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1 IN THE HOUSE

BY THE LABOR AND  
COMMERCE COMMITTEE

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SENATE CS FOR CS FOR HOUSE BILL NO. 123 (L&C)

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  
and Export Authority; and providing for an effective  
date."

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

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

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(9) the achievement of the goal of full employment, and of  
establishment and continuing operation and development of industrial,  
manufacturing, export, small business, and business enterprises in the  
state [, INCLUDING, WITHOUT LIMITATION, FACILITIES FOR TRANSPORTATION,  
FACILITIES FOR POLLUTION CONTROL AND WASTE DISPOSAL, FACILITIES FOR  
THE LOCAL FURNISHING OF GAS, FACILITIES FOR WATER, FACILITIES FOR  
INDUSTRIAL PARKS, MASS COMMUTING VEHICLES, FACILITIES FOR LOCAL DIS-  
TRICT HEATING OR COOLING, PARKING FACILITIES, OR A STORAGE OR TRAINING  
FACILITY RELATING TO A PLANT OR FACILITY,] will be accelerated and  
facilitated by the creation of an instrumentality of the state with  
powers to incur debt, to own and operate facilities, to make and  
insure loans to finance [,] and to assist private lenders to make  
loans to finance [,] the establishment, operation, and development of  
industrial, manufacturing, export, small business, and business enter-  
prises [, INCLUDING, WITHOUT LIMITATION, FACILITIES FOR TRANSPORTA-  
TION, FACILITIES FOR POLLUTION CONTROL AND WASTE DISPOSAL, FACILITIES  
FOR THE LOCAL FURNISHING OF GAS, FACILITIES FOR WATER, FACILITIES FOR  
INDUSTRIAL PARKS, MASS COMMUTING VEHICLES, FACILITIES FOR LOCAL DIS-  
TRICT HEATING OR COOLING, PARKING FACILITIES, OR A STORAGE OR TRAINING

1 FACILITY RELATING TO A PLANT OR FACILITY];

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

3 (c) It is further declared to be the policy of the state, in the  
4 interests of promoting the health, security, and general welfare of  
5 all the people of the state, and a public purpose of the state, to  
6 accomplish the objectives set out in (b) of this section through the  
7 provision of financial support to a [IN COOPERATION WITH] federal,  
8 state, municipal, or [AND] private entity [INSTITUTIONS FOR THE PUR-  
9 POSE OF INCREASING THE EXPORT OF ALASKA GOODS, TALENT, RAW MATERIALS,  
10 AND SERVICES].

11 \* Sec. 3. AS 44.88.060 is amended to read:

12 Sec. 44.88.060. ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AU-  
13 THORITY REVOLVING FUND. The Alaska Industrial Development and Export  
14 Authority revolving fund is established in the authority. The revolv-  
15 ing fund consists of appropriations made to the revolving fund by the  
16 legislature, money or other assets transferred to the revolving fund  
17 by the authority, and unrestricted payments on loans made or purchased  
18 by the authority. Unless otherwise expressly stated, the accounts  
19 created in this chapter are accounts in the revolving fund. The  
20 authority may create additional accounts either in the revolving fund  
21 or outside the revolving fund. Subject to agreements made with the  
22 holders of the authority's bonds or with other persons, the authority  
23 may transfer amounts in an account in the revolving fund to another  
24 account in the revolving fund. Amounts deposited in the revolving  
25 fund may be pledged to the payment of bonds of the authority or ex-  
26 pended for the purposes of the authority under this chapter. The  
27 authority has the powers and responsibilities established in AS 37.-  
28 10.071 with respect to the investment of amounts held in the revolving  
29 fund.

1 \* Sec. 4. AS 44.88.080 is amended by adding a new paragraph to read:

2 (25) to make cooperative agreements with the Department of  
3 Transportation and Public Facilities, acting on behalf of the  
4 international airports revenue fund established under AS 37.15.430, to  
5 acquire, equip, operate, maintain, construct or install facilities  
6 that will enhance the competitiveness of the international airports,  
7 including a cooperative agreement to lend amounts from the  
8 international airport revenue fund to finance the development or  
9 improvement of utilities serving the airports.

