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1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 123

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

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

11 (9) the achievement of the goal of full employment, and of
12 establishment and continuing operation and development of industrial,
13 manufacturing, export, small business, and business enterprises in the
14 state [, INCLUDING, WITHOUT LIMITATION, FACILITIES FOR TRANSPORTATION,
15 FACILITIES FOR POLLUTION CONTROL AND WASTE DISPOSAL, FACILITIES FOR
16 THE LOCAL FURNISHING OF GAS, FACILITIES FOR WATER, FACILITIES FOR
17 INDUSTRIAL PARKS, MASS COMMUTING VEHICLES, FACILITIES FOR LOCAL DIS-
18 TRICT HEATING OR COOLING, PARKING FACILITIES, OR A STORAGE OR TRAINING
19 FACILITY RELATING TO A PLANT OR FACILITY,] will be accelerated and
20 facilitated by the creation of an instrumentality of the state with
21 powers to incur debt, to own and operate facilities, to enter into
22 partnership, joint venture, and other agreements with other persons
23 with respect to the ownership, operation, or construction of facili-
24 ties, and to make and insure loans to finance, and to assist private
25 lenders to make loans to finance, the establishment, operation, and
26 development of industrial, manufacturing, export, small business, and
27 business enterprises [, INCLUDING, WITHOUT LIMITATION, FACILITIES FOR
28 TRANSPORTATION, FACILITIES FOR POLLUTION CONTROL AND WASTE DISPOSAL,
29 FACILITIES FOR THE LOCAL FURNISHING OF GAS, FACILITIES FOR WATER,

1 FACILITIES FOR INDUSTRIAL PARKS, MASS COMMUTING VEHICLES, FACILITIES
2 FOR LOCAL DISTRICT HEATING OR COOLING, PARKING FACILITIES, OR A STOR-
3 AGE OR TRAINING FACILITY RELATING TO A PLANT OR FACILITY];

4 * Sec. 2. AS 44.88.010(c) is amended to read:

5 (c) It is further declared to be the policy of the state, in the
6 interests of promoting the health, security, and general welfare of
7 all the people of the state, and a public purpose of the state, to
8 accomplish the objectives set out in (b) of this section through the
9 provision of financial support, in the form of loans, guarantees,
10 equity investments, or methods provided in this chapter, for or in
11 cooperation with, or through joint venture, partnership, or other
12 agreements with, federal, state, and private institutions [FOR THE
13 PURPOSE OF INCREASING THE EXPORT OF ALASKA GOODS, TALENT, RAW MATERI-
14 ALS, AND SERVICES].

15 * Sec. 3. AS 44.88.060 is amended to read:

16 Sec. 44.88.060. ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AUTHOR-
17 ITY REVOLVING FUND. The Alaska Industrial Development and Export
18 Authority revolving fund is established in the authority. The revolv-
19 ing fund consists of appropriations made to the revolving fund by the
20 legislature, money or other assets transferred to the revolving fund
21 by the authority, and unrestricted payments on loans made or purchased
22 by the authority. Unless otherwise expressly stated, the accounts
23 created in this chapter are accounts in the revolving fund. The
24 authority may create additional accounts either in the revolving fund
25 or outside the revolving fund. Subject to agreements made with the
26 holders of the authority's bonds or with other persons, the authority
27 may transfer amounts in an account in the revolving fund to any other
28 account in the revolving fund. Amounts deposited in the revolving
29 fund may be pledged to the payment of bonds of the authority or

1 expended for the purposes of the authority under this chapter. The
2 authority has the powers and responsibilities set out in AS 37.10.071
3 with respect to the investment of amounts held in the revolving fund.

