

Offered: 4/19/84
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR SENATE BILL NO. 489 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Industrial Development
7 Authority; and providing for an effective date."

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

9 * Section 1. AS 44.88.010(a) is amended to read:

10 (a) The legislature finds, determines and declares that

11 (1) there exist areas of the state in which seasonal and
12 nonseasonal unemployment exist;

13 (2) this unemployment is a serious menace to the health,
14 safety and general welfare, not only to the people in those areas, but
15 also to the people of the entire state;

16 (3) the state lacks the basic manufacturing, industrial,
17 and business enterprises and the other facilities referred to in (5)
18 of this subsection necessary to permit adequate development of its
19 natural resources and the balanced growth of its economy;

20 (4) the establishment and expansion of industrial, man-
21 ufacturing, and business enterprises in Alaska and the other facil-
22 ities referred to in (5) of this subsection are essential to the
23 development of the natural resources and the long-term economic growth
24 of the state, and will directly and indirectly alleviate unemployment
25 in the state;

26 (5) the achievement of the goal of full employment, and of
27 establishment and continuing operation and development of industrial,
28 manufacturing, and business enterprises in the state, including,
29 without limitation, facilities for [AIR AND WATER] transportation,

1 facilities for pollution control and waste disposal, facilities for
2 the local furnishing of gas, facilities for water, [AND] facilities
3 for industrial parks, mass commuting vehicles, facilities for local
4 district heating or cooling, parking facilities, or a storage or
5 training facility relating to a plant or facility, will be accelerated
6 and facilitated by the creation of an instrumentality of the state
7 with powers to incur debt, to own and operate facilities, [AND] to
8 make and insure loans to finance, and to assist private lenders to
9 make loans to finance, the establishment, operation, and development
10 of industrial, manufacturing, and business enterprises, including,
11 without limitation, facilities for [AIR AND WATER] transportation,
12 facilities for pollution control and waste disposal, facilities for
13 the local furnishing of gas, facilities for water, [AND] facilities
14 for industrial parks, mass commuting vehicles, facilities for local
15 district heating or cooling, parking facilities, or a storage or
16 training facility relating to a plant or facility;

17 (6) it is in the public interest to promote the prosperity
18 and general welfare of all citizens of the state by stimulating com-
19 mercial and industrial growth and expansion by encouraging an increase
20 of private investment by banks, investment houses, insurance com-
21 panies, and other financial institutions, including pension and re-
22 tirement funds, to help satisfy the need for economic expansion;

23 (7) it is in the state's interest to import private capital
24 to create new economic activity which would not otherwise take place
25 in the state.

26 * Sec. 2. AS 44.88.070 is amended to read:

27 Sec. 44.88.070. PURPOSE OF THE AUTHORITY. The purpose of the
28 authority is to promote, develop and advance the general prosperity
29 and economic welfare of the people of Alaska, to relieve problems of

1 unemployment, and to create additional employment by providing various
2 means of financing and means of facilitating the financing of indus-
3 trial, manufacturing, and business enterprises and the other facil-
4 ities referred to in AS 44.88.010(a)(5) within the state, and by own-
5 ing and operating the enterprises and other facilities.

6 * Sec. 3. AS 44.88.080 is amended to read:

7 Sec. 44.88.080. POWERS OF THE AUTHORITY. In furtherance of its
8 corporate purposes, the authority has the following powers in addition
9 to its other powers:

10 (1) to sue and be sued;

11 (2) to have a seal and alter it at pleasure;

12 (3) to make and alter bylaws for its organization and
13 internal management;

14 (4) to adopt regulations governing the exercise of its
15 corporate powers;

16 (5) to acquire an interest in a project as necessary or
17 appropriate to provide financing for the project, whether by purchase,
18 gift or lease;

19 (6) to lease to others a project acquired by it for the
20 rentals and upon the terms and conditions the authority may consider
21 advisable, including, without limitation, provisions for options to
22 purchase or renew;

23 (7) to issue bonds, in accordance with AS 44.88.090, to pay
24 the cost of a project and to secure payment of the bonds as provided
25 in this chapter;