10 \* Sec. 5. AS 44.88 is amended by adding a new section to read:

11 Sec. 44.88.082. JOINT OWNERSHIP PROHIBITED. The authority may  
12 not enter into an agreement for joint ownership of a project.

13 \* Sec. 6. AS 44.88.090(a) is amended to read:

14 (a) The [SUBJECT TO (g) OF THIS SECTION, THE] authority may  
15 borrow money and may issue bonds, including but not limited to bonds  
16 on which the principal and interest are payable

17 (1) exclusively from the income and receipts or other money  
18 derived from the project or development project financed with the  
19 proceeds of the bonds or derived from the exporter or exporting trans-  
20 action financed, guaranteed, or insured with the proceeds of the  
21 bonds;

22 (2) exclusively from the income and receipts or other money  
23 derived from designated projects or development projects or other  
24 sources whether or not they are financed, insured, or guaranteed in  
25 whole or in part with the proceeds of the bonds; or

26 (3) from its income and receipts or other assets generally,  
27 or a designated part or parts of them.

28 \* Sec. 7. AS 44.88 is amended by adding a new section to read:

29 Sec. 44.88.095. BONDING LIMITATIONS. (a) The authority may not

1 issue bonds in a 12-month period in an amount that exceeds  
2 \$400,000,000.

3 (b) The authority may not issue revenue bonds, other than re-  
4 funding bonds, to purchase a loan for a project under AS 44.88.155 -  
5 44.88.159, to acquire a development project under AS 44.88.172 -  
6 44.88.177 or to provide money to finance, guarantee, or insure an  
7 exporting transaction under AS 44.88.300 - 44.88.390 in an amount  
8 greater than \$50,000,000 during any 12-month period unless the issu-  
9 ance is included separately in the estimates required in the report of  
10 the authority under AS 44.88.210(b) and unless the legislature, by  
11 law, approves the issuance.

12 (c) Before entering into a lease or other agreement under  
13 AS 44.88.090(e) regarding a project for which the authority agrees to  
14 issue bonds in an amount in excess of \$6,000,000, there must be filed  
15 with the authority a certified copy of a resolution of the governing  
16 body of the political subdivision of the state, if any, in which the  
17 project is to be located, consenting to the location of the project.  
18 The consent need only refer to the general nature of the project  
19 ultimately to be acquired, as set out in a request of the proposed  
20 project applicant. Before entering into a lease or other agreement  
21 under AS 44.88.090(e) regarding a project, the authority shall find,  
22 on the basis of all information reasonably available to it, that

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

26 (2) the project applicant is financially responsible;

27 (3) provision to meet increased demand upon public facili-  
28 ties that might result from the project is reasonably assured; and

29 (4) the project will provide, or retain, employment reason-

1 ably related to the amount of the financing by the authority, con-  
2 sidering the amount of investment per employee for comparable facil-  
3 ities and other relevant factors.

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

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

12 (2) the project complies with applicable law; and

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

16 (e) Before entering into an agreement to finance or to develop a  
17 proposed project financed under AS 44.88.172 for which bonds must be  
18 issued, the authority shall obtain the approval of each Regional  
19 Resource Advisory Council appointed under AS 44.88.174 or municipality  
20 in the area in which the proposed project is to be located. Approval  
21 under this subsection must be evidenced by a certified copy of a  
22 resolution of the council or of the governing body of the municipal-  
23 ity. Before considering a resolution regarding the approval or re-  
24 jection of the development or financing of a proposed project under  
25 this subsection, a Regional Resource Advisory Council shall conduct a  
26 public hearing in the region. If a proposed project is located in a  
27 municipality, the governing body of the municipality shall conduct a  
28 hearing on the proposed project.

