

1 IN THE SENATE

BY COGHILL

2

SENATE BILL NO. 46

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 Power Authority; and

7

providing for an effective date."

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

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* Section 1. AS 44.33.620(b) is amended to read:

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(b) The Department of Commerce and Economic Development [DEPART-

11

MENT] may agree with the Alaska Power Authority [AUTHORITY] to defer

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repayment of a loan made under former AS 44.33.610. However, the loan

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must be repaid in full during the period of the loan agreement.

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* Sec. 2. AS 44.33.625 is amended to read:

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Sec. 44.33.625. RATE REOPENERS. A power sales agreement for

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the sale of power from the initial project, as described in AS 44.-

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83.398(a), financed with a loan under former AS 44.33.610 may include

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among its provisions an agreed schedule of wholesale power rates

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notwithstanding the provisions of AS 44.83.398, but must include a

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provision for a rate reopener at least every 15 years.

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* Sec. 3. AS 44.83.092 is amended by adding a new subsection to read:

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(b) A contract that the authority enters into under (a) of this

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section relating to the sale of electric power from a power project to

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be acquired or constructed under AS 44.83.380 - 44.83.425 (energy

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program for Alaska) may create a project management committee. The

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committee consists of representatives of the contracting parties as

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specified in the contract. The contract shall determine the powers of

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the committee with respect to the power project. The powers may

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include responsibility for the management, operation, and maintenance

1 of the project. To the extent provided in the contract, the committee
2 has separate legal existence and other powers necessary to its pur-
3 poses.

4 * Sec. 4. AS 44.83.105 is amended to read:

5 Sec. 44.83.105. BONDS FOR POWER PROJECTS UNDER THE ENERGY PRO-
6 GRAM FOR ALASKA. The authority may borrow money and issue its bonds
7 for the acquisition or construction of power projects to be acquired
8 or constructed under the energy program for Alaska. The principal of
9 and interest on the bonds are payable from money derived from the sale
10 of wholesale power from power projects financed under AS 44.83.380 -
11 44.83.425 as part of the energy program for Alaska [FROM THE POWER
12 DEVELOPMENT FUND] or from a source referred to in AS 44.83.100 as the
13 authority determines. The bonds may be issued if

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

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

22 * Sec. 5. AS 44.83.162(a) is amended to read:

23 (a) The power cost equalization program [FUND] is established
24 [AS A SEPARATE FUND] for the purpose of equalizing power cost per
25 kilowatt-hour statewide at a cost close or equal to the mean of the
26 cost per kilowatt-hour in Anchorage, Fairbanks, and Juneau [BY PAYING
27 MONEY FROM THE FUND TO ELIGIBLE ELECTRIC UTILITIES IN THE STATE]. The
28 program [FUND] shall be administered by the authority [AS A FUND
29 DISTINCT FROM THE OTHER FUNDS OF THE AUTHORITY. THE FUND IS COMPOSED

1 OF MONEY APPROPRIATED FOR THE PURPOSE OF PROVIDING POWER COST EQUALI-
2 ZATION TO ELIGIBLE ELECTRIC UTILITIES].

3 * Sec. 6. AS 44.83.170(a) is amended to read:

4 (a) There is established as a separate fund the power project
5 revolving fund. The fund is [WHICH SHALL BE] distinct from any other
6 money or funds of the authority, and [WHICH] includes [ONLY] money
7 appropriated by the legislature and the portion of loan repayments
8 from loans made from the fund that is attributable to principal.

9 * Sec. 7. AS 44.83.170(b) is amended to read:

10 (b) The authority may make loans from the power project revolv-
11 ing fund from money available by appropriation or from the repayment
12 of principal

13 (1) to electric utilities, regional electric authorities,
14 municipalities, [CITIES, BOROUGHS,] regional and village corporations,
15 village councils, school districts, regional educational attendance
16 areas, and nonprofit marketing cooperatives to pay the costs of

17 (A) reconnaissance studies, feasibility studies,
18 license and permit applications, preconstruction engineering, and
19 design of power projects;

20 (B) constructing, equipping, modifying, improving, and
21 expanding [SMALL-SCALE] power production facilities, conservation
22 facilities, bulk fuel storage facilities, and transmission and
23 distribution facilities, including energy production, trans-
24 mission and distribution, and waste energy conservation facili-
25 ties which depend on fossil fuel, wind power, tidal, geothermal,
26 biomass, hydroelectric, solar or other nonnuclear [NON-NUCLEAR]
27 energy sources; [AND]

28 (C) reconnaissance studies, preconstruction engineer-
29 ing, design, construction, equipping, modification, and expansion

1 of potable water supply including surface storage and groundwater
2 sources and transmission of water from surface storage to exist-
3 ing distribution systems;

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

6 (E) consumer end-use improvements to reduce demand for
7 energy;