26 (8) to sell, by installment sale or otherwise, exchange,
27 donate, convey or encumber in any manner by mortgage or by creation of
28 any other security interest, real or personal property owned by it, or
29 in which it has an interest, including a project, when, in the

1 judgment of the authority, the action is in furtherance of its corpo-
2 rate purposes;

3 (9) to accept gifts, grants or loans from, and enter into
4 contracts or other transactions regarding them, with a federal agency
5 or an agency or instrumentality of the state, a municipality, private
6 organization or other source;

7 (10) to deposit or invest its funds, subject to agreements
8 with bondholders;

9 (11) to enter into contracts or agreements with respect to
10 the exercise of any of its powers, and do all things necessary or
11 convenient to carry out its corporate purposes and exercise the powers
12 granted in this chapter;

13 (12) to purchase or insure loans to finance the costs of
14 manufacturing, industrial, and business enterprise projects;

15 (13) to enter into loan agreements with respect to one or
16 more projects upon the terms and conditions the authority considers
17 advisable;

18 (14) to acquire, manage, and operate projects as the author-
19 ity considers [A PROJECT WHEN IT BECOMES] necessary or appropriate
20 [DESIRABLE] to serve a public purpose [DO SO TO SAFEGUARD THE AUTHORI-
21 TY FROM LOSSES];

22 (15) to assist private lenders to make loans to finance the
23 costs of projects through loan commitments, short-term financing, or
24 otherwise;

25 (16) to accept gifts, grants, or loans from a federal
26 agency, from an agency or instrumentality of the state or of a munici-
27 pality, or from any other source;

28 (17) to enter into contracts or other transactions with a
29 federal agency, with an agency or instrumentality of the state or of a

1 unemployment, and to create additional employment by providing various
2 means of financing and means of facilitating the financing of indus-
3 trial, manufacturing, and business enterprises and the other facil-
4 ities referred to in AS 44.88.010(a)(5) within the state, and by own-
5 ing and operating the enterprises and other facilities.

6 * Sec. 3. AS 44.88.080 is amended to read:

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8 corporate purposes, the authority has the following powers in addition
9 to its other powers:

10 (1) to sue and be sued;

11 (2) to have a seal and alter it at pleasure;

12 (3) to make and alter bylaws for its organization and
13 internal management;

14 (4) to adopt regulations governing the exercise of its
15 corporate powers;

16 (5) to acquire an interest in a project as necessary or
17 appropriate to provide financing for the project, whether by purchase,
18 gift or lease;

19 (6) to lease to others a project acquired by it for the
20 rentals and upon the terms and conditions the authority may consider
21 advisable, including, without limitation, provisions for options to
22 purchase or renew;

23 (7) to issue bonds, in accordance with AS 44.88.090, to pay
24 the cost of a project and to secure payment of the bonds as provided
25 in this chapter;

26 (8) to sell, by installment sale or otherwise, exchange,
27 donate, convey or encumber in any manner by mortgage or by creation of
28 any other security interest, real or personal property owned by it, or
29 in which it has an interest, including a project, when, in the

1 municipality, or with a private organization or other entity consis-
2 tent with the exercise of any power under this chapter;

3 (18) to facilitate the expansion of a secondary market for
4 the resale of federally or commercially insured loans made to finance
5 the costs of projects in Alaska held by federal and state chartered
6 financial institutions or by the Alaska Commercial Fishing and Agri-
7 culture Bank;

8 (19) to charge fees or other forms of remuneration for the
9 use or possession of the projects described in (14) of this section in
10 accordance with the agreements described in (11) and (17) of this
11 section, other agreements pertaining to the projects, covenants, or
12 representations made in bond documents pertaining to the projects, or
13 regulations of the authority pertaining to the projects.

14 * Sec. 4. AS 44.88.105 is amended by adding a new subsection to read:

15 (h) Notwithstanding any other provision of this section, the
16 authority may waive or modify the requirements of (a) of this section
17 establishing maximum costs of \$10,000,000 for a project and the re-
18 quirements of (f) of this section as it considers appropriate and
19 prudent in order to finance a project if the authority intends to own
20 the project. However, if the authority intends to lease or otherwise
21 permit the state to use or occupy a majority of the project, the
22 authority may only establish a reserve fund under (g) of this section
23 to secure bonds issued to finance a project.