29 (f) Before entering into an agreement to finance or to develop a

1 proposed project financed under AS 44.88.172 for which bonds must be  
2 issued, the authority shall compile and make available to the public a  
3 document that summarizes the projected economic, social, and environ-  
4 mental effects of the project; and, in conjunction with the Department  
5 of Fish and Game, the Department of Natural Resources, the Department  
6 of Environmental Conservation, and the Department of Labor, the au-  
7 thority shall conduct a public hearing on the projected effects of the  
8 project.

9 (g) Without prior legislative approval, the authority may not  
10 issue bonds in an amount greater than \$10,000,000 to assist in the  
11 financing of a development project under AS 44.88.172 - 44.88.177.

12 \* Sec. 8. AS 44.88.095(g) is repealed and reenacted to read:

13 (g) The authority may not issue bonds, other than refunding  
14 bonds, without securing the prior approval of the legislature.

15 \* Sec. 9. AS 44.88.105(a) is amended to read:

16 (a) For the purpose of securing one or more issues of its bonds,  
17 the authority may establish one or more special funds, called "capital  
18 reserve funds", and shall pay into those capital reserve funds the  
19 proceeds of the sale of its bonds and other money which may be made  
20 available to the authority from other sources for the purposes of the  
21 capital reserve funds. A capital reserve fund may be established only  
22 if the authority determines that the establishment of the fund would  
23 enhance the marketability of the bonds [, AND IF THOSE COSTS OF A  
24 PROJECT, AS DEFINED IN AS 44.88.900, WHICH ARE TO BE FINANCED WITH THE  
25 PROCEEDS OF THE BONDS, DO NOT EXCEED \$10,000,000]. Money in a capital  
26 reserve fund, except as provided in this section, may be used as  
27 required only for (1) the payment of the principal of, and interest  
28 on, bonds or of the sinking fund payments with respect to those bonds;  
29 (2) the purchase or redemption of the bonds; or (3) the payment of a

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

13 \* Sec. 10. AS 44.88.105(d) is amended to read:

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

24 \* Sec. 11. AS 44.88.155(b) is amended to read:

25 (b) The authority may establish in the enterprise development  
26 account the [A SMALL ENTERPRISE LOAN ACCOUNT, A LOAN INSURANCE AC-  
27 COUNT, AND OTHER] accounts it considers appropriate.

28 \* Sec. 12. AS 44.88.155(c) is amended to read:

29 (c) Money and other assets of the enterprise development account

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

5 \* Sec. 13. AS 44.88.155(d) is amended to read:

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

11 (1) may not exceed

12 [(A)] \$10,000,000; [OR

13 (B) \$500,000 IF THE LOAN IS PURCHASED UNDER AS 44.88.-  
14 158;]

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

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

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

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

29 (6) shall be secured as to repayment by a mortgage or other

1 security instrument in the manner the authority determines is feasible  
2 to assure timely repayment under a loan agreement entered into with  
3 the borrower;

4 (7) may not be made unless

5 (A) at least 20 [10] percent of the principal amount  
6 of the loan is retained by the originator of the loan as long as  
7 the loan is outstanding; or

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

11 (8) must be

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

15 (B)] financed from the proceeds of bonds; or

16 (B) [(C)] expected by the authority to be financed  
17 from the proceeds of bonds.

18 \* Sec. 14. AS 44.88.165 is repealed and reenacted to read:

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

29 \* Sec. 15. AS 44.88.172(a) is amended to read:

1 (a) The economic development account is established in the  
2 revolving fund. The economic development account consists of money or  
3 assets appropriated, loaned, or transferred to the authority for  
4 deposit in the account [,] and other money or assets deposited in the  
5 account by the authority. While money is on deposit in the economic  
6 development account, the money [THE ACCOUNT] may be used only to  
7 finance, acquire, manage, and operate development projects that the  
8 authority intends to own and operate. The term "operate" includes  
9 operation directly by the authority [,] or by an agent of the author-  
10 ity.

11 \* Sec. 16. AS 44.88.585(b) is amended to read:

12 (b) The authority may provide a guarantee from the fund for up  
13 to 80 [70] percent of a loan that qualifies under AS 44.88.500 -  
14 44.88.599. The ratio of the guarantee to the outstanding principal of  
15 the loan may not increase over the term of the loan.

