

Offered: 3/21/90
Referred: Rules

go0809sE

Original sponsor(s): Rules/Governor

1 IN THE SENATE BY THE FINANCE COMMITTEE
2 CS FOR SENATE BILL NO. 238 (Finance)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act relating to the power project fund, and to
7 the powers of the Alaska Energy Authority to finance
8 and make loans from the power project fund and to
9 sell waste heat; and providing for an effective
10 date."
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
15 state to finance the construction of a power project if the
16 authority first determines that the project cannot be financed by
17 revenue bonds of the authority at reasonable rates of interest;
18 (B) the pledge of the credit of the state to guarantee
19 repayment of all or any portion of revenue bonds issued to assist
20 in construction of power projects;
21 (C) an appropriation from the general fund
22 (i) for debt service on bonds or other project
23 purposes; or
24 (ii) to reduce the amount of debt financing for
25 the project;
26 (D) an appropriation to the power project revolving
27 loan fund for a power project;
28 (E) [REPEALED
29 (F)] development of a project under financing

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

3 (F) [(G)] an appropriation for a power project ac-
4 quired or constructed under AS 44.83.380 - 44.83.425 (energy
5 program for Alaska).

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 this chapter. Notwithstanding the provisions of this
21 subsection, the authority may sell waste heat directly to retail
22 consumers. Except for a contract or lease entered into under AS 44.-
23 83.380 - 44.83.425, a contract or lease for the sale, transmission,
24 and distribution of power generated by a project or any right to the
25 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 this chapter;

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 (a) There is established as a separate fund the power project
25 revolving loan fund. The fund consists of

26 (1) appropriations to the fund;

27 (2) repayments to the fund of principal on loans made from
28 the fund;

29 (3) payments of interest on loans made from the fund;

1 (4) income from investment of money in the fund; and
2 (5) the proceeds of bonds issued under AS 44.83.171 [THAT
3 SHALL BE DISTINCT FROM ANY OTHER MONEY OR FUNDS OF THE AUTHORITY, AND

4 THAT INCLUDES ONLY MONEY APPROPRIATED BY THE LEGISLATURE].

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

6 (b) The authority may make loans from the power project revolv-
7 ing loan fund

8 (1) to electric utilities, regional electric authorities,
9 municipalities, [CITIES, BOROUGHs,] regional and village corporations,
10 village councils, and nonprofit marketing cooperatives to pay the
11 costs of

12 (A) reconnaissance studies, feasibility studies,
13 license and permit applications, preconstruction engineering, and
14 design of power projects;

15 (B) constructing, acquiring, equipping, modifying,
16 improving, and expanding [SMALL-SCALE] power projects [PRODUCTION
17 FACILITIES], conservation facilities, bulk fuel storage facil-
18 ities, and transmission and distribution facilities, including
19 energy production, transmission, and distribution, and waste
20 energy conservation facilities that depend on fossil fuel, wind
21 power, tidal, geothermal, biomass, hydroelectric, solar, or other
22 nonnuclear [NON-NUCLEAR] energy sources; [AND]

23 (C) reconnaissance studies, preconstruction engineer-
24 ing, design, construction, equipping, modification, and expansion
25 of potable water supply including surface storage and groundwater
26 sources and transmission of water from surface storage to exist-
27 ing distribution systems;

28 (D) acquisition of bulk fuel reserves or proven re-
29 serves of gas, oil, coal, geothermal, or other energy resources;

1 and
2 (E) consumer end-use improvements to reduce demand for
3 energy;
4 (2) to school districts, regional educational attendance
5 areas, regional housing authorities, and business enterprises to pay
6 the cost of
7 (A) waste energy conservation facilities;
8 (B) consumer end-use improvements to reduce demand for
9 energy;
10 (C) acquisition, construction, or repair of bulk fuel
11 storage facilities and acquisition of fuel reserves;
12 (D) electric distribution facilities for housing
13 development by regional housing authorities;
14 (E) power generation facilities only when those facil-
15 ities provide wholesale power or emergency reserve power for a
16 community and the utility certificated to serve that community
17 has formally recommended approval of the loan application;
18 (3) to a borrower for a power project if
19 (A) the loan is entered into under a leveraged lease
20 financing arrangement;
21 (B) the party that will be responsible for the power
22 project is an electric utility, regional electric authority,
23 municipality, [CITY, BOROUGH,] regional or village corporation,
24 village council, school district, regional educational attendance
25 area, regional housing authority, business enterprise, or non-
26 profit marketing cooperative; and
27 (C) the borrower seeking the loan demonstrates to the
28 authority that the financing arrangement for the power project
29 will reduce project financing costs below costs of comparable

1 public power projects.

