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Original sponsors: Coghill and Faiks

1 IN THE SENATE BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 206 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH 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 44.83.092 is amended by adding a new subsection to
10 read:

11 (b) A contract that the authority enters into under (a) of this
12 section relating to the sale of electric power from a power project to
13 be acquired or constructed under AS 44.83.380 - 44.83.425 (energy
14 program for Alaska) may create a project management committee. The
15 committee shall consist of representatives of the contracting parties
16 as specified in the contract. The contract shall determine the powers
17 of the committee with respect to the power project. The powers may
18 include responsibility for the management, operation, and maintenance
19 of the project. To the extent provided in the contract, the committee
20 has separate legal existence and other powers necessary to its pur-
21 poses.

22 * Sec. 2. AS 44.83.105 is amended to read:

23 Sec. 44.83.105. BONDS FOR POWER PROJECTS UNDER THE ENERGY PRO-
24 GRAM FOR ALASKA. The authority may borrow money and issue its bonds
25 for the acquisition or construction of power projects to be acquired
26 or constructed under the energy program for Alaska. The principal of
27 and interest on the bonds are payable from money derived from the sale
28 of wholesale power from power projects financed under AS 44.83.380 -
29 44.83.425 as part of the energy program for Alaska [FROM THE POWER

1 DEVELOPMENT FUND] or from a source referred to in AS 44.83.100 as the
2 authority determines. The bonds may be issued if

3 (1) money available from appropriations to the power proj-
4 ect revolving fund for the energy program for Alaska [DEVELOPMENT
5 FUND] for the power project is [ARE] insufficient to cover the cost of
6 acquiring or constructing the power project; and

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

11 * Sec. 3. AS 44.83.162(a) is amended to read:

12 (a) The power cost equalization program [FUND] is established
13 [AS A SEPARATE FUND] for the purpose of equalizing power cost per
14 kilowatt-hour statewide at a cost close or equal to the mean of the
15 cost per kilowatt-hour in Anchorage, Fairbanks, and Juneau [BY PAYING
16 MONEY FROM THE FUND TO ELIGIBLE ELECTRIC UTILITIES IN THE STATE]. The
17 program [FUND] shall be administered by the authority [AS A FUND
18 DISTINCT FROM THE OTHER FUNDS OF THE AUTHORITY. THE FUND IS COMPOSED
19 OF MONEY APPROPRIATED FOR THE PURPOSE OF PROVIDING POWER COST
20 EQUALIZATION TO ELIGIBLE ELECTRIC UTILITIES].

21 * Sec. 4. AS 44.83.170(a) is amended to read:

22 (a) There is established as a separate fund the power project
23 revolving fund which shall be distinct from any other money or funds
24 of the authority, and which includes [ONLY] money appropriated by the
25 legislature and the portion of loan repayments from loans made from
26 the fund that is attributable to principal.

27 * Sec. 5. AS 44.83.170(b) is amended to read:

28 (b) The authority may make loans from the power project revolv-
29 ing fund from money available by appropriation or from the repayment

1 of principal

2 (1) to electric utilities, regional electric authorities,
3 municipalities, cities, boroughs, regional and village corporations,
4 village councils, school districts, regional educational attendance
5 areas, and nonprofit marketing cooperatives to pay the costs of

6 (A) reconnaissance studies, feasibility studies,
7 license and permit applications, preconstruction engineering, and
8 design of power projects;

9 (B) constructing, equipping, modifying, improving, and
10 expanding [SMALL-SCALE] power production facilities, conservation
11 facilities, bulk fuel storage facilities, and transmission and
12 distribution facilities, including energy production, trans-
13 mission and distribution, and waste energy conservation facili-
14 ties which depend on fossil fuel, wind power, tidal, geothermal,
15 biomass, hydroelectric, solar or other nonnuclear [NON-NUCLEAR]
16 energy sources; [AND]

17 (C) reconnaissance studies, preconstruction engineer-
18 ing, design, construction, equipping, modification, and expansion
19 of potable water supply including surface storage and groundwater
20 sources and transmission of water from surface storage to exist-
21 ing distribution systems;

22 (D) acquisitions of bulk fuel or proven reserves of
23 gas, oil, coal, geothermal, or other energy resources; and