4 * Sec. 4. AS 44.88.070(2) is amended to read:

5 (2) owning and operating, either solely or by partnership,
6 joint venture, or other agreement with another person, the enterprises
7 and other facilities described in AS 44.88.172;

8 * Sec. 5. AS 44.88.080(14) is amended to read:

9 (14) to acquire, manage, and operate projects, and to enter
10 into agreements with other persons for shared ownership, operation, or
11 construction of projects, as the authority considers necessary or
12 appropriate to serve a public purpose or to exercise its powers under
13 this chapter;

14 * Sec. 6. AS 44.88 is amended by adding a new section to read:

15 Sec. 44.88.095. BONDING LIMITATIONS. (a) The authority may not
16 issue bonds in any 12-month period in an amount that exceeds
17 \$400,000,000.

18 (b) The authority may not issue revenue bonds, other than re-
19 funding bonds, to purchase a loan for a project under AS 44.88.155 --
20 44.88.159, to acquire a project or an interest in a project under
21 AS 44.88.172 -- 44.88.177 or to provide money to finance, guarantee,
22 or insure an exporting transaction under AS 44.88.300 -- 44.88.390 in
23 an amount greater than \$50,000,000 during any 12-month period unless
24 the issuance is included separately in the estimates required in the
25 report of the authority under AS 44.88.210(b) and unless the legisla-
26 ture, by law, approves the issuance.

27 (c) Before entering into a lease or other agreement as provided
28 in AS 44.88.090(e) regarding a project for which the authority agrees
29 to issue bonds in an amount in excess of \$6,000,000, there must be

1 filed with the authority a certified copy of a resolution of the
2 governing body of the political subdivision of the state, if any, in
3 which the project is to be located, consenting to the location of the
4 project. The consent need only refer to the general nature of the
5 project ultimately to be acquired, as set out in a request of the pro-
6 posed project applicant. Before entering into a project, the author-
7 ity must find, on the basis of all information reasonably available to
8 it, that

9 (1) the project and its development under this chapter will
10 be economically advantageous to the state and the general public
11 welfare and will contribute to the economic growth of the state;

12 (2) the project applicant is financially responsible;

13 (3) provision to meet increased demand upon public facili-
14 ties, which might result from the project, is reasonably assured; and

15 (4) the project will provide, or retain, employment reason-
16 ably related to the amount of the financing by the authority, con-
17 sidering the amount of investment per employee for comparable facil-
18 ities and other relevant factors.

19 (d) Before entering into an agreement to finance or to develop a
20 proposed project with a cost in excess of \$10,000,000 financed under
21 AS 44.88.172 for which bonds must be issued, the authority shall
22 obtain the approval of each Regional Resource Advisory Council
23 (AS 44.88.174) or municipality in the area in which the proposed
24 project is to be located. Approval under this subsection must be
25 evidenced by a certified copy of a resolution of the council or of the
26 governing body of the municipality. Before considering a resolution
27 regarding the approval or rejection of the development or financing of
28 a proposed project as required by this subsection a Regional Resource
29 Advisory Council shall conduct a public hearing in the region. If a

1 proposed project is located in a municipality, the governing body of
2 the municipality shall conduct a hearing on the proposed project.

3 (e) Before adopting a resolution approving a project to be
4 financed under AS 44.88.172 for which bonds must be issued, the au-
5 thority shall, on the basis of all information reasonably available to
6 it, make findings, with respect to the project, as described in
7 (c)(1), (2), (3), and (4) of this section, and also find that

8 (1) the project is economically and financially feasible
9 and able to produce revenue adequate to repay the bonds or loans with
10 which it is financed;

11 (2) the project is in compliance with applicable law; and

12 (3) issuance of the bonds is not expected to adversely
13 affect the ability of the state or any political subdivision of the
14 state to market other bonds.

15 (f) The authority may not issue bonds in an amount greater than
16 \$25,000,000 to assist in the acquisition of a development project
17 under AS 44.88.172 -- 44.88.177 without prior legislative approval.

