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1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

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SENATE BILL NO. 238

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 power project fund, and to
the powers of the Alaska Power Authority to finance
and make loans from the power project fund and to
sell waste heat; and providing for an effective
date."

10

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

12 * Section 1. AS 44.83.080(16) is amended to read:

13

(16) to recommend to the legislature

14

(A) the issuance of general obligation bonds of the
state to finance the construction of a power project if the
authority first determines that the project cannot be financed by
revenue bonds of the authority at reasonable rates of interest;

18

(B) the pledge of the credit of the state to guarantee
repayment of all or any portion of revenue bonds issued to assist
in construction of power projects;

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(C) an appropriation from the general fund

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(i) for debt service on bonds or other project
purposes; or

24

(ii) to reduce the amount of debt financing for
the project;

26

(D) an appropriation to the power project revolving
loan fund for a power project;

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(E) [Repealed, sec. 16, ch. 161, SLA 1984.]

29

(F) development of a project under financing

1 arrangements with other entities using leveraged leases or other
2 financing methods;

3 (G) an appropriation for a power project acquired or
4 constructed under the energy program for Alaska (AS 44.83.380 --
5 44.83.425).

6 * Sec. 2. AS 44.83.080 is amended by adding a new paragraph to read:

7 (17) to sell waste heat directly to retail consumers.

8 * Sec. 3. AS 44.83.090(a) is amended to read:

9 (a) The authority shall, in addition to the other methods that
10 [WHICH] it may find advantageous, provide a method by which municipal
11 electric, rural electric, cooperative electric, or private electric
12 utilities and regional electric authorities, or other persons au-
13 thorized by law to engage in the distribution of electricity may
14 secure a reasonable share of the power generated by a project, or any
15 interest in a project, or for any right to the power and shall sell
16 the power or cause the power to be sold at the lowest reasonable
17 prices that [WHICH] cover the full cost of the electricity or ser-
18 vices, including capital and operating costs, debt coverage as con-
19 sidered appropriate by the authority, and other charges that may be
20 authorized by AS 44.83.010 -- 44.83.425. Notwithstanding the pro-
21 visions of this subsection, the authority may sell waste heat directly
22 to retail consumers. Except for a contract or lease entered into
23 under AS 44.83.380 -- 44.83.425, a contract or lease for the sale,
24 transmission, and distribution of power generated by a project or any
25 right to the capacity of it shall provide:

26 (1) for payment of all operating and maintenance expenses
27 of a project and costs of renewals, replacements, and improvements of
28 it;

29 (2) for interest on and amortization charges sufficient to

1 retire bonds of the authority issued for the project and reserves for
2 them, plus a debt service coverage factor as may be determined by the
3 authority to be necessary for the marketability of its bonds;

4 (3) for monitoring of the project by the authority or its
5 agents;

6 (4) for full and complete disclosure to the authority of
7 all factors of costs in the transmission and distribution of power, so
8 that rates to any persons may be fixed initially in the contract or
9 lease and may be adjusted from time to time on the basis of true cost
10 data;

11 (5) for periodic revisions of the service and rates to
12 persons on the basis of accurate cost data obtained by the accounting
13 methods and systems approved by the directors and in furtherance and
14 effectuation of the policy declared in AS 44.83.010 -- 44.83.425;

15 (6) for the cancellation and termination of a contract or
16 lease upon violation of its terms by any person;

17 (7) for security for performance as the authority may
18 consider practicable and advisable, including provisions assuring the
19 continuance of the distribution and transmission of power generated by
20 a project and the use of its facilities for these purposes; and

21 (8) other terms not inconsistent with the provisions and
22 policy of this chapter as the authority may consider advisable.

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

24 ARTICLE 5. POWER PROJECT REVOLVING LOAN FUND.

25 Sec. 44.83.170. POWER PROJECT REVOLVING LOAN FUND. (a) There
26 is established as a separate fund the power project revolving loan
27 fund [WHICH SHALL BE DISTINCT FROM ANY OTHER MONEY OR FUNDS OF THE
28 AUTHORITY, AND WHICH INCLUDES ONLY MONEY APPROPRIATED BY THE LEGISLA-
29 TURE]. The fund consists of

- 1 (1) appropriations to the fund;
- 2 (2) repayments to the fund of principal on loans made from
- 3 the fund;
- 4 (3) payments of interest on loans made from the fund;
- 5 (4) income from investment of money in the fund; and
- 6 (5) the proceeds of bonds issued under AS 44.83.171.

