

Offered: 4/14/86
Referred: Judiciary and
Finance

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1 IN THE HOUSE
2
3 CS FOR HOUSE BILL NO. 293 (C&RA)
4 IN THE LEGISLATURE OF THE STATE OF ALASKA
5 FOURTEENTH LEGISLATURE - SECOND SESSION
6 A BILL
7 For an Act entitled: "An Act relating to municipal default on bonded in-
8 debtedness; establishing the Municipal Financial
9 Emergency Commission; and providing for an effective
10 date."
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
12 * Section 1. LEGISLATIVE FINDINGS. The legislature finds that
13 (1) while the power of municipalities to contract debt for capital
14 improvements is granted by the Alaska Constitution, revenue that may be
15 raised to repay the debt are limited by the extent to which the state has
16 delegated taxing authority to the municipalities under art. X, sec. 2 of
17 the Alaska Constitution;
18 (2) the state has a strong interest in debt issuance by municipali-
19 ties because of the impact on state revenue as a result of municipal as-
20 sessment to repay debt and because of the effect on the marketability of
21 bonds issued by the state and its agencies, by public corporations of the
22 state, by other municipalities, and by the Alaska Municipal Bond Bank Au-
23 thority;
24 (3) bonds issued by municipalities are not legal obligations of the
25 state, nor are the bonds supported by the moral obligation of the state;
26 and
27 (4) it is in the public interest, and is declared to be a public
28 purpose, to promote the prosperity and general welfare of all the people of
the state by assisting in the development and implementation of refinancing

1 plans for municipalities that have defaulted on outstanding debt.

2 * Sec. 2. AS 29.10.200 is amended by adding a new paragraph to read:

3 (47) AS 29.47.500 - 29.47.590 (default on bonded indebted-
4 ness)

5 * Sec. 3. AS 29.47 is amended by adding new sections to read:

6 ARTICLE 7. DEFAULT ON BONDED INDEBTEDNESS.

7 Sec. 29.47.500. MUNICIPAL FINANCIAL EMERGENCY COMMISSION. (a)

8 The Municipal Financial Emergency Commission is established in the
9 Department of Community and Regional Affairs.

10 (b) The members of the commission consist of the commissioner of
11 community and regional affairs, the commissioner of revenue, and the
12 commissioner of administration. Members of the commission may appoint
13 designees to serve on the commission.

14 (c) The commissioner of community and regional affairs shall
15 chair the commission. A quorum of the commission consists of two
16 members.

17 (d) The commission may employ staff as is necessary to accom-
18 plish the purposes of the commission.

19 Sec. 29.47.510. DUTIES AND POWERS OF THE COMMISSION. (a) Upon
20 receipt of a written notice of a default by a municipality, as provid-
21 ed in AS 29.47.520, and after consulting with the state bond committee
22 the commission may

23 (1) investigate the defaulting municipality's fiscal af-
24 fairs, consult with the governing bodies of the defaulting muni-
25 cipality, and negotiate with creditors in order to assist the municipa-
26 lity in developing a plan for satisfaction of the outstanding debt;

27 (2) direct a state agency holding money on behalf of or
28 payable to the defaulting municipality to pay the money either to the
29 commission for payment to creditors, or to the defaulting municipality

- 1 for disposition as required under an adopted plan;
- 2 (3) determine whether a proposed plan is fair and equitable
3 and within the ability of the defaulting municipality to meet, and, if
4 so, enter an order finding that it is fair, equitable, and within the
5 ability of the municipality to meet;
- 6 (4) advise the defaulting municipality to take the neces-
7 sary steps to implement the plan;
- 8 (5) order the defaulting municipality to take the necessary
9 steps to implement the plan if the municipality fails to implement the
10 plan within 30 days after receiving the advice of the commission to
11 implement the plan;
- 12 (6) require periodic reports on the defaulting municipali-
13 ty's financial affairs during the period in which the plan is imple-
14 mented;
- 15 (7) approve or reject the defaulting municipality's annual
16 budget ordinance during the period in which the plan is implemented;
- 17 (8) approve or reject the issuance of additional bonds,
18 notes, or other debt, whether short- or long-term, during the period
19 in which the plan is implemented;
- 20 (9) impound the books and records of a defaulting munic-
21 ipality and assume full control of its financial affairs, including the
22 levying of taxes, expenditure of money, and adoption of budgets, if
23 the municipality fails to implement a plan, or if, in the opinion of
24 the commission, the defaulting municipality will default on a future
25 debt service payment under the plan if the financial policies and
26 practices of the municipality are not improved; and
- 27 (10) order a defaulting municipality to pay for the cost of
28 developing and implementing a plan.
- 29 (b) The authority granted to the commission continues, with

