

CS FOR SENATE BILL NO. 5 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 4/29/92
Referred: Finance

Sponsor(s): SENATOR ZHAROFF

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the energy authority revolving fund and to the powers and finances
2 of the Alaska Energy Authority; and providing for an effective date."

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

4 * Section 1. AS 37.05.146 is amended to read:

5 Sec. 37.05.146. DEFINITION OF PROGRAM RECEIPTS. In AS 37.05.142 - 37.05.146
6 and AS 37.07.080, "program receipts" means fees, charges, income earned on assets, and other
7 state money received by a state agency in connection with the performance of its functions; all
8 program receipts except the following are general fund