18 * Sec. 7. AS 44.88.105(a) is amended to read:

19 (a) For the purpose of securing one or more issues of its bonds,
20 the authority may establish one or more special funds, called "capital
21 reserve funds", and shall pay into those capital reserve funds the
22 proceeds of the sale of its bonds and other money which may be made
23 available to the authority from other sources for the purposes of the
24 capital reserve funds. A capital reserve fund may be established only
25 if the authority determines that the establishment of the fund would
26 enhance the marketability of the bonds [, AND IF THOSE COSTS OF A
27 PROJECT, AS DEFINED IN AS 44.88.900, WHICH ARE TO BE FINANCED WITH THE
28 PROCEEDS OF THE BONDS, DO NOT EXCEED \$10,000,000]. Money in a capital
29 reserve fund, except as provided in this section, may be used as

1 required only for (1) the payment of the principal of, and interest
2 on, bonds or of the sinking fund payments with respect to those bonds;
3 (2) the purchase or redemption of the bonds; or (3) the payment of a
4 redemption premium required to be paid when the bonds are redeemed
5 before maturity. However, money in a capital reserve fund may not be
6 withdrawn if the withdrawal would reduce the amount in the capital
7 reserve fund to less than the capital reserve fund requirement, except
8 for the purpose of making payment, when due, of principal, interest,
9 redemption premiums on the bonds, and sinking fund payments when other
10 money of the authority is not available for the payments. Income or
11 interest earned by, or increment to, a capital reserve fund, from the
12 investment of all or part of the fund, may be transferred by the
13 authority to other funds or accounts of the authority if the transfer
14 does not reduce the amount of the capital reserve fund below the
15 capital reserve fund requirement.

16 * Sec. 8. AS 44.88.105(d) is amended to read:

17 (d) With respect to a capital reserve fund created under this
18 section no later than January 1, 1989, the [THE] chairman of the au-
19 thority shall annually, no later than January 2, certify in writing to
20 the governor and the legislature the amount, if any, required to re-
21 store the [A] capital reserve fund to the capital reserve fund re-
22 quirement. The legislature may appropriate to the authority the
23 amount certified by the chairman of the authority. The authority
24 shall deposit the amounts appropriated under this subsection during a
25 fiscal year in the proper capital reserve fund. Nothing in this
26 section creates a debt or liability of the state.

27 * Sec. 9. AS 44.88.155(c) is amended to read:

28 (c) Money and other assets of the enterprise development account
29 may be used to secure bonds of the authority issued to finance the

1 purchase of loans for projects [AND SHALL BE HELD AND INVESTED BY THE
2 AUTHORITY IN ACCORDANCE WITH AS 37.10.071] or shall be used to pur-
3 chase loans for projects.

4 * Sec. 10. AS 44.88.155(d) is amended to read:

5 (d) A loan purchased in whole or in part by the authority with
6 assets of the enterprise development account or with proceeds of bonds
7 secured by assets of the enterprise development account, other than a
8 loan which is financed with the proceeds of bonds of the authority and
9 secured only by a project applicant or a project,

10 (1) may not exceed \$25,000,000

11 [(A) \$10,000,000; OR

12 (B) \$500,000 IF THE LOAN IS PURCHASED UNDER AS 44.88.-
13 158];

14 (2) may not exceed the cost of the project or 75 percent of
15 the appraised value of the project, whichever is less, unless the
16 amount of the loan in excess of this limit is federally insured or
17 guaranteed or is insured by a qualified mortgage insurance company;

18 (3) may not be for a term longer than three-quarters of the
19 authority's estimate of the life of the project or 25 years from the
20 date the loan is made, whichever is earlier;

21 (4) shall contain complete amortization provisions satis-
22 factory to the authority requiring periodic payments by the borrower;

23 (5) shall be in the form and contain the terms and provi-
24 sions with respect to insurance, repairs, alterations, payment of
25 taxes and assessments, default reserves, delinquency charges, default
26 remedies, acceleration of maturity, secondary liens, and other matters
27 the authority prescribes;

28 (6) shall be secured as to repayment by a mortgage or other
29 security instrument in the manner the authority determines is feasible