1 respect to a defaulting municipality, until the commission is sat-
2 isfied that the defaulting municipality has performed or will perform
3 the duties required of it in the plan, and until agreements made with
4 the defaulting municipality's creditors have been performed in
5 accordance with the plan.

6 (c) The commission may take all actions necessary to accomplish
7 the purposes of AS 29.47.500 - 29.47.590, including issuing subpoenas
8 necessary for the production of documents and issuing orders. A
9 superior court may, upon application of the commission, compel obedi-
10 ence with a subpoena or order issued by the commission.

11 Sec. 29.47.520. NOTICE OF DEFAULT. (a) A municipality shall
12 give notice of default to the commissioner of community and regional
13 affairs within 10 calendar days after actual knowledge of the default.

14 (b) A creditor may give notice to the commissioner of community
15 and regional affairs any time after a default by a municipality.

16 (c) A municipality may request the assistance of the commission
17 at any time before default if, in the judgment of the municipality,
18 assistance from the commission will assist the municipality in reliev-
19 ing financial distress.

20 Sec. 29.47.530. ACTION UPON RECEIVING NOTICE OF DEFAULT. The
21 commissioner of community and regional affairs shall convene a meeting
22 of the commission within 15 days after the receipt of a notice of de-
23 fault, or of a request for assistance, under AS 29.47.520. The de-
24 faulting municipality shall be given notice of the meeting, and shall
25 send an authorized representative to the meeting to represent the
26 defaulting municipality during the development of a plan under AS 29.-
27 47.510.

28 Sec. 29.47.540. LIMITATION ON ACTIONS. If a notice of default
29 or request for assistance has been provided by a municipality under

1 AS 29.47.520, a creditor of the municipality may not file an action
2 based upon the outstanding debt until 90 days after the first meeting
3 of the commission convened under AS 29.47.530 to consider the matter.

4 Sec. 29.47.550. PENALTY. A municipal official, employee, or
5 agent who intentionally violates a provision of a plan developed under
6 AS 29.47.510 is subject to a civil penalty not to exceed \$5,000.

7 Sec. 29.47.560. BANKRUPTCY PETITION. Nothing in AS 29.47.500 -
8 29.47.590 limits or otherwise affects the authority of a municipality
9 to file a petition in bankruptcy under 11 U.S.C. 901 - 946.

10 Sec. 29.47.565. NO STATE OBLIGATION FOR MUNICIPAL DEBTS. (a)
11 Bonds issued by municipalities are neither legal obligations nor moral
12 obligations of the state.

13 (b) Nothing in AS 29.47.500 - 29.47.590 may be construed to
14 create liability on the part of the state for outstanding debts of a
15 municipality. An action taken by the commission may not be construed
16 as an assumption of liability or responsibility by the state for
17 outstanding debts of a municipality.

18 Sec. 29.47.570. APPLICATION. AS 29.47.500 - 29.47.590 applies
19 to home rule and general law municipalities.

20 Sec. 29.47.590. DEFINITIONS. In AS 29.47.500 - 29.47.590

21 (1) "commission" means the Municipal Financial Emergency
22 Commission;

23 (2) "creditor" means a person who has standing to bring an
24 action for default on outstanding debt against the defaulting muni-
25 cipality;

26 (3) "default" means the failure by a municipality to pay an
27 installment of principal or interest on its outstanding debt, on or
28 before the due date;

29 (4) "defaulting municipality" means a municipality that has

1 defaulted, or that continues to be subject to the jurisdiction of the
2 commission after the implementation of a plan under AS 29.47.510;

3 (5) "outstanding debt" means revenue anticipation notes,
4 bond anticipation notes, general obligation bonds, revenue bonds, or
5 refunding bonds issued under this chapter.

6 * Sec. 4. This Act takes effect immediately in accordance with AS 01.-
7 10.070(c).