

HOUSE BILL NO. 529
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES DONLEY, Brown, Ellis

Introduced: 2/18/92

Referred: Community & Regional Affairs, Labor & Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act transferring certain projects and programs of the Alaska Energy Authority to
2 other agencies; creating the Alaska Energy Transfer Authority; terminating the Alaska
3 Energy Authority; and providing for an effective date."

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

5 * **Section 1.** AS 39.50.200(b)(46) is amended to read:

6 (46) Alaska Energy Transfer Authority [PUBLIC] directors (AS 44.83.030);

7 * **Sec. 2.** AS 44.47 is amended by adding new sections to read:

8 **ARTICLE 11A. POWER ASSISTANCE PROGRAMS.**

9 **Sec. 44.47.800. POWER PROJECT FUND.** (a) The power project fund is established
10 as a separate fund. The fund shall be distinct from any other money or funds of the department
11 and includes only money appropriated by the legislature.

12 (b) The department may make loans from the power project fund

13 (1) to electric utilities, regional electric authorities, municipalities, regional and
14 village corporations, village councils, and nonprofit marketing cooperatives to pay the costs of

1 (A) reconnaissance studies, feasibility studies, license and permit
2 applications, preconstruction engineering, and design of power projects;

3 (B) constructing, equipping, modifying, improving, and expanding small-
4 scale power production facilities, conservation facilities, bulk fuel storage facilities, and
5 transmission and distribution facilities, including energy production, transmission and
6 distribution, and waste energy conservation facilities that depend on fossil fuel, wind
7 power, tidal, geothermal, biomass, hydroelectric, solar, or other nonnuclear energy
8 sources; and

9 (C) reconnaissance studies, preconstruction engineering, design,
10 construction, equipping, modification, and expansion of potable water supply including
11 surface storage and groundwater sources and transmission of water from surface storage
12 to existing distribution systems;

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

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

15 (B) the party that will be responsible for the power project is an electric
16 utility, regional electric authority, municipality, regional or village corporation, village
17 council, or nonprofit marketing cooperative; and

18 (C) the borrower seeking the loan demonstrates to the department that the
19 financing arrangement for the power project will reduce project financing costs below
20 costs of comparable public power projects.

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

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

25 (2) standards regarding the technical and economic viability and revenue self-
26 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 measure the amount of state
30 assistance necessary for particular projects to meet the financial feasibility criteria; and

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

1 (d) A loan made by the department shall be made according to the standards, criteria, and
2 procedures established by regulation under this section.

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

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

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

15 (A) the term of the additional financing may not exceed 50 years;

16 (B) the interest of the additional financing must be at a rate of not less
17 than three or more than five percent a year on the unpaid balance;

18 (C) the grant of the additional financing must be conditioned on the
19 repayment of loan principal and interest to begin on the earlier of

20 (i) the date of the start of commercial operation of the
21 project; or

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

23 (2) a loan for a power project

24 (A) may not be granted for a term that exceeds 50 years; and

25 (B) shall be granted at an interest rate that is not less than five percent and
26 that is the lesser of

27 (i) a rate equal to the percentage that is the average weekly
28 yield of municipal bonds for the 12 months preceding the date of the loan, as
29 determined by the department from municipal bond yield rates reported in the 30-
30 year revenue index of the Weekly Bond Buyer; or

31 (ii) a rate determined by the department that allows the

1 project to meet criteria of financial feasibility established under (c) of this section.

2 (g) Loan repayments and interest earned by loans from the power project fund shall be
3 deposited in the state general fund.

4 (h) The legislature may forgive the repayment of a loan made from the power project
5 fund for a reconnaissance study or a feasibility study when the department finds that the power
6 project for which the loan was made is not feasible.

7 (i) Money in the power project fund may be used by the legislature to make
8 appropriations for costs of administering the fund.

9 Sec. 44.47.810. RURAL ELECTRIFICATION REVOLVING LOAN FUND. (a) The
10 rural electrification revolving loan fund is established in the department. The fund consists of

11 (1) appropriations made to the fund; and

12 (2) principal payments on loans made under this section.

13 (b) The department may make loans from the rural electrification revolving loan fund to
14 electric utilities certified by the Alaska Public Utilities Commission. A loan from the fund may
15 be made only for the purpose of extending new electric service into an area of the state that an
16 electric utility may serve under a certificate of public convenience and necessity issued by the
17 Alaska Public Utilities Commission. A loan may be made from the fund to an electric utility if
18 the utility invests the money necessary to provide one pole, one span of line, one transformer,
19 and one service drop for each consumer for whom immediate service would be provided by the
20 extension of electric service. However, a loan may not be made from the fund unless

21 (1) the loan is recommended by a loan advisory committee appointed under
22 AS 44.47.820; and

23 (2) the extension of electric service would provide immediate service to at least
24 three consumers.

25 (c) A loan from the rural electrification revolving loan fund shall bear an annual rate of
26 interest of two percent of the unpaid balance of the loan. Interest received on a loan made under
27 this section must be transferred monthly to the commissioner of revenue for deposit in the
28 general fund.