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

9 (A) the loan is entered into under a leveraged lease
10 financing arrangement;

11 (B) the party which will be responsible for the power
12 project is an electric utility, regional electric authority,
13 municipality, [CITY, BOROUGH,] regional or village corporation,
14 village council, school district, regional educational attendance
15 area, or nonprofit marketing cooperative; and

16 (C) the borrower seeking the loan demonstrates to the
17 authority that the financing arrangement for the power project
18 will reduce project financing costs below costs of comparable
19 public power projects;

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

21 * Sec. 8. AS 44.83.170(g) is repealed and reenacted to read:

22 (g) The authority shall deposit in the power project revolving
23 fund the principal and interest portions of loan repayments and any
24 earnings on the balance in the fund. The authority may make new loans
25 to be financed from the principal portions of loan repayments. The
26 authority may not encumber or spend the interest portions of loan
27 repayments or earnings on the balance in the fund except as authorized
28 by legislative appropriation or as specifically provided in this
29 chapter.

1 * Sec. 9. AS 44.83.170 is amended by adding new subsections to read:

2 (i) The Railbelt advisory committee, composed of one member from
3 each electric utility that operates in the Railbelt, is established.
4 The authority may not make a loan under this section for an energy-
5 related project that is located in the Railbelt until the Railbelt
6 advisory committee has had an opportunity to review the loan applica-
7 tion. The authority shall consider the written comments and recommen-
8 dations of the committee before acting on the loan application. In
9 this subsection, "Railbelt" means the area 25 miles on each side of
10 the edge of the right-of-way of the Alaska Railroad.

11 (j) The authority shall submit an annual report to the legisla-
12 ture by the 10th day of the legislative session. The report shall
13 make recommendations concerning the allocation of funds in the power
14 project revolving fund. The first priority for use of the unrestrict-
15 ed funds shall be to fully fund the power cost equalization program
16 under AS 44.83.162.

17 (k) The authority may make loans from the power project re-
18 volving fund to the authority to pay the cost of feasibility studies,
19 design, and construction of transmission projects. The authority
20 shall repay the principal amount of loans made under this subsection
21 to the fund from revenue identified at the time that the loan is made.
22 The authority may not charge interest on a loan made under this sub-
23 section.

24 * Sec. 10. AS 44.83 is amended by adding a new section to read:

25 Sec. 44.83.172. POWER PROJECT BONDS. (a) The authority may
26 borrow money and issue bonds to make or refinance loans from the power
27 project revolving fund for a revenue producing program, activity, or
28 project authorized under the power project revolving fund. However,
29 the authority may not issue bonds to make or refinance a loan entered

1 into under a leveraged lease financing arrangement.

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

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

9 (d) The authority may notify the head of a department or agency
10 of the state in writing that a borrower is in default on the repayment
11 of principal or interest on loans made or refinanced with the proceeds
12 of bonds issued under this section. Notwithstanding any other pro-
13 vision of law, to the extent that a department or agency of the state
14 is the custodian of money payable to the borrower, the department or
15 agency shall withhold payment of the money from the borrower and pay
16 over the money to the authority to pay principal and interest on bonds
17 of the authority issued under this section.

18 * Sec. 11. AS 44.83.187(d) is amended to read:

19 (d) The provisions of AS 44.83.177 - 44.83.185 do not apply to

20 (1) an addition, modification, repair, reconstruction,
21 design, acquisition or construction for the purpose of completing a
22 project;

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

25 * Sec. 12. AS 44.83.361(a) is amended to read:

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

28 (1) APPROPRIATIONS MADE TO THE FUND; AND

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

1 * Sec. 13. AS 44.83.361(b) is amended to read:

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

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

20 (2) the extension of electric service would provide immedi-
21 ate service to at least three consumers.

22 * Sec. 14. AS 44.83.361(c) is amended to read:

23 (c) A loan under [FROM] the rural electrification program bears
24 [REVOLVING LOAN FUND SHALL BEAR] an annual rate of interest of two
25 percent of the unpaid balance of the loan. The authority shall depos-
26 it loan repayments and interest [INTEREST] received on a loan made
27 under this section [MUST BE TRANSFERRED MONTHLY TO THE COMMISSIONER OF
28 REVENUE FOR DEPOSIT] in the power project revolving [GENERAL] fund
29 under AS 44.83.170(g).