24 (E) consumer end-use improvements to reduce demand for
25 energy;

26 (2) to a borrower for a power project if

27 (A) the loan is entered into under a leveraged lease
28 financing arrangement;

29 (B) the party which will be responsible for the power

1 project is an electric utility, regional electric authority,
2 municipality, city, borough, regional or village corporation,
3 village council, school districts, regional educational atten-
4 dance areas, or nonprofit marketing cooperative; and

5 (C) the borrower seeking the loan demonstrates to the
6 authority that the financing arrangement for the power project
7 will reduce project financing costs below costs of comparable
8 public power projects;

9 (3) to fund a project or activity under this chapter.

10 * Sec. 6. AS 44.83.170(g) is repealed and reenacted to read:

11 (g) The authority shall deposit in the power project revolving
12 fund the principal and interest portions of loan repayments and any
13 earnings on the balance in the fund. The authority may make new loans
14 to be financed from the principal portions of loan repayments. The
15 authority may not encumber or spend the interest portions of loan
16 repayments or earnings on the balance in the fund except as authorized
17 by legislative appropriation or as specifically provided in this
18 chapter.

19 * Sec. 7. AS 44.83.170 is amended by adding new subsections to read:

20 (i) The Railbelt advisory committee, composed of one member from
21 each electric utility in the Railbelt, is established. The authority
22 may not make a loan under this section for an energy-related project
23 that is located in the Railbelt until the Railbelt advisory committee
24 has had an opportunity to review the loan application. The authority
25 shall consider the written comments and recommendations of the commit-
26 tee before acting on the loan application.

27 (j) The authority shall submit an annual report to the legisla-
28 ture by the 10th day of the legislative session. The report shall
29 make recommendations concerning the allocation of funds in the power

1 project revolving fund. The first priority for use of the unre-
2 stricted funds shall be to fully fund the power cost equalization
3 program under AS 44.83.162.

4 * Sec. 8. AS 44.83 is amended by adding a new section to read:

5 Sec. 44.83.172. POWER PROJECT BONDS. (a) The authority may
6 borrow money and issue bonds to make or refinance loans from the power
7 project revolving fund for a revenue producing program, activity, or
8 project authorized under the power project revolving fund. However,
9 the authority may not issue bonds to make or refinance a loan entered
10 into under a leveraged lease financing arrangement.

11 (b) Loans made or refinanced with the proceeds of bonds authori-
12 zed by this section for projects under AS 44.83.170(b) are subject to
13 AS 44.83.170(a) - (e).

14 (c) With respect to loans made or refinanced with the proceeds
15 of bonds, the authority may pledge the principal and interest received
16 from the loan repayments and the interest earned on those amounts in
17 the power project revolving fund for bonds issued under this section.

18 (d) The authority may notify the head of a department or agency
19 of the state in writing that a borrower is in default on the repayment
20 of principal or interest on loans made or refinanced with the proceeds
21 of bonds issued under this section. Notwithstanding any other pro-
22 vision of law, to the extent that a department or agency of the state
23 is the custodian of money payable to the borrower, the department or
24 agency shall withhold payment of the money from the borrower and pay
25 over the money to the authority to pay principal and interest on bonds
26 of the authority issued under this section.

27 * Sec. 9. AS 44.83.187(d) is amended to read:

28 (d) The provisions of AS 44.83.177 - 44.83.185 do not apply to
29 (1) an addition, modification, repair, reconstruction,

1 design, acquisition or construction for the purpose of completing a
2 project;

3 (2) the construction of an electrical transmission or dis-
4 tribution facility [THAT IS ESTIMATED TO COST LESS THAN \$3,000,000].

5 * Sec. 10. AS 44.83.361(a) is amended to read:

6 (a) The rural electrification program [REVOLVING LOAN FUND] is
7 established in the Alaska Power Authority. [THE FUND CONSISTS OF

8 (1) APPROPRIATIONS MADE TO THE FUND; AND

9 (2) PRINCIPAL PAYMENTS ON LOANS MADE UNDER THIS SECTION.]