29 (d) When the department makes a loan under this section, the electric utility receiving
30 the loan shall,

31 (1) in addition to the rates that it is authorized to charge, charge the consumers

1 served by the electric service extended with the loan proceeds an amount sufficient to pay the
2 interest costs of the loan;

3 (2) pay to the department annually an amount equal to

4 (A) interest of two percent on the unpaid balance of the loan; and

5 (B) payments on the unpaid balance of the principal of the loan for each
6 new consumer served by the electric service extended with the loan proceeds; payments
7 on the unpaid balance of the principal of the loan shall be made at a rate equal to the
8 difference between the actual cost of making the service connection to the consumers and
9 the minimum investment per consumer required of the utility before a loan is made under
10 (b) of this section.

11 (e) The department shall

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

13 (2) administer the rural electrification revolving loan fund; and

14 (3) submit to the legislature within the first 10 days of each regular legislative
15 session a report of actions taken by the department under this section and an accounting of the
16 rural electrification revolving loan fund.

17 (f) Money in the rural electrification revolving loan fund may be used by the legislature
18 to make appropriations for costs of administering the fund.

19 (g) On June 30 of each fiscal year the unexpended and unobligated cash balance of the
20 fund that is attributable to loans owned by the fund lapses into the general fund.

21 (h) In this section,

22 (1) "consumer" means a person or a governmental agency, if the person or
23 governmental agency requests and offers to pay for electrical service to a facility or part of a
24 facility; the department shall consider a person who, or a governmental agency that, offers to pay
25 for electrical service to several facilities to be a separate consumer for each facility, if each
26 facility is physically separate from another facility, other than through electric service lines, and
27 if the person or governmental agency requests and offers to pay for electrical service to each
28 facility;

29 (2) "facility" means a structure capable of receiving and using electrical energy;

30 and

31 (3) "governmental agency" includes, with respect to the state or federal

1 government or a municipal government, a legislative body, board of regents, administrative body,
2 board, commission, committee, subcommittee, authority, council, agency, public corporation,
3 school board, department, division, bureau, or other subordinate unit, whether advisory or
4 otherwise, of the state, federal, or municipal government.

5 Sec. 44.47.820. LOAN ADVISORY COMMITTEE. When an application for a rural
6 electrification loan is submitted to the department under AS 44.47.810, the department shall
7 appoint a local advisory committee from persons residing in the area that the applicant utility is
8 certified to serve. The loan advisory committee shall consider the loan application and shall
9 recommend whether the loan application is to be approved or disapproved. The loan advisory
10 committee may make a favorable recommendation only if it determines that development in the
11 area of the proposed extension of electric service is likely to provide for full repayment of the
12 loan under AS 44.47.810(d) within 10 years. In making that determination, the committee shall
13 consider

- 14 (1) permanence of the premises to be served by the extension;
- 15 (2) land use patterns in the area;
- 16 (3) access for the line that would be installed with loan proceeds;
- 17 (4) availability of other utility service in the area; and
- 18 (5) the economic feasibility of the extension of electric service with the proceeds
19 of the loan.

20 Sec. 44.47.850. DEFINITIONS. In AS 44.47.800 - 44.47.850,

21 (1) "feasibility study"

22 (A) means a study conducted to establish the economic and environmental
23 practicality of completing a proposed power project;

24 (B) includes engineering and design work to meet the requirements for
25 submission of a license application for a proposed new project to the Federal Energy
26 Regulatory Commission;

27 (2) "power" includes electrical energy generated, distributed, bought, or sold for
28 lighting, heating, power, and every other useful purpose;

29 (3) "power project" or "project" means a plant, works, system, or facility, together
30 with related or necessary facilities and appurtenances, including a divided or undivided interest
31 in or a right to the capacity of a power project or project, that is used or is useful for the purpose

- 1 of
- 2 (A) electrical or thermal energy production other than nuclear energy
- 3 production;
- 4 (B) waste energy utilization and energy conservation; or
- 5 (C) transmission, purchase, sale, exchange, and interchange of electrical
- 6 or thermal energy, including district heating or interties;
- 7 (4) "reconnaissance study" means a study conducted to assess the present and
- 8 future electrical and thermal energy needs of an area;
- 9 (5) "small-scale power production facility" means a facility that, by design, is to
- 10 produce less than 25 megawatts of power.

11 ARTICLE 11B. POWER COST EQUALIZATION.

12 Sec. 44.47.860. POWER COST EQUALIZATION FUND. The power cost equalization

13 fund is established as a separate fund for the purpose of equalizing power cost per kilowatt-hour

14 statewide at a cost close to or equal to the mean of the cost per kilowatt-hour in Anchorage, Fair-

15 banks, and Juneau by paying money from the fund to eligible electric utilities in the state. The

16 fund shall be administered by the department as a fund distinct from the other funds of the

17 department. The fund is composed of money appropriated to provide power cost equalization

18 to eligible electric utilities.

19 Sec. 44.47.865. ENTITLEMENT TO POWER COST EQUALIZATION. (a) The costs

20 used to calculate the amount of power cost equalization for all electric utilities eligible under

21 AS 44.47.860 - 44.47.885 include all allowable costs, except return on equity, used by the Alaska

22 Public Utilities Commission to determine the revenue requirement for electric utilities subject to

23 rate regulation under AS 42.05. The costs used in determining the power cost equalization per

24 kilowatt-hour shall exclude any other type of assistance that reduces the customer's costs of

25 power on a kilowatt-hour basis and that is provided to the electric utility within 60 days before

26 the commission determines the power cost equalization per kilowatt-hour of the electric utility.

