

SENATE BILL NO. 5**IN THE LEGISLATURE OF THE STATE OF ALASKA****SEVENTEENTH LEGISLATURE - FIRST SESSION****BY SENATOR ZHAROFF**

Introduced: 1/21/91

Referred: L&C and Finance

A BILL**FOR AN ACT ENTITLED**

1 "An Act relating to the power project revolving loan fund, and to the powers of the
 2 Alaska Energy Authority to finance and make loans from the power project revolving loan
 3 fund and to sell waste heat; and providing for an effective date."

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

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

6 (16) to recommend to the legislature

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

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

12 (C) an appropriation from the general fund

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

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

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

3 (E) [REPEALED

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

6 ~~(F)~~ [(G)] an appropriation for a power project acquired or constructed
7 under AS 44.83.380 - 44.83.425 (energy program for Alaska).

8 * Sec. 2. AS 44.83.090 is amended by adding a new subsection to read:

9 (c) Notwithstanding the provisions of (a) of this section, the authority may sell waste heat
10 directly to retail consumers.

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

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

14 (1) appropriations to the fund;

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

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

17 (4) income from investment of money in the fund; and

18 (5) the proceeds of bonds issued under AS 44.83.171 [THAT SHALL BE

19 DISTINCT FROM ANY OTHER MONEY OR FUNDS OF THE AUTHORITY, AND THAT
20 INCLUDES ONLY MONEY APPROPRIATED BY THE LEGISLATURE].

21 * Sec. 4. AS 44.83.170(b) is amended to read:

22 (b) The authority may make loans from the power project revolving loan fund

23 (1) to electric utilities, regional electric authorities, municipalities, [CITIES,
24 BOROUGHHS,] regional and village corporations, village councils, and nonprofit marketing
25 cooperatives to pay the costs of

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

28 (B) constructing, acquiring, equipping, modifying, improving, and
29 expanding [SMALL-SCALE] power projects [PRODUCTION FACILITIES],
30 conservation facilities, bulk fuel storage facilities, and transmission and distribution
31 facilities, including energy production, transmission, and distribution, and waste energy

1 conservation facilities that depend on fossil fuel, wind power, tidal, geothermal, biomass,
2 hydroelectric, solar, or other nonnuclear [NON-NUCLEAR] energy sources; [AND]

3 (C) reconnaissance studies, preconstruction engineering, design,
4 construction, equipping, modification, and expansion of potable water supply including
5 surface storage and groundwater sources and transmission of water from surface storage
6 to existing distribution systems;

7 (D) acquisition of bulk fuel reserves or proven reserves of gas, oil,
8 coal, geothermal, or other energy resources; and

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

10 (2) to municipal school districts, regional educational attendance areas,
11 regional housing authorities, and business enterprises to pay the cost of

12 (A) waste energy conservation facilities;

13 (B) consumer end-use improvements to reduce demand for energy;

14 (C) acquisition, construction, or repair of bulk fuel storage facilities
15 and acquisition of fuel reserves;

16 (D) electric distribution facilities for housing development by regional
17 housing authorities;

18 (E) power generation facilities only when those facilities provide
19 wholesale power or emergency reserve power for a community and the utility
20 certificated to serve that community has formally recommended approval of the loan
21 application;

22 (3) to a borrower for a power project if

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

24 (B) the party that will be responsible for the power project is an electric
25 utility, regional electric authority, municipality, [CITY, BOROUGH,] regional or village
26 corporation, village council, municipal school district, regional educational attendance
27 area, regional housing authority, business enterprise, or nonprofit marketing
28 cooperative; and

29 (C) the borrower seeking the loan demonstrates to the authority that the
30 financing arrangement for the power project will reduce project financing costs below
31 costs of comparable public power projects.

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

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

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

6 (2) standards regarding the technical and economic viability and revenue self-
7 sufficiency of eligible projects;

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

9 (4) the terms and conditions of loans;

10 (5) criteria to establish financial feasibility and to measure the amount of state
11 assistance necessary for particular projects to meet the financial feasibility criteria; and

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

13 * Sec. 6. AS 44.83.170(e) is amended to read:

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

21 * Sec. 7. AS 44.83.170(f) is amended to read:

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

24 (1) power projects for which loans are outstanding from the former water
25 resources revolving loan fund under former AS 45.86 on July 13, 1978, may receive additional
26 financing from the power project revolving loan fund; the additional financing, if granted, must
27 be

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

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

31 (C) conditioned on the repayment of loan principal and interest to begin

1 on the earlier of

2 (i) the date of the start of commercial operation of the
3 project; or

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

5 (2) loans for power projects shall be granted

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

7 (B) at an interest rate that is not less than five percent and that is the

8 lesser of

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

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

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

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

19 * **Sec. 9.** AS 44.83.170(i) is amended to read:

20 (i) Money in the power project revolving loan fund may be used by the legislature to
21 make appropriations for costs of administering the fund.

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

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

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

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

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

6 (c) The authority may notify the head of an agency of the state, in writing, that a
7 municipality is in default on the repayment of principal or interest on amounts financed by the
8 sale of bonds under this section. After the notice is given, and notwithstanding any other
9 provision of law, the agency shall, to the extent that the municipality is in default, withhold
10 payment of money that the municipality would otherwise be entitled to receive, and shall pay the
11 money to the authority to pay principal and interest on bonds of the authority issued under this
12 section.

13 (d) If a utility is a borrower from the power project revolving loan fund and is in default
14 on the repayment of principal or interest on amounts financed by the sale of bonds under this
15 section, the authority may, to the extent of the utility's default, withhold any payments owing to
16 the utility under the power cost equalization program (AS 44.83.162 - 44.83.164), and shall pay
17 the money to the power project revolving loan fund.

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

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

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

22 (2) the issuance of

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

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

26 (3) an appropriation from the general fund

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

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

29 (4) a loan from the general fund;

30 (5) financing arrangements with other entities using leveraged leases or other
31 financing methods;

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

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

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

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

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

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

11 (2) is based on a plan of finance that requires the issuance of general obligation
12 bonds or other pledge of the credit of the state.

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

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

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

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

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

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