1 * Sec. 15. AS 44.83.361(e) is amended to read:

2 (e) The authority shall

3 (1) adopt regulations necessary to carry out the provisions
4 of this section;

5 (2) administer the rural electrification program [REVOLVING
6 LOAN FUND]; and

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

11 * Sec. 16. AS 44.83.363 is amended to read:

12 Sec. 44.83.363. LOAN ADVISORY COMMITTEE. When an application
13 for a rural electrification loan is submitted to the authority under
14 AS 44.83.361, the authority shall appoint a local advisory committee
15 from persons residing in the area that the applicant utility is certi-
16 fied to serve. The loan advisory committee shall consider the loan
17 application, and shall recommend whether the loan application is to be
18 approved or disapproved. The [A FAVORABLE RECOMMENDATION FROM THE]
19 loan advisory committee shall base a favorable recommendation [BE
20 BASED] on a determination that development in the area of the proposed
21 extension of electric service is likely to provide for full repayment
22 of the loan under AS 44.83.361(d) within 20 [10] years. In making
23 that determination the committee shall consider

24 (1) permanence of the premises to be served by the exten-
25 sion;

26 (2) land use patterns in the area;

27 (3) access for the line that would be installed with loan
28 proceeds;

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

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

3 * Sec. 17. AS 44.83.380(b) is amended to read:

4 (b) The energy program for Alaska is a program by which the
5 authority may acquire or construct power projects with money appropri-
6 ated by the legislature to the power project revolving fund under
7 AS 44.83.170 for power development [FUND ESTABLISHED IN AS 44.83.382].
8 A power project may be acquired or constructed as part of the energy
9 program for Alaska only if the project is submitted to and approved by
10 the legislature in accordance with procedures set out in AS 44.83.-
11 177 - 44.83.187.

12 * Sec. 18. AS 44.83.384 is amended to read:

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

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

19 (2) the cost of a power project, including but not limited
20 to costs of acquiring necessary licenses, preparing engineering de-
21 signs, obtaining land, and constructing the power project;

22 (3) the defeasance of bonds, or the payment of debt service
23 on loans for or on an issue of bonds sold in connection with a power
24 project;

25 (4) the cost of operating and maintaining power projects;
26 and

27 (5) debt service on power projects.

28 (b) In addition to the purposes authorized by (a) of this sec-
29 tion, the authority may use money in the fund [MAY BE USED UNDER (a)

1 OF THIS SECTION ONLY] for a power project under the energy program for
2 Alaska if the project [THAT]

3 (1) is economically feasible; and

4 (2) provides the lowest reasonable power cost to utility
5 customers in the market area for the estimated life of the power
6 project, whether operated by itself or in conjunction with other power
7 projects in the market area, and [THAT] operates or will operate on
8 one or more of the following:

9 (A) renewable energy resources, including but not
10 limited to hydroelectric power, wind, biomass, geothermal, tidal
11 or solar energy, or a method that uses temperature differentials
12 or other physical properties of the ocean;

13 (B) coal or peat;

14 (C) energy derived from waste heat; or

15 (D) fossil fuel, including oil or natural gas.

16 (c) Notwithstanding (b)(1) of this section and AS 44.83.396 -
17 44.83.398, the fund may be used by the authority to provide money for
18 the cost of a power project under the energy program for Alaska that
19 is or was either constructed or owned by the United States government
20 if the requirements of this subsection are met. The provisions of
21 AS 44.83.177 - 44.83.187 do not apply to a power project financed
22 under this subsection. The authority may use money in the fund for
23 the cost of a power project under this subsection if

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

25 (2) the office of management and budget in the Office of
26 the Governor reviews a feasibility study and a plan of finance for the
27 project and determines that the feasibility study complies with the
28 requirements for a feasibility study submitted under AS 44.83.181(b)
29 and that the plan of finance complies with the requirements for a plan

1 of finance submitted under AS 44.83.181(c); and

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

4 * Sec. 19. AS 44.83.398(c) is amended to read:

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

9 * Sec. 20. AS 44.83.425(3) is amended to read:

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

12 * Sec. 21. A loan made under AS 44.83.170(k), added by sec. 9 of this
13 Act, before January 1, 1992, to the authority for the Fairbanks-Kenai
14 Peninsula Intertie shall be repaid from revenue from the Bradley Lake
15 hydroelectric project after the revenue bonds for that project are retired.

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

23 * Sec. 23. AS 37.05.520; AS 44.25.020(5); AS 44.33.600, 44.33.610,
24 44.33.620(a), 44.33.620(c), 44.33.620(d), 44.33.630; AS 44.83.162(p)(6),
25 44.83.382, 44.83.386, and 44.83.388(b) are repealed.

26 * Sec. 24. Obligations, encumbrances, and expenditures incurred against
27 funds amended or repealed by this Act are considered obligations, encum-
28 brances, and expenditures of the power project revolving fund (AS 44.83.-
29 170).

1 * Sec. 25. Sections 1, 2, 4 - 8, and 12 - 24 of this Act take effect
2 July 1, 1989, if an Act transferring appropriations for energy programs to
3 the power project revolving fund and making appropriations to the power
4 project revolving fund is enacted on or before July 1, 1989.

5 * Sec. 26. Sections 3 and 9 - 11 of this Act take effect immediately
6 under AS 01.10.070(c).