature has not  
2 appropriated at least \$3,500,000,000 [\$5,000,000,000] to the fund, in  
3 addition to appropriations to the fund of interest earned on money in  
4 the fund, the authority shall, beginning on that date, establish and  
5 maintain a separate wholesale power rate applicable to each power  
6 project that is acquired or constructed under the energy program for  
7 Alaska. The wholesale power rate shall be computed by the authority  
8 annually, or more frequently as may be necessary, and shall be the  
9 greater of

10                   (A) 10 percent of the amount the authority has in-  
11 vested in the power project, including loans and grants made by  
12 the state; or

13                   (B) the rate that the authority estimates is necessary  
14 to produce revenue sufficient to pay

15                           (i) operation, maintenance, and equipment re-  
16 placement costs of the power project;

17                           (ii) the power project's proportionate share of  
18 debt service on state loans and bonds for all power projects  
19 in the energy program for Alaska, determined in accordance  
20 with (g) of this section; and

21                           (iii) safety inspections and investigations of the  
22 power project by the authority.

23 \* Sec. 19. AS 44.83.398(c) is amended to read:

24           (c) The authority shall transmit all the money that it receives  
25 under (a) of this section to the commissioner of revenue for deposit  
26 in the state general fund except for money it has pledged or otherwise  
27 covenanted to secure bonds [IN ACCORDANCE WITH CONTRACTS WITH BOND-  
28 HOLDERS].

29 \* Sec. 20. AS 44.83.398(e) is repealed and reenacted to read:

1           (e) After determining the wholesale power rate for a power proj-  
2           ect under the provisions of this section, the authority may adjust the  
3           rate or change the rate provisions to insure that the revenue derived  
4           from that power project and the aggregate revenues of the authority  
5           will be adequate to comply with rate covenants and other agreements  
6           contained in any trust indenture or trust agreement entered into by  
7           the authority for the security of the holders of bonds issued to  
8           finance the power project.

9           \* Sec. 21. AS 44.83.398(h) is amended to read:

10           (h) Notwithstanding (g) of this section, in the 1983 state fis-  
11           cal year the proportionate share of debt service under (b) of this  
12           section, expressed as a rate, for a power project for which a con-  
13           struction contract has been awarded before the effective date of this  
14           Act may not exceed the average debt service component of the wholesale  
15           power rate for all power projects in the energy program for Alaska.  
16           The limit imposed by this subsection shall be increased in the 1984  
17           state fiscal year to four percent above the average debt service com-  
18           ponent of the wholesale power rate for all power projects in the  
19           energy program for Alaska and by an additional four percent above that  
20           average in each succeeding state fiscal year. If application of this  
21           subsection results in the production of insufficient revenue to pay  
22           the total debt service for all projects in the energy program for  
23           Alaska, a project that does not have its share of debt service limited  
24           under this subsection shall be subject to a rate in addition to the  
25           rate established under (b) of this section. The additional rate is  
26           the rate that the authority estimates is necessary to produce revenue  
27           that is sufficient to pay the difference between the total debt ser-  
28           vice for all projects in the energy program for Alaska and the revenue  
29           actually produced to pay that debt service, multiplied by a fraction

1 whose numerator is the total cost of the project and whose denominator  
2 is the total cost of all of the projects that are subject to the  
3 additional rate. In this subsection, "projects in the energy program  
4 for Alaska" does not include an intertie that is authorized as a  
5 separate project as described in (f) of this section.

6 \* Sec. 22. AS 44.83.425(2) is amended to read:

7 (2) "debt service" means the amounts covenanted with re-  
8 spect to, or pledged to pay, bonds under a trust agreement securing  
9 [CASH FLOW NECESSARY TO SECURE] bonds;

10 \* Sec. 23. AS 44.83.186, 44.83.195(b), 44.83.382(b)(2), and 44.83.394  
11 are repealed.

12 \* Sec. 24. This Act takes effect immediately in accordance with AS 01.-  
13 10.070(c).