10 * Sec. 11. AS 44.83.361(b) is amended to read:

11 (b) The authority may make loans from the power project revolv-
12 ing fund under AS 44.83.170 for the rural electrification program
13 [REVOLVING LOAN FUND] to electric utilities certified by the Alaska
14 Public Utilities Commission. A loan under the program [FROM THE FUND]
15 may be made only for the purpose of extending new electric service
16 into an area of the state that an electric utility may serve under a
17 certificate of public convenience and necessity issued by the Alaska
18 Public Utilities Commission. A loan may be made under the program
19 [FROM THE FUND] to an electric utility if the utility invests the
20 money necessary to provide one pole, one span of line, one trans-
21 former, and one service drop for each consumer for whom immediate
22 service would be provided by the extension of electric service.
23 Applications for loans to extend service along state roads or highways
24 shall be given priority for up to one-half of the funds available for
25 loans under this section. However, a loan may not be made [FROM THE
26 FUND] unless

27 (1) the loan is recommended by a loan advisory committee
28 appointed under AS 44.83.363; and

29 (2) the extension of electric service would provide

1 immediate service to at least three consumers.

2 * Sec. 12. AS 44.83.361(c) is amended to read:

3 (c) A loan under [FROM] the rural electrification program [RE-
4 VOLVING LOAN FUND] shall bear an annual rate of interest of two per-
5 cent of the unpaid balance of the loan. Loan repayments and interest
6 [INTEREST] received on a loan made under this section shall be de-
7 posited [MUST BE TRANSFERRED MONTHLY TO THE COMMISSIONER OF REVENUE
8 FOR DEPOSIT] in the power project revolving [GENERAL] fund under
9 AS 44.83.170(g). The authority may forgive the unpaid balance remain-
10 ing on a loan made under this section after 20 years.

11 * Sec. 13. AS 44.83.361(e) is amended to read:

12 (e) The authority shall

13 (1) adopt regulations necessary to carry out the provisions
14 of this section;

15 (2) administer the rural electrification program [REVOLVING
16 LOAN FUND]; and

17 (3) submit to the legislature within the first 10 days of
18 each regular legislative session a report of actions taken by the
19 authority under this section and an accounting of the rural electri-
20 fication program [REVOLVING LOAN FUND].

21 * Sec. 14. AS 44.83.363 is amended to read:

22 Sec. 44.83.363. LOAN ADVISORY COMMITTEE. When an application
23 for a rural electrification loan is submitted to the authority under
24 AS 44.83.361, the authority shall appoint a local advisory committee
25 from persons residing in the area that the applicant utility is certi-
26 fied to serve. The loan advisory committee shall consider the loan
27 application, and shall recommend whether the loan application is to be
28 approved or disapproved. A favorable recommendation from the loan
29 advisory committee shall be based on a determination that development

1 in the area of the proposed extension of electric service is likely to
2 provide for full repayment of the loan under AS 44.83.361(d) within 20
3 [10] years. In making that determination the committee shall consider

4 (1) permanence of the premises to be served by the exten-
5 sion;

6 (2) land use patterns in the area;

7 (3) access for the line that would be installed with loan
8 proceeds;

9 (4) availability of other utility service in the area; and

10 (5) the financial [ECONOMIC] feasibility of the extension
11 of electric service with the proceeds of the loan.

12 * Sec. 15. AS 44.83.380(b) is amended to read:

13 (b) The energy program for Alaska is a program by which the
14 authority may acquire or construct power projects with money appropri-
15 ated by the legislature to the power project revolving fund under
16 AS 44.83.170 for power development [FUND ESTABLISHED IN AS 44.83.382].
17 A power project may be acquired or constructed as part of the energy
18 program for Alaska only if the project is submitted to and approved by
19 the legislature in accordance with procedures set out in AS 44.83.-
20 177 - 44.83.187.