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

8 (b) The authority may make loans from the power project revolv-

9 ing loan fund

10 (1) to electric utilities, regional electric authorities,

11 municipalities, [CITIES, BOROUGHS,] regional and village corporations,

12 village councils, school districts, regional educational attendance

13 areas, regional housing authorities, business enterprises, and non-

14 profit marketing cooperatives to pay the costs of

15 (A) reconnaissance studies, feasibility studies,

16 license and permit applications, preconstruction engineering, and

17 design of power projects;

18 (B) constructing, acquiring, equipping, modifying,

19 improving, and expanding [SMALL-SCALE] power projects [PRODUCTION

20 FACILITIES], conservation facilities, bulk fuel storage facil-

21 ities, and transmission and distribution facilities, including

22 energy production, transmission and distribution, and waste

23 energy conservation facilities that [WHICH] depend on fossil

24 fuel, wind power, tidal, geothermal, biomass, hydroelectric,

25 solar or other nonnuclear [NON-NUCLEAR] energy sources; [AND]

26 (C) reconnaissance studies, preconstruction engineer-

27 ing, design, construction, equipping, modification, and expansion

28 of potable water supply including surface storage and groundwater

29 sources and transmission of water from surface storage to

1 existing distribution systems;

2 (D) acquisition of bulk fuel reserves or proven re-
3 serves of gas, oil, coal, geothermal, or other energy resources,
4 and

5 (E) consumer end-use improvements to reduce demand fo
6 energy;

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

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

10 (B) the party that [WHICH] will be responsible for the
11 power project is an electric utility, regional electric authori-
12 ty, municipality, [CITY, BOROUGH,] regional or village corpo-
13 ration, village council, school district, regional educational
14 attendance area, regional housing authority, business enterprise,
15 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 * Sec. 6. AS 44.83.170(c) is amended to read:

21 (c) Before making a loan from the power project revolving loan
22 fund, the authority shall, by regulation, specify

23 (1) standards for the eligibility of borrowers and the
24 types of projects to be financed with loans;

25 (2) standards regarding the technical and economic viabil-
26 ity and revenue self-sufficiency of eligible projects;

27 (3) collateral or other security required for loans;

28 (4) the terms and conditions of loans;

29 (5) criteria to establish financial feasibility and to

1 measure the amount of state assistance necessary for particular proj-
2 ects to meet the financial feasibility criteria; and

3 (6) other relevant criteria, standards, or procedures.

4 * Sec. 7. AS 44.83.170(e) is amended to read:

5 (e) Repayment of the loans shall be secured in any manner that
6 [WHICH] the authority determines is feasible to assure prompt repay-
7 ment under a loan agreement entered into with the borrower. The
8 authority may make an unsecured loan from the power project revolving
9 loan fund to a borrower regulated by the Alaska Public Utilities
10 Commission under AS 42.05 if the borrower has a substantial history of
11 repaying long-term loans and the capacity to repay the loan. Under a
12 loan agreement, repayment may be deferred for 10 years or until the
13 project for which the loan is made has achieved earnings from its
14 operations sufficient to pay the loan, whichever is earlier.

15 * Sec. 8. AS 44.83.170(f) is amended to read:

16 (f) Power projects are subject to the following limitations on
17 interest and specific restrictions:

18 (1) Power projects for which loans are outstanding from the
19 former water resources revolving loan fund (former AS 45.86) on July
20 13, 1978, may receive additional financing from the power project
21 revolving loan fund; the additional financing, if granted,

22 (A) shall be granted for a term not exceeding 50
23 years;

24 (B) shall be granted at an interest rate of not less
25 than three or more than five percent a year on the unpaid bal-
26 ance;

27 (C) shall be conditioned on the repayment of loan
28 principal and interest to begin on the earlier of

29 (i) the date of the start of commercial operation

1 of the project; or

2 (ii) 10 years from the date the loan is granted.

3 (2) Loans for power projects

4 (A) shall be granted for a term not to exceed 50
5 years; and

6 (B) shall be granted at an interest rate that [WHICH]
7 is not less than five percent and that [WHICH] is the lesser of

8 (i) a rate equal to the percentage that [WHICH]
9 is the average weekly yield of municipal bonds for the 12
10 months preceding the date of the loan, as determined by the
11 authority from municipal bond yield rates reported in the
12 30-year revenue index of the Weekly Bond Buyer; or

13 (ii) a rate determined by the authority which
14 allows the project to meet criteria of financial feasibility
15 established under AS 44.83.170(c).

16 * Sec. 9. AS 44.83.170(h) is amended to read:

17 (h) The legislature may forgive the repayment of a loan made
18 from the power project revolving loan fund for a reconnaissance study
19 or a feasibility study when the authority finds that the power project
20 for which the loan was made is not feasible.