2 * Sec. 6. AS 44.83.170(c) is amended to read:

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

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

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

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

10 (4) the terms and conditions of loans;

11 (5) criteria to establish financial feasibility and to
12 measure the amount of state assistance necessary for particular proj-
13 ects to meet the financial feasibility criteria; and

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

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

16 (e) Repayment of the loans shall be secured in any manner that
17 the authority determines is feasible to assure prompt repayment under
18 a loan agreement entered into with the borrower. The authority may
19 make an unsecured loan from the power project revolving loan fund to a
20 borrower regulated by the Alaska Public Utilities Commission under
21 AS 42.05 if the borrower has a substantial history of repaying long-
22 term loans and the capacity to repay the loan. Under a loan agree-
23 ment, repayment may be deferred for 10 years or until the project for
24 which the loan is made has achieved earnings from its operations
25 sufficient to pay the loan, whichever is earlier.

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

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

29 (1) power projects for which loans are outstanding from the

1 former water resources revolving loan fund under former AS 45.86 on
2 July 13, 1978, may receive additional financing from the power project
3 revolving loan fund; the additional financing, if granted, must be

4 (A) granted for a term not exceeding 50 years;

5 (B) granted at an interest rate of not less than three
6 or more than five percent a year on the unpaid balance;

7 (C) conditioned on the repayment of loan principal and
8 interest to begin on the earlier of

9 (i) the date of the start of commercial operation
10 of the project; or

11 (ii) 10 years from the date the loan is granted;

12 (2) loans for power projects shall be granted

13 (A) for a term not to exceed 50 years; and

14 (B) at an interest rate that is not less than five
15 percent and that is the lesser of

16 (i) a rate equal to the percentage that is the
17 average weekly yield of municipal bonds for the 12 months
18 preceding the date of the loan, as determined by the author-
19 ity from municipal bond yield rates reported in the 30-year
20 revenue index of the Weekly Bond Buyer; or

21 (ii) a rate determined by the authority that
22 allows the project to meet criteria of financial feasibility
23 established under (c) of this section.

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

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

29 * Sec. 10. AS 44.83 is amended by adding a new section to article 5 to

1 read:

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

7 (b) To enhance the marketability of bonds issued under this
8 section,

9 (1) the authority may pledge the amounts in the power
10 project revolving loan fund, including appropriated money and any
11 income to the fund from any source, as security for bonds issued under
12 this section; those amounts may be deposited by the authority with a
13 trustee, as may be considered necessary, in order to further enhance
14 the security of the bonds; and

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

22 (c) The authority may notify the head of an agency of the state,
23 in writing, that a municipality is in default on the repayment of
24 principal or interest on amounts financed by the sale of bonds under
25 this section. After the notice is given, and notwithstanding any
26 other provision of law, the agency shall, to the extent that the
27 municipality is in default, withhold payment of money that the munic-
28 ipality would otherwise be entitled to receive, and shall pay the
29 money to the authority to pay principal and interest on bonds of the

1 authority issued under this section.

2 (d) If a utility is a borrower from the power project revolving
3 loan fund and is in default on the repayment of principal or interest
4 on amounts financed by the sale of bonds under this section, the
5 authority may, to the extent of the utility's default, withhold any
6 payments owing to the utility under the power cost equalization pro-
7 gram (AS 44.83.162 - 44.83.164), and shall pay the money to the power
8 project revolving loan fund.

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

10 (c) The plan of finance must include recommendations of the most
11 appropriate means to finance a project, including, but not limited to,

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

13 (2) the issuance of

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

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

17 (3) an appropriation from the general fund

18 (A) to pay debt service on bonds or for other project
19 purposes; or

20 (B) to reduce the amount of debt financing for the
21 project;

22 (4) a loan from the general fund;

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

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

27 (7) a loan from the power project revolving loan fund under
28 AS 44.83.170(a); or

29 (8) any combination of financing arrangements listed in

1 this subsection.

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

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

6 (1) requires an appropriation from the state general fund
7 [, FROM THE POWER PROJECT FUND, OR FROM THE RENEWABLE RESOURCES
8 FUNDS]; or

9 (2) is based on a plan of finance that requires the issu-
10 ance of general obligation bonds or other pledge of the credit of the
11 state.

12 * Sec. 13. AS 44.83.940 is amended to read:

13 Sec. 44.83.940. ANNUAL REPORT. Before March 1 of each year, the
14 authority shall submit to the governor and the legislature a compre-
15 hensive report describing operations, income, and expenditures,
16 including a detailed accounting of the loans made from and income
17 received by the power project revolving loan fund, for the preceding
18 12-month period.

19 * Sec. 14. AS 44.83.990 is amended by adding a new paragraph to read:

20 (10) "business enterprise" means a single proprietorship,
21 corporation, firm, partnership, or other association of persons or-
22 ganized in any manner, for any business purpose, other than on a
23 nonprofit basis, that sells or transports electricity or waste heat in
24 compliance with all applicable federal and state statutes and regula-
25 tions.

26 * Sec. 15. AS 44.83.170(g) and 44.83.990(9) are repealed.

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