24 * Sec. 5. AS 44.88.155 is amended by adding a new subsection to read:

25 (g) Notwithstanding any other provision of this section, the
26 authority may waive or modify the requirements of this section as it
27 considers appropriate and prudent in order to finance a project if the
28 authority intends to own the project.

29 * Sec. 6. AS 44.88 is amended by adding new sections to read:

1 Sec. 44.88.172. ECONOMIC DEVELOPMENT FUND. (a) The economic
2 development fund is established in the authority. The fund consists
3 of money or assets appropriated, loaned, or transferred to the author-
4 ity, and other money or assets deposited in the fund by the authority.
5 The fund may only be used to finance, acquire, manage, and operate
6 projects that the authority intends to own and operate. The term
7 "operate" includes operation directly by the authority, or by an agent
8 of the authority.

9 (b) If a project is financed or developed through use of the
10 assets of the economic development fund, the authority may not pledge
11 or use other assets of the authority to assist in the financing,
12 development, or operation of the project. However, whether or not the
13 authority uses the economic development fund, it may issue bonds to
14 finance a project and may secure the bonds with a mortgage, pledge, or
15 assignment of the project or of revenues, money, or agreements attrib-
16 utable to the project or the bonds.

17 Sec. 44.88.173. FINANCE PLAN. (a) Before approving a project
18 financed under AS 44.88.172, the authority shall prepare a finance
19 plan. The finance plan must include an estimate of the total cost of
20 the project, and a description of the sources of money that will be
21 used to finance the total cost of the project. The finance plan must
22 also include an estimate of the operational costs of the completed
23 project, as well as a description of the source of the money that is
24 to be used to pay the operational costs.

25 (b) The authority shall give preference to a project that does
26 not require financial assistance from the state. If the authority
27 determines that a project requires state financial assistance, and if
28 the authority further determines that it is desirable to finance the
29 project, the authority shall recommend a method of financing that

1 minimizes cost to the state. A finance plan required under (a) of
2 this section must identify the method of financing that minimizes the
3 cost to the state.

4 (c) The authority shall submit a finance plan prepared under
5 this section to the state bond committee, the governor, and the legis-
6 lature before issuing bonds or otherwise incurring debt for the proj-
7 ect. If a project requires financial assistance from the state, the
8 state financial assistance must be available before bonds are issued
9 for the project.

10 Sec. 44.88.174. REGIONAL RESOURCE ADVISORY COUNCIL. (a) Within
11 30 days after the authority adopts a resolution certifying that a
12 project in the unorganized borough is eligible for financing under
13 AS 44.88.172, the governor shall appoint a Regional Resource Advisory
14 Council in the area of the state where the project is to be located
15 and for which a regional housing authority has been established under
16 AS 18.55.996. The purpose of a council is to assist the authority in
17 reviewing a project that has been proposed for development in its area
18 of the state.

19 (b) A Regional Resource Advisory Council consists of five
20 members registered to vote in the region. The governor shall appoint
21 the members to reflect the economic and geographic diversity of the
22 region. Council members serve three-year terms at the pleasure of the
23 governor, except that the initial members may be appointed for less
24 than three years so that the term of at least one of the members
25 expires each year. The governor shall appoint a chairperson who shall
26 call meetings as required and preside over the deliberations of the
27 council. A majority of the council constitutes a quorum for conduct-
28 ing the business of the council.

29 (c) Members of a Regional Resource Advisory Council do not

1 receive compensation for their services on the council, but are en-
2 titled to per diem and travel expenses authorized by law for state
3 boards and commissions under AS 39.20.180.

4 Sec. 44.88.175. REQUIREMENTS PRIOR TO APPROVAL OF PROJECTS. (a)
5 Before entering into an agreement to finance or to develop a proposed
6 project with a cost in excess of \$10,000,000 that is financed under
7 AS 44.88.172, the authority shall obtain the approval of each Regional
8 Resource Advisory Council or municipality in the area in which the
9 proposed project is to be located. Approval under this subsection
10 must be evidenced by a certified copy of a resolution of the council
11 or of the governing body of the municipality.