21 * Sec. 10. AS 44.83 is amended by adding a new section to article 5 to
22 read:

23 Sec. 44.83.171. POWER PROJECT BONDS. (a) The authority may
24 borrow money and may issue bonds to make or refinance loans for proj-
25 ects authorized under AS 44.83.170. The terms of loans made or refi-
26 nanced with the proceeds of bonds authorized by this section are
27 subject only to AS 44.83.170(a) -- (e).

28 (b) To enhance the marketability of bonds issued under this
29 section,

1 (1) the authority may pledge the amounts in the power
2 project revolving loan fund, including appropriated money and any
3 income to the fund from any source, as security for bonds issued under
4 this section; such amounts may be deposited by the authority with a
5 trustee, as may be considered necessary, in order to further enhance
6 the security of the bonds; and

7 (2) the authority may use all amounts in the power project
8 revolving loan fund, from any source, to make principal, interest, and
9 any other payments required on bonds issued under this section, and to
10 pay the administrative costs of the power project revolving loan fund;
11 principal and interest repayments on loans made from appropriations
12 and not otherwise used under this paragraph by the end of each fiscal
13 year shall be deposited in the general fund.

14 (c) The authority may notify the head of an agency of the state,
15 in writing, that a municipality is in default on the repayment of
16 principal or interest on amounts financed by the sale of bonds under
17 this section. After the notice is given, and notwithstanding any
18 other provision of law, an agency shall, to the extent that the munic-
19 ipality is in default, withhold payment of money that the municipality
20 would otherwise be entitled to receive, and shall pay the money to the
21 authority to pay principal and interest on bonds of the authority
22 issued under this section.

23 (d) If a utility is a borrower from the power project revolving
24 loan fund and is in default on the repayment of principal or interest
25 on amounts financed by the sale of bonds under this section, the
26 authority may, to the extent of the utility's default, withhold any
27 payments owing to the utility under the power cost equalization pro-
28 gram (AS 44.83.162 -- 44.83.164), and shall pay the money to the power
29 project revolving loan fund.

1 * Sec. 11. AS 44.83.181(c) is amended to read:

2 (c) The plan of finance shall include recommendations of the
3 most appropriate means to finance a project, including, but not limit-
4 ed to,

5 (1) the issuance of revenue bonds of the authority;

6 (2) the issuance of

7 (A) general obligation bonds of the state; or

8 (B) revenue bonds of the authority that are guaranteed
9 or partially guaranteed by the state;

10 (3) an appropriation from the general fund

11 (A) to pay debt service on bonds or for other project
12 purposes; or

13 (B) to reduce the amount of debt financing for the
14 project;

15 (4) a loan from the general fund;

16 (5) financing arrangements with other entities using le-
17 veraged leases or other financing methods;

18 (6) assistance from any federal agency, including, but not
19 limited to, the Rural Electrification Administration;

20 (7) a loan from the power project revolving loan fund
21 (AS 44.83.170(a)); or

22 (8) any combination of financing arrangements listed in
23 this subsection.

24 * Sec. 12. AS 44.83.187(a) is amended to read:

25 (a) The provisions of AS 44.83.177 -- 44.83.185 and 44.83.189
26 apply only to a proposed new project that will generate more than 1.5
27 megawatts of power and

28 (1) requires an appropriation from the state general fund
29 [, FROM THE POWER PROJECT FUND, OR FROM THE RENEWABLE RESOURCES

1 FUNDS]; or

2 (2) is based on a plan of finance that [WHICH] requires the
3 issuance of general obligation bonds or other pledge of the credit of
4 the state.

5 * Sec. 13. AS 44.83.200 is amended to read:

6 Sec. 44.83.200. ANNUAL REPORT. Before March 1 of each year, the
7 authority shall submit to the governor and the legislature a compre-
8 hensive report describing operations, income, and expenditures, in-
9 cluding a detailed accounting of the loans made from and income re-
10 ceived by the power project revolving loan fund, for the preceding
11 12-month period.

12 * Sec. 14. AS 44.83.230 is amended by adding a new paragraph to read:

13 (10) "business enterprise" means a single proprietorship,
14 corporation, firm, partnership, or other association of persons or-
15 ganized in any manner, for any business purpose, other than on a
16 nonprofit basis, which sells or transports electricity or waste heat
17 in compliance with all applicable federal and state statutes and
18 regulations.

19 * Sec. 15. AS 44.83.170(g) and 44.83.230(9) are repealed.

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