16 \* Sec.17. AS 44.88.545 is amended to read:

17 Sec. 44.88.545. LIMITATIONS OF GUARANTEES WITH RESPECT TO BOR-  
18 ROWERS. The authority may not provide a guarantee

19 (1) [A LOAN] of more than \$1,000,000;

20 (2) [LOANS] to an individual borrower that cumulatively  
21 exceeds [EXCEED] \$1,000,000 of guaranteed indebtedness.

22 \* Sec. 18. AS 44.88.560 is amended to read:

23 Sec. 44.88.560. POWERS OF THE AUTHORITY. The authority may

24 (1) adopt regulations to implement AS 44.88.500 - 44.88.-  
25 599;

26 (2) establish terms and conditions for loan guarantees and  
27 refinancing agreements subject to the requirements of AS 44.88.500 -  
28 44.88.599;

29 (3) make and execute contracts and other instruments to

1           implement AS 44.88.500 - 44.88.599;  
2                   (4) charge  
3                        (A) [(i)] one percent of the amount guaranteed for the  
4           service it provides under AS 44.88.500 - 44.88.599; and  
5                        (B) [(ii)] any other reasonable fee that the authority  
6           may establish by regulation;  
7                   (5) acquire real or personal property by purchase, trans-  
8           fer, or foreclosure when the acquisition is necessary to protect an  
9           interest in the fund; and  
10                   (6) exercise any other power necessary to implement AS 44.-  
11           88.500 - 44.88.599;  
12                   (7) to the extent the authority considers it to be in its  
13           best interest to do so, use money in the business assistance fund to  
14           pay expenses relating to the liquidation of collateral securing loans  
15           guaranteed by the business assistance fund.  
16   \* Sec. 19. AS 44.88.900(4) is repealed and reenacted to read:  
17                   (4) "development project" has the meaning given to "proj-  
18           ect" in (9)(A) of this section;  
19   \* Sec. 20. AS 44.88.900(9) is amended to read:  
20                   (9) "project" means  
21                        (A) a plant or facility used or intended for use  
22                                [(i)] in connection with making, processing, pre-  
23                   paring, transporting, or producing in any manner, goods,  
24                   products, or substances of any kind or nature or in connec-  
25                   tion with developing or utilizing a natural resource, or  
26                   extracting, smelting, transporting, converting, assembling,  
27                   or producing in any manner, minerals, raw materials, chemi-  
28                   cals, compounds, alloys, fibers, commodities and materials,  
29                   products, or substances of any kind or nature;

1 [(ii) AS AN INDUSTRIAL PARK; IN CONNECTION WITH  
2 TRANSPORTATION; FOR THE PREVENTION, LIMITATION OR CONTROL OF  
3 POLLUTION; FOR THE DISPOSAL OF SEWAGE OR SOLID WASTE; FOR  
4 THE LOCAL FURNISHING OF GAS; FOR THE FURNISHING OF WATER; AS  
5 OR IN CONNECTION WITH MASS COMMUTING VEHICLES; FOR LOCAL  
6 DISTRICT HEATING OR COOLING; AS A PARKING FACILITY; OR AS A  
7 STORAGE OR TRAINING FACILITY DIRECTLY RELATED TO A PLANT OR  
8 FACILITY DESCRIBED IN THIS PARAGRAPH;]

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

11 (C) commercial activity by a small enterprise;

12 \* Sec. 21. AS 44.88.090(g), 44.88.090(i), 44.88.105(e), 44.88.105(g),  
13 44.88.157, 44.88.158, 44.88.159(c), 44.88.160, 44.88.172(b), 44.88.172(c),  
14 44.88.175, 44.88.176, 44.88.212(a), and 44.88.900(3) are repealed.

15 \* Sec. 22. AS 44.88.095(b) is repealed.

16 \* Sec. 23. Sections 8 and 22 of this Act take effect January 1, 1991.

17 \* Sec. 24. Sections 1 - 7 and 9 - 21 of this Act take effect immedi-  
18 ately under AS 01.10.070(c).