12 (b) Before approving a project financed under AS 44.88.172 for
13 which bonds must be issued, the authority shall

14 (1) obtain approval under (a) of this section;

15 (2) find, on the basis of all information reasonably avail-
16 able to it, that

17 (A) the project and its development under this chapter
18 will be economically advantageous to the state and to the general
19 public welfare and will contribute to the economic growth of the
20 state;

21 (B) the project applicant is financially responsible;

22 (C) the project is economically and financially feasi-
23 ble and able to produce revenue adequate to repay the bonds or
24 loans with which it is financed;

25 (D) increased demand on public facilities that might
26 result from the project will be provided for;

27 (E) the project will provide or retain employment
28 reasonably related to the amount of the financing by the authori-
29 ty, considering the amount of investment per employee for

1 comparable facilities, and other relevant factors;

2 (F) the scope of the project is sufficient to provide
3 a reasonable expectation of a benefit to the economy of the
4 state;

5 (G) the project is in compliance with applicable law;
6 and

7 (H) issuance of the bonds is not expected to adversely
8 affect the ability of the state or any political subdivision of
9 the state to market other bonds.

10 Sec. 44.88.176. HEARING TO CONSIDER PROPOSED PROJECT. Before
11 considering a resolution regarding the approval or rejection of the
12 development or financing of a proposed project with a cost in excess
13 of \$10,000,000, that is financed under AS 44.88.172, a Regional Re-
14 source Advisory Council shall conduct a public hearing within the
15 region. If a proposed project is located within a municipality, the
16 governing body of a municipality shall conduct a hearing on the pro-
17 posed project.

18 Sec. 44.88.177. OPERATION OF PROJECTS. If a project is financed
19 under AS 44.88.172, the authority shall solicit the review and advice
20 of the Regional Resource Advisory Council or governing body in the
21 area in which a project is located before the execution of contracts,
22 agreements, resolutions, or other matters that directly concern the
23 development, maintenance, and operation of a project.

24 * Sec. 7. AS 44.88.220(5) is amended to read:

25 (5) "project" means

26 (A) a plant or facility used or intended for use

27 (i) in connection with making, processing, pre-
28 paring, or producing in any manner, goods, products or
29 substances of any kind or nature or in connection with

1 developing or utilizing a natural resource, or extracting,
2 smelting, transporting, converting, assembling or producing
3 in any manner, minerals, raw materials, chemicals, com-
4 pounds, alloys, fibers, commodities and materials, products
5 or substances of any kind or nature;

6 (ii) [, ANY PLANT OR FACILITY USED OR INTENDED
7 FOR USE] as an industrial park; [OR] in connection with [AIR
8 AND WATER] transportation; [, OR ANY PLANT OR FACILITY] for
9 the prevention, limitation or control of [AIR OR WATER]
10 pollution; [,] for the disposal of sewage or solid waste;
11 [,] for the local furnishing of gas; [, OR] for the furnish-
12 ing of water; as or in connection with mass commuting vehi-
13 cles; for local district heating or cooling; as a parking
14 facility; or as a storage or training facility directly
15 related to a plant or facility described in this paragraph;

16 (B) a plant or facility used or intended for use in
17 connection with a business enterprise;

18 (C) commercial activity by a small enterprise;

19 * Sec. 8. In addition to any other authorization to issue bonds or
20 notes, the authority may issue bonds in a principal amount not to exceed
21 \$20,000,000 to assist in the acquisition, financing, or operation of proj-
22 ects under AS 44.88.172, enacted by sec. 6 of this Act.

23 * Sec. 9. It is the intent of the legislature to minimize the cost of
24 state financial assistance for projects funded under AS 44.88.172, enacted
25 by sec. 6 of this Act. To the extent possible, financial assistance shall
26 be extended in the form of loans.

27 * Sec. 10. This Act takes effect immediately in accordance with AS 01.-
28 10.070(c).