27 In calculating power cost equalization, the commission may not consider validated costs or

28 kilowatt-hour sales associated with a United States Department of Defense facility.

29 (b) An eligible electric utility is entitled to receive power cost equalization

30 (1) for sales of power to local community facilities, calculated in the aggregate

31 for each community served by the electric utility, for actual consumption of not more than 70

1 kilowatt-hours per month for each resident of the community; the number of community residents
2 shall be determined under AS 29.60.020; and

3 (2) for actual consumption of not more than 750 kilowatt-hours per month sold
4 to each customer in all classes served by the electric utility except to customers of the utility
5 under (1) of this subsection.

6 (c) The amount of power cost equalization provided per kilowatt-hour under (b) of this
7 section may not exceed 95 percent of the power costs, or the average rate per eligible kilowatt-
8 hour sold, whichever is less, as determined by the department. However,

9 (1) during the state fiscal year that began July 1, 1984, the power costs for which
10 power cost equalization were paid to an electric utility were limited to minimum power costs of
11 more than 8.5 cents per kilowatt-hour and less than 52.5 cents per kilowatt-hour;

12 (2) during each following state fiscal year, the department shall adjust the power
13 costs for which power cost equalization may be paid to an electric utility considering the rate of
14 change in fuel cost and power demand; and

15 (3) the power cost equalization per kilowatt-hour may be determined for a utility
16 without historical kilowatt-hour sales data by using kilowatt-hours generated.

17 (d) An electric utility whose customers receive power cost equalization under
18 AS 44.47.860 - 44.47.885 shall set out in its tariff the rates without the power cost equalization
19 and the amount of power cost equalization per kilowatt-hour sold. The rate charged to the
20 customer shall be the difference between the two amounts. Power cost equalization paid under
21 AS 44.47.860 - 44.47.885 shall be used to reduce the cost of all power sold to local community
22 facilities, in the aggregate, to the extent of 70 kilowatt-hours per month per resident of the
23 community, and to reduce the cost of the first 750 kilowatt-hours per customer per month for all
24 other classes served by the electric utility.

25 (e) The power cost equalization program shall be administered by the department based
26 on a determination by the department under (a) and (c) of this section of power cost equalization
27 per kilowatt-hour for each eligible electric utility.

28 (f) The department may not deny an eligible electric utility power cost equalization
29 because complete cost information is not available. The department shall assist an eligible
30 electric utility that is exempt from rate regulation under AS 42.05 to provide the cost information
31 the department considers necessary to comply with AS 44.47.860 - 44.47.885. Only power costs

1 that are supportable may be considered in calculating power cost equalization. Each electric
2 utility is responsible for keeping records that provide the information necessary to comply with
3 AS 44.47.860 - 44.47.885 including records of monthly kilowatt-hour sales or generation,
4 monthly fuel balances, fuel purchases, and monthly utility fuel consumption.

5 (g) The department shall determine the cost of fuel for each eligible electric utility using
6 the procedure for approving fuel cost rate adjustments of electric utilities subject to rate
7 regulation under AS 42.05.

8 (h) Each electric utility receiving power cost equalization approved by the department
9 shall

10 (1) report monthly to the department within the time and in the form the
11 department requires; and

12 (2) use operational equipment designed to meter individual utility customer power
13 consumption and to determine and record the utility's overall fuel consumption.

14 (i) The department shall review the report required under (h) of this section. After
15 review and approval of the report, the department shall, subject to appropriation, pay to each
16 eligible electric utility an amount equal to the power cost equalization per kilowatt-hour
17 determined under (a) and (c) of this section, multiplied by the number of kilowatt-hours eligible
18 for power cost equalization that were sold during the preceding month to all customers of the
19 utility under (b) of this section. Payment shall be made by the department within 30 days after
20 receipt from the utility of the report required under (h) of this section. If appropriations are
21 insufficient for payment in full, the amount paid to each electric utility is reduced on a pro rata
22 basis.

23 Sec. 44.47.870. NOTICE TO CUSTOMERS. If an electric utility receives power cost
24 equalization under AS 44.47.860 - 44.47.885, the utility shall either give to its electric service
25 customers eligible under this program, for each period for which the payment is received,

26 (1) the following notice:

27 "NOTICE TO CUSTOMER

28 For the current billing period the utility will be paid
29 under the State of Alaska's power cost equalization
30 program (AS 44.47.860) to assist the utility and its
31 customers in reducing the high cost of generation of electric

1 other corporation, company, individual, or association of individuals, and includes the lessees,
2 trustees, or receivers appointed by a court, that

3 (A) owns, operates, manages, or controls a plant or system for the
4 furnishing, by generation, transmission or distribution, of electric service to the public for
5 compensation;

6 (B) during calendar year 1983, had a residential consumption level of
7 power eligible for power cost equalization under AS 44.83 of less than 7,500 megawatt
8 hours or had a residential consumption level of power eligible for power cost equalization
9 under AS 44.83 of less than 15,000 megawatt hours if the utility served two or more
10 municipalities or unincorporated communities; and

11 (C) during calendar year 1984, used diesel fired generators to produce
12 more than 75 percent of the electrical consumption of the utility; an electric utility that
13 is a subsidiary of another electric utility is an "eligible electric utility" if the operations
14 of the subsidiary, considered separately, meet the eligibility requirements of
15 AS 44.47.860 - 44.47.885; if an electric utility did not receive power cost assistance in
16 1983 but is otherwise eligible for power cost equalization under AS 44.47.860 -
17 44.47.885, the utility is an "eligible electric utility";

18 (3) "fund" means the power cost equalization fund established under
19 AS 44.47.860;

20 (4) "power costs" means costs used in determining power cost equalization under
21 AS 44.47.865(a) and (c).