21 * Sec. 16. AS 44.83.384 is amended to read:

22 Sec. 44.83.384. USE OF FUND FOR ENERGY PROGRAM [BALANCE]. (a)
23 The authority may use money in the power project revolving fund under
24 the energy program for Alaska [FUND MAY BE USED BY THE AUTHORITY TO
25 PROVIDE MONEY] for

26 (1) reconnaissance and feasibility studies and power proj-
27 ect finance plans prepared under AS 44.83.177 - 44.83.181;

28 (2) the cost of a power project, including but not limited
29 to costs of acquiring necessary licenses, preparing engineering

- 1 designs, obtaining land, and constructing the power project;
- 2 (3) the defeasance of bonds, or the payment of debt service
- 3 on loans for or on an issue of bonds sold in connection with a power
- 4 project;
- 5 (4) the cost of operating and maintaining power projects;
- 6 and
- 7 (5) debt service on power projects.

8 (b) In addition to the purposes authorized by (a) of this sec-

9 tion, the authority may use money in the fund [MAY BE USED UNDER (a)

10 OF THIS SECTION ONLY] for a power project under the energy program for

11 Alaska if the project [THAT]

- 12 (1) is economically feasible; and
- 13 (2) provides the lowest reasonable power cost to utility
- 14 customers in the market area for the estimated life of the power
- 15 project, whether operated by itself or in conjunction with other power
- 16 projects in the market area, and [THAT] operates or will operate on
- 17 one or more of the following:

- 18 (A) renewable energy resources, including but not
- 19 limited to hydroelectric power, wind, biomass, geothermal, tidal
- 20 or solar energy, or a method that uses temperature differentials
- 21 or other physical properties of the ocean;
- 22 (B) coal or peat;
- 23 (C) energy derived from waste heat; or
- 24 (D) fossil fuel, including oil or natural gas.

25 (c) Notwithstanding (b)(1) of this section and AS 44.83.396 -

26 44.83.398, the fund may be used by the authority to provide money for

27 the cost of a power project under the energy program for Alaska that

28 is or was either constructed or owned by the United States government

29 if the requirements of this subsection are met. The provisions of

1 AS 44.83.177 - 44.83.187 do not apply to a power project financed
2 under this subsection. The authority may use money in the fund for
3 the cost of a power project under this subsection if

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

5 (2) the office of management and budget in the Office of
6 the Governor reviews a feasibility study and a plan of finance for the
7 project and determines that the feasibility study complies with the
8 requirements for a feasibility study submitted under AS 44.83.181(b)
9 and that the plan of finance complies with the requirements for a plan
10 of finance submitted under AS 44.83.181(c); and

11 (3) the project meets the other requirements of this chap-
12 ter.

13 * Sec. 17. AS 44.83.398(c) is amended to read:

14 (c) The authority shall deposit [TRANSMIT ALL THE] money that it
15 receives under (a) of this section [TO THE COMMISSIONER OF REVENUE FOR
16 DEPOSIT] in the power project revolving [STATE GENERAL] fund except
17 for money it has pledged or otherwise covenanted to secure bonds.

18 * Sec. 18. AS 44.83.425(3) is amended to read:

19 (3) "fund" means the power project revolving [DEVELOPMENT]
20 fund established by AS 44.83.170 [AS 44.83.382];

21 * Sec. 19. To be consistent with the change made by sec. 4 of this Act,
22 wherever in the Alaska Statutes and in regulations adopted under those
23 statutes "power project fund" is used, it shall be read as referring to the
24 power project revolving fund. Under AS 01.05.031 the revisor of statutes
25 shall implement this section in the statutes, and, under AS 44.62.125(b)-
26 (6), the regulations attorney shall implement this section in the adminis-
27 trative regulations.

28 * Sec. 20. AS 37.05.153; AS 44.25.020(5); AS 44.33.600, 44.33.610,
29 44.33.620(a), 44.33.620(d); AS 44.83.162(o)(6), 44.83.382, 44.83.386, and

1 44.83.388(b) are repealed.

2 * Sec. 21. Obligations, encumbrances, and expenditures incurred against
3 funds amended or repealed by this Act are considered obligations, encum-
4 brances, and expenditures of the power project revolving fund (AS 44.83.-
5 170).

6 * Sec. 22. Sections 2 - 6, and 10 - 21 of this Act take effect July 1,
7 1987, if an Act transferring appropriations for energy programs to the
8 power project revolving fund and making appropriations to the power project
9 revolving fund is enacted on or before July 1, 1987.

10 * Sec. 23. Sections 1 and 7 - 9 of this Act take effect immediately
11 under AS 01.10.070(c).