1 to assure timely repayment under a loan agreement entered into with
2 the borrower;

3 (7) may not be made unless

4 (A) at least 20 [10] percent of the principal amount
5 of the loan is retained by the originator of the loan; or

6 (B) 100 percent of the principal amount of the loan is
7 guaranteed by the United States or an agency or instrumentality
8 of the United States;

9 (8) must be

10 [(A) AT LEAST PARTIALLY GUARANTEED BY THE UNITED STATES
11 OR AN AGENCY OR INSTRUMENTALITY OF THE UNITED STATES, SUBJECT TO
12 THE PROVISIONS OF AS 44.88.158;]

13 (B) financed from the proceeds of bonds; or

14 (C) expected by the authority to be financed from the
15 proceeds of bonds.

16 * Sec. 11. AS 44.88.165 is repealed and reenacted to read:

17 Sec. 44.88.165. DELINQUENT LOANS. The authority shall adopt
18 regulations to describe the circumstances under which it will discon-
19 tinue purchasing loans from a financial institution because of exces-
20 sive delinquencies among the loans previously purchased by the author-
21 ity from the financial institution. In adopting the regulations, the
22 authority must consider the delinquency experience with loans it pur-
23 chased from all financial institutions. The authority may include in
24 the regulations other remedies it considers appropriate as alterna-
25 tives to the discontinuance of purchasing loans from the financial
26 institution.

27 * Sec. 12. AS 44.88.172(a) is amended to read:

28 (a) The economic development account is established in the re-
29 volving fund. The economic development account consists of money or

1 assets appropriated, loaned, or transferred to the authority for
2 deposit in the account [,] and other money or assets deposited in the
3 account by the authority. While money is on deposit in the economic
4 development account, it [THE ACCOUNT] may be used only to finance,
5 acquire, manage, and operate development projects that the authority
6 intends to own and operate either solely or by partnership, joint
7 venture, or other agreement with another person. The term "operate"
8 includes operation directly by the authority[,], or by an agent of the
9 authority.

10 * Sec. 13. AS 44.88.900(4) is repealed and reenacted to read:

11 (4) "development project" means the same as "project," as
12 defined in this section;

13 * Sec. 14. AS 44.88.900(9) is amended to read:

14 (9) "project" means

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

16 [(i)] in connection with making, processing, pre-
17 paring, transporting, or producing in any manner, goods,
18 products, or substances of any kind or nature or in connec-
19 tion with developing or utilizing a natural resource, or
20 extracting, smelting, transporting, converting, assembling,
21 or producing in any manner, minerals, raw materials, chemi-
22 cals, compounds, alloys, fibers, commodities and materials,
23 products, or substances of any kind or nature;

24 [(ii) AS AN INDUSTRIAL PARK; IN CONNECTION WITH
25 TRANSPORTATION; FOR THE PREVENTION, LIMITATION OR CONTROL OF
26 POLLUTION; FOR THE DISPOSAL OF SEWAGE OR SOLID WASTE; FOR
27 THE LOCAL FURNISHING OF GAS; FOR THE FURNISHING OF WATER; AS
28 OR IN CONNECTION WITH MASS COMMUTING VEHICLES; FOR LOCAL
29 DISTRICT HEATING OR COOLING; AS A PARKING FACILITY; OR AS A

1 STORAGE OR TRAINING FACILITY DIRECTLY RELATED TO A PLANT OR
2 FACILITY DESCRIBED IN THIS PARAGRAPH;]

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

5 (C) commercial activity by a small enterprise;

6 * Sec. 15. AS 44.88.090(g) and (i), 44.88.105(e) and (g), 44.88.157,
7 44.88.158, 44.88.159(c), 44.88.160, 44.88.172(b) and (c), 44.88.175, 44.-
8 88.176, 44.88.212(a), and 44.88.900(3) are repealed.

9 * Sec. 16. This Act takes effect immediately under AS 01.10.070(c).