22 Sec. 44.47.890. ADJUSTMENTS TO POWER COST EQUALIZATION. (a) The
23 department may adjust the power cost equalization per kilowatt-hour, determined under
24 AS 44.47.860 - 44.47.885, payable to an electric utility that is subject to rate regulation under
25 AS 42.05 if the department

26 (1) has approved a fuel cost rate adjustment caused by an increase or decrease
27 in the electric utility's cost of fuel;

28 (2) has approved a permanent or interim rate increase or decrease that establishes
29 a higher or lower power cost;

30 (3) has discovered, in reviewing the monthly data submitted by the electric utility,
31 discrepancies that require adjustment of the power cost equalization; or

1 (4) determines that appropriations are insufficient to finance full payments to
2 eligible electric utilities.

3 (b) An electric utility that is eligible to receive power cost equalization under this section
4 and that receives power cost equalization per kilowatt-hour approved by the department shall
5 report monthly to the department within the time and in the form the department requires. An
6 electric utility shall report

7 (1) the power cost equalization per kilowatt-hour approved by the department;
8 (2) the total kilowatt-hours sold to each class of customer during the preceding
9 month;

10 (3) the total kilowatt-hours eligible for power cost equalization under this section
11 sold to each class of customer during the preceding month;

12 (4) the total kilowatt-hours generated during the preceding month, if available;

13 (5) any department approved amendments to the schedule of rates in effect during
14 the preceding month; and

15 (6) an increase or decrease in the current unit price of fuel from the base price
16 used by the department in determining power costs if the change is expected to result in a
17 subsequent power cost equalization adjustment.

18 (c) The provisions of AS 44.47.860 - 44.47.885 relating to the determination of the
19 amount of power cost equalization and payment of the equalization assistance apply to
20 equalization assistance under this section.

21 Sec. 44.47.895. EQUALIZATION ASSISTANCE TO UNREGULATED UTILITIES.

22 (a) An electric utility that is not subject to rate regulation by the Alaska Public Utilities
23 Commission under AS 42.05 may receive power cost equalization if the utility is otherwise
24 eligible for equalization assistance under AS 44.47.860 - 44.47.885 and if the utility

25 (1) files with the department financial data necessary to determine the power cost
26 equalization per kilowatt-hour as prescribed by the department and that is in compliance with
27 AS 44.47.860 - 44.47.885;

28 (2) reports monthly to the department, within the time and in the form required,
29 the information required in (b) of this section;

30 (3) sets rates

31 (A) that consider the power cost equalization provided under

1 AS 44.47.860 - 44.47.885 by subtracting from its revenue requirements for electric
2 services the power cost equalization per kilowatt-hour that it is eligible to receive; and

3 (B) under which the power cost equalization provided in AS 44.47.860 -
4 44.47.885 is applied as a credit only against the cost of kilowatt-hours eligible for
5 equalization assistance under AS 44.47.860 - 44.47.885 that are consumed by each
6 customer in any month;

7 (4) allows audits that the department determines are necessary to ensure
8 compliance with this section; and

9 (5) furnishes its electric service customers eligible under this program a notice
10 as specified in AS 44.47.870.

11 (b) An electric utility that is eligible to receive power cost equalization under this section
12 shall report in accordance with (a)(2) of this section

13 (1) the power cost equalization per kilowatt-hour approved by the department;

14 (2) the total kilowatt-hours sold to each class of customer during the preceding
15 month;

16 (3) the total kilowatt-hours eligible for power cost equalization under this section
17 sold to each class of customer during the preceding month;

18 (4) the total kilowatt-hours generated during the preceding month, if available;

19 (5) any amendments to the schedule of rates in effect during the preceding month;

20 and

21 (6) an increase or decrease in the current unit price of fuel from the base price
22 used by the department in determining power costs if the change is expected to result in a
23 subsequent equalization assistance level adjustment.

24 (c) An electric utility that is eligible to receive power cost equalization under this section
25 may have its power cost equalization per kilowatt-hour determination changed by the department
26 if the department

27 (1) has verified an increase or decrease in the electric utility's cost of fuel;

28 (2) has verified an increase in rates based on an increase in costs;

29 (3) has discovered, in reviewing the monthly data submitted by the electric utility,
30 discrepancies that require adjustment of the power cost equalization; or

31 (4) determines that appropriations are insufficient to finance full payments to

1 eligible electric utilities.

2 (d) The provisions of AS 44.47.860 - 44.47.885 relating to the determination of the
3 amount of power cost equalization and payment of the equalization assistance apply to
4 equalization assistance under this section.

5 (e) An application for power cost equalization by an electric utility that is eligible to
6 receive power cost under this section does not extend the jurisdiction of the Alaska Public
7 Utilities Commission beyond that established by AS 42.05.

8 ARTICLE 11C. ELECTRICAL SERVICE EXTENSION FUND.

9 Sec. 44.47.900. ELECTRICAL SERVICE EXTENSION FUND ESTABLISHED. (a) The
10 electrical service extension fund is established as a separate fund in the department. The fund
11 consists only of money appropriated to it by the legislature.

12 (b) The department may make grants from the electrical service extension fund to
13 certificated electric utilities and to electric utilities exempt from certification under AS 42.05.711,
14 as a first priority, to pay for costs of site preparation and construction for the extension of
15 electrical service to private residences and small businesses not currently served by an electric
16 utility and, as a second priority, for making improvements to existing utilities. The amount of
17 a grant made under this section may not exceed 60 percent of the total cost of construction of
18 the project. The costs considered in making a grant may not include costs of planning, feasibility
19 studies, or design.

20 (c) An electric utility that has received a grant under this section may charge a
21 connection fee for initial connection to the electrical service made available because of the
22 construction. The connection fee for each residential or commercial structure shall conform to
23 the line extension policy of the utility.

24 (d) The department shall adopt regulations under the Administrative Procedure Act
25 (AS 44.62) to implement this section.

26 (e) In this section, "certificated" means holding a certificate of public convenience and
27 necessity issued by the Alaska Public Utilities Commission under AS 42.05.

28 ARTICLE 11D. BULK FUEL REVOLVING LOAN FUND.

29 Sec. 44.47.920. BULK FUEL REVOLVING LOAN FUND. (a) The bulk fuel revolving
30 loan fund is established in the department to assist communities in purchasing bulk fuel. A
31 community, or a private individual who has written endorsement from the governing body of the

- 1 community, is eligible for a loan from the bulk fuel revolving loan fund for a bulk fuel purchase.
- 2 (b) Money in the fund may be used by the legislature to make appropriations for costs
3 of administering this section.
- 4 (c) The foreclosure expense account is established as a special account within the bulk
5 fuel revolving loan fund. This account is established as a reserve from fund equity.
- 6 (d) The department may spend money credited to the foreclosure expense account when
7 necessary to protect the state's security interest in collateral on loans made under this section or
8 to defray expenses incurred during foreclosure proceedings after a default by an obligor.
- 9 (e) Loans made from the bulk fuel revolving loan fund to one borrower in any fiscal year
10 (1) may not exceed \$50,000;
11 (2) shall be repaid in one year or less; and
12 (3) may not exceed 90 percent of the wholesale price of the fuel purchased.
- 13 (f) Interest may be charged on a loan made from the bulk fuel revolving loan fund.
14 Interest shall be charged on a loan at a rate equal to the percentage of the average weekly yield
15 of municipal bonds for the 12 months preceding the date of the loan, as determined by the
16 department from municipal bond yield rates reported in the 30-year revenue index of the Weekly
17 Bond Buyer. However, if the department finds that a community cannot afford to repay a portion
18 of interest on a loan, and makes a determination in writing, the department may reduce or
19 eliminate the interest rate applicable to the loan.
- 20 (g) Repayments of the principal, the interest, and the money chargeable to principal or
21 interest that is collected through liquidation by foreclosure or other process on a loan made under
22 this section shall be paid into the bulk fuel revolving loan fund.
- 23 (h) The department may contract for the administration of the bulk fuel loan program
24 established in this section.
- 25 (i) The department shall dispose of property acquired through default or foreclosure of
26 a loan made under this section. Disposal shall be made in a manner that serves the best interests
27 of the state, and may include the amortization of payments over a period of years.
- 28 (j) The department may adopt regulations necessary to carry out the provisions of this
29 section, including regulations to establish reasonable fees for services provided and charges for
30 collecting the fees.
- 31 (k) The department may collect the fees and collection charges established under (i) of

1 this section and shall deposit the money in the general fund.

2 (l) In this section,

3 (1) "bulk fuel storage facility" means a storage tank capable of holding at least
4 10,000 gallons of petroleum fuel; and

5 (2) "community" means an organized municipality or an unincorporated village
6 that is a social unit, with a population of less than 2,000 people.

7 * Sec. 3. AS 44.83.010 is repealed and reenacted to read:

8 Sec. 44.83.010. LEGISLATIVE FINDING AND POLICY. (a) The legislature finds that
9 it is in the best interest of the state to encourage the private development of power projects.

10 (b) It is declared to be the policy of the state, in the interests of promoting the general
11 welfare of all the people of the state, to encourage private industry to participate more fully in
12 the development and management of power projects and to terminate, by 1997, the Alaska
13 Energy Transfer Authority.

14 * Sec. 4. AS 44.83 is amended by adding a new section to read:

15 Sec. 44.83.021. CREATION OF AUTHORITY. There is created the Alaska Energy
16 Transfer Authority. The authority is a public corporation of the state in the Department of
17 Commerce and Economic Development but with separate and independent legal existence.

18 * Sec. 5. AS 44.83.030 is repealed and reenacted to read:

19 Sec. 44.83.030. MEMBERSHIP OF THE AUTHORITY. The authority consists of seven
20 directors appointed by the governor and confirmed by the legislature. No more than two
21 directors may be appointed from the same judicial district, as described in AS 22.10.010.

22 * Sec. 6. AS 44.83.045(a) is amended to read:

23 (a) The [PUBLIC] directors shall be residents and qualified voters of the state and shall
24 comply with the requirements of AS 39.50 (conflict of interests). The [PUBLIC] directors shall
25 serve overlapping two-year [FOUR-YEAR] terms.

26 * Sec. 7. AS 44.83.070 is repealed and reenacted to read:

27 Sec. 44.83.070. PURPOSE OF THE AUTHORITY. The purpose of the authority is to

28 (1) recommend to the legislature how to eliminate the involvement of state
29 government in constructing, maintaining, and operating power projects in the state and how to
30 encourage the participation of private industry;

31 (2) maintain and operate power projects currently owned by the state; and

1 (3) continue construction of power projects on which construction began before
2 the effective date of this section until the power project is transferred to private industry.

3 * Sec. 8. AS 44.83.080 is amended to read:

4 Sec. 44.83.080. POWERS OF THE AUTHORITY. In furtherance of its corporate
5 purposes, the authority has the following powers in addition to its other powers:

6 (1) to sue and be sued;

7 (2) to have a seal and alter it at pleasure;

8 (3) to make and alter bylaws for its organization and internal management;

9 (4) to adopt regulations governing the exercise of its corporate powers;

10 (5) to [ACQUIRE, WHETHER BY CONSTRUCTION, PURCHASE, GIFT OR
11 LEASE, AND TO] improve, equip, operate, and maintain power projects;

12 (6) to issue bonds to carry out any of its corporate purposes and powers, including
13 completing the [ACQUISITION OR] construction of a project to be owned or leased, as lessor
14 or lessee, by the authority [,] or by another person, [OR THE ACQUISITION OF ANY
15 INTEREST IN A PROJECT OR ANY RIGHT TO CAPACITY OF A PROJECT,] the
16 establishment or increase of reserves to secure or to pay the bonds or interest on them, and the
17 payment of all other costs or expenses of the authority incident to and necessary or convenient
18 to carry out its corporate purposes and powers;

19 (7) to sell, lease as lessor or lessee, exchange, donate, convey, or encumber in any
20 manner by mortgage or by creation of any other security interest, real or personal property owned
21 by it, or in which it has an interest, when, in the judgment of the authority, the action is in
22 furtherance of its corporate purposes;

23 (8) to accept gifts, grants, or loans from, and enter into contracts or other
24 transactions regarding them [,] with, any person;

25 (9) to deposit or invest its funds, subject to agreements with bondholders;

26 (10) to enter into contracts with the United States or any person and, subject to
27 the laws of the United States and subject to concurrence of the legislature, with a foreign country
28 or its agencies, for the financing, construction, [ACQUISITION,] operation, and maintenance of
29 all or any part of a power project, either inside or outside the state, and for the sale or
30 transmission of power from a project or any right to the capacity of it or for the security of any
31 bonds of the authority issued or to be issued for the project;

1 (11) to enter into contracts with any person and with the United States, and,
2 subject to the laws of the United States and subject to the concurrence of the legislature, with
3 a foreign country or its agencies for the purchase, sale, exchange, transmission, or use of power
4 from a project, or any right to the capacity of it;

5 (12) to apply to the appropriate agencies of the state, the United States, and to
6 a foreign country and any other proper agency for the permits, licenses, or approvals as may be
7 necessary, and to construct, maintain, and operate power projects in accordance with the licenses
8 or permits, and to obtain, hold, and use the licenses and permits in the same manner as any other
9 person or operating unit;

10 (13) to perform [RECONNAISSANCE STUDIES, FEASIBILITY STUDIES,
11 AND] engineering and design with respect to power projects under construction on the
12 effective date of this bill section;

13 (14) to enter into contracts or agreements with respect to the exercise of any of
14 its powers, and do all things necessary or convenient to carry out its corporate purposes and
15 exercise the powers granted in this chapter;

16 (15) to exercise the power of eminent domain under [IN ACCORDANCE WITH]
17 AS 09.55.240 - 09.55.460;

18 (16) to recommend to the legislature

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

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

24 (C) an appropriation from the general fund

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

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

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

28 (E) [REPEALED

29 (F)] development of a project under financing arrangements with other
30 entities using leveraged leases or other financing methods;

31 (F) [(G)] an appropriation for a power project acquired or constructed

1 under AS 44.83.380 - 44.83.425 (energy program for Alaska).

2 * Sec. 9. AS 44.83.105 is amended to read:

3 Sec. 44.83.105. BONDS FOR POWER PROJECTS UNDER THE ENERGY PROGRAM
4 FOR ALASKA. The authority may borrow money and issue its bonds for completing the
5 [ACQUISITION OR] construction of power projects [TO BE ACQUIRED OR CONSTRUCTED]
6 under the energy program for Alaska. The principal of and interest on the bonds are payable
7 from money derived from the sale of wholesale power from power projects financed under
8 AS 44.83.380 - 44.83.425 from the power development fund or from a source referred to in
9 AS 44.83.100 as the authority determines. The bonds may be issued if

10 (1) appropriations to the power development fund for the power project are
11 insufficient to cover the cost of completing the construction of [ACQUIRING OR
12 CONSTRUCTING] the power project; and

13 (2) the authority determines that the amount of interest the authority will pay on
14 its bonds is not more than alternative costs of securing money from other sources, except for the
15 general fund, to pay for completing the [ACQUISITION OR] construction of the power project.

16 * Sec. 10. AS 44.83.300 is amended to read:

17 Sec. 44.83.300. DESCRIPTION OF PROJECT. The Susitna River hydroelectric project
18 consists of dams and related reservoirs, and power plants located in the Upper Susitna River
19 Basin, and related transmission lines, facilities, and load centers, as described in the former
20 Alaska Energy Authority's report required by AS 44.83.320(b).

21 * Sec. 11. AS 44.83.340(b) is amended to read:

22 (b) The annual report required under (a) of this section [IS IN ADDITION TO ANY
23 REPORTS REQUIRED UNDER AS 44.83.181 - 44.83.220 AND] shall be submitted by
24 March 30 of each year to the governor and to each member of the legislature.

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

26 (a) The rural electrification revolving loan fund is established in the Alaska Energy
27 Transfer Authority. The fund consists of

28 (1) appropriations made to the fund; and

29 (2) principal payments on loans made under this section.

30 * Sec. 13. AS 44.83.380(a) is amended to read:

31 (a) The energy program for Alaska is established. The program shall be administered by

1 the Alaska Energy Transfer Authority.

2 * Sec. 14. AS 44.83.380(b) is amended to read:

3 (b) The energy program for Alaska is a program by which the authority may [ACQUIRE
4 OR] construct power projects with money appropriated by the legislature to the power
5 development fund established in AS 44.83.382. A power project may be [ACQUIRED OR]
6 constructed as part of the energy program for Alaska only if the project was [IS] submitted to
7 and approved by the legislature under former [IN ACCORDANCE WITH PROCEDURES SET
8 OUT IN] AS 44.83.177 - 44.83.187 before the effective date of this bill section.

9 * Sec. 15. AS 44.83.382(a) is amended to read:

10 (a) A power development fund is established in the Alaska Energy Transfer Authority
11 to carry out the purposes of AS 44.83.380 - 44.83.425.

12 * Sec. 16. AS 44.83.384(a) is amended to read:

13 (a) The fund may be used by the authority to provide money for

14 (1) [RECONNAISSANCE AND FEASIBILITY STUDIES AND POWER
15 PROJECT FINANCE PLANS PREPARED UNDER AS 44.83.177 - 44.83.181;

16 (2)] the cost of a power project that was under construction on the effective
17 date of this bill section, including but not limited to costs of acquiring necessary licenses,
18 preparing engineering designs, obtaining land, and constructing the power project;

19 (2) [(3)] the defeasance of bonds [,] or the payment of debt service on loans for
20 or on an issue of bonds sold in connection with a power project;

21 (3) [(4)] the cost of operating and maintaining power projects; and

22 (4) [(5)] debt service on power projects.

23 * Sec. 17. AS 44.83.384(b) is amended to read:

24 (b) Money in the fund may be used under (a) of this section only for a power project that
25 was under construction on the effective date of this bill section and

26 (1) is economically feasible; and

27 (2) provides the lowest reasonable power cost to utility customers in the market
28 area for the estimated life of the power project, whether operated by itself or in conjunction with
29 other power projects in the market area, and that operates or will operate on one or more of the
30 following:

31 (A) renewable energy resources, including but not limited to hydroelectric

1 power, wind, biomass, geothermal, tidal, or solar energy, or a method that uses
2 temperature differentials or other physical properties of the ocean;

3 (B) coal or peat;

4 (C) energy derived from waste heat; or

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

6 * **Sec. 18.** AS 44.83.388(a) is amended to read:

7 (a) The authority shall maintain records of power project allocations from the fund for
8 each power project

9 (1) approved under former [IN ACCORDANCE WITH] AS 44.83.185; and

10 (2) for which an allocation is made from an appropriation made by the legislature
11 without specifying an appropriation to a project.

12 * **Sec. 19.** AS 44.83.390(a) is amended to read:

13 (a) If a power project designated by the legislature by law is not constructed, the amount
14 appropriated to it shall be returned to the general fund [MAY BE REAPPROPRIATED TO
15 OTHER POWER PROJECTS BY THE LEGISLATURE].

16 * **Sec. 20.** AS 44.83.500(a) is amended to read:

17 (a) There is established in the Alaska Energy Transfer Authority the power development
18 revolving loan fund to carry out the purpose of AS 44.83.500 - 44.83.530. The fund may be
19 used for no other purpose.

20 * **Sec. 21.** AS 44.83.510 is amended to read:

21 Sec. 44.83.510. POWERS AND DUTIES OF AUTHORITY IN ADMINISTERING THE
22 FUND. (a) The authority may borrow from the fund for the purpose of financing a power
23 project [ACQUIRED OR] constructed by the authority under the energy program for Alaska
24 (AS 44.83.380 - 44.83.425). Repayment of a loan from the fund must be made with the proceeds
25 from the sale of power from projects in the energy program for Alaska. Except as provided in
26 AS 44.83.398(i), the payments required to be made by the authority on a loan from the fund
27 constitute debt service for the purpose of calculating the wholesale power rate in
28 AS 44.83.398(b)(1).

29 (b) After completion of a final plan of finance and approval of a project under former
30 AS 44.83.185(c), a loan may be made from the fund for

31 (1) the cost or a portion of the cost of final design [, ACQUISITION,] and

1 construction of a power project;
2 (2) defeasance or payment of bonds or notes of the authority issued for a power
3 project;
4 (3) the establishment of a reserve fund for renewals and replacements for the
5 operation of a completed power project; and
6 (4) any other project-related expenses, including those described in
7 AS 44.83.398(i).

8 * Sec. 22. AS 44.83.940 is amended to read:
9 Sec. 44.83.940. ANNUAL REPORT. Before March 1 of each year, the authority shall
10 submit to the governor and the legislature a comprehensive report
11 (1) describing operations, income, and expenditures for the preceding 12-month
12 period; and
13 (2) recommending steps needed to bring about the transfer of power projects
14 to private industry.

15 * Sec. 23. AS 44.83.990(1) is amended to read:
16 (1) "authority" means the Alaska Energy Transfer Authority established by this
17 chapter;

18 * Sec. 24. AS 44.83.990(2) is amended to read:
19 (2) "bonds" means bonds, notes, or other obligations of the authority or of the
20 former Alaska Energy Authority issued under this chapter;

21 * Sec. 25. AS 44.83.990(3) is amended to read:
22 (3) "feasibility study"
23 (A) means a study conducted for the purpose of establishing the economic
24 and environmental practicality of completing a proposed power project under former
25 AS 44.83.181;
26 (B) includes engineering and design work to meet the requirements for
27 submission of a license application for a proposed new project to the Federal Energy
28 Regulatory Commission;

29 * Sec. 26. AS 44.83.990(8) is amended to read:
30 (8) "reconnaissance study" means a study conducted for the purpose of assessing
31 the present and future electrical and thermal energy needs of an area under former AS 44.83.177;

1 * **Sec. 27.** AS 44.83.995 is amended to read:

2 **Sec. 44.83.995. SHORT TITLE.** This chapter may be cited as the Alaska Energy
3 **Transfer** Authority Act.

4 * **Sec. 28.** Notwithstanding AS 44.83.045(a), amended by sec. 6 of this Act, four of the initial
5 directors of the Alaska Energy Transfer Authority shall be appointed to two-year terms and three of the
6 initial directors shall be appointed to one-year terms.

7 * **Sec. 29. REPORTS.** (a) By January 15, 1993, after consultation with the Department of
8 Community and Regional Affairs, the Alaska Energy Transfer Authority shall present a report to the
9 legislature concerning the transfer of functions from the authority to the department as required by this
10 Act.

11 (b) By January 15, 1993, after consultation with concerned municipal governments and public
12 utilities and after public hearings in the localities affected, the authority shall present to the legislature
13 a preliminary report concerning the state's plan for divestment of power projects as required by this Act.
14 The authority shall present a final report concerning divestment by January 15, 1994. The final report
15 shall recommend an agency to serve as successor agency to the Alaska Energy Authority and the Alaska
16 Energy Transfer Authority to carry out the state's duties and responsibilities to holders of bonds issued
17 by either authority.

18 (c) The authority shall give notice to legislators of each public hearing under this section held
19 in the district represented by the legislator.

20 * **Sec. 30. APPLICABILITY.** The repeal of statutes by secs. 32 - 35 of this Act does not affect
21 existing bonds or actions that have been taken under the repealed provisions.

22 * **Sec. 31. TRANSITION.** All litigation, hearings, investigations, and other proceedings pending
23 under a law amended or repealed by this Act, or in connection with functions transferred by this Act,
24 continue in effect and may be continued and completed by the Alaska Public Utilities Commission, the
25 Department of Community and Regional Affairs, the Alaska Energy Transfer Authority, or the agency
26 designated by the legislature after the report required by sec. 30 of this Act is made, as appropriate,
27 notwithstanding a transfer or amendment or repeal provided for in this Act. Certificates, orders, and
28 regulations issued or adopted under authority of a law amended or repealed by this Act remain in effect
29 for the term issued, or until revoked, vacated, or otherwise modified under the provisions of this Act.
30 All rights, liabilities, and obligations created by or under a law amended or repealed by this Act, and
31 in effect on July 1, 1997, remain in effect notwithstanding this Act's taking effect. The appropriate

1 agency shall assume the rights, liabilities, and obligations of the Alaska Energy Authority. Records,
2 equipment, and other property of the Alaska Energy Authority shall be transferred commensurate with
3 the provisions of this Act.

4 * Sec. 32. AS 42.05.141(b), AS 44.83.020, 44.83.162, 44.83.163, 44.83.164, 44.83.177, 44.83.179,
5 44.83.181, 44.83.183, 44.83.185, 44.83.187, 44.83.189, 44.83.320(c), 44.83.370, 44.83.384(c), 44.83.-
6 390(b), 44.83.600, 44.83.605, 44.83.610, 44.83.615, 44.83.620, 44.83.625, and 44.83.650 are repealed.

7 * Sec. 33. AS 44.83.080(16)(D), 44.83.170, 44.83.361, and 44.83.363 are repealed July 1, 1994.

8 * Sec. 34. AS 39.50.200(b)(46), AS 44.25.020(5), and AS 44.83 are repealed July 1, 1997.

9 * Sec. 35. AS 44.47.860 - 44.47.920, enacted by sec. 2 of this Act, and secs. 1 and 3 - 32 of this Act
10 take effect immediately under AS 01.10.070(c).

11 * Sec. 36. AS 44.47.800 - 44.47.850, enacted by sec. 2 of this Act, and sec. 33 of this Act take effect
12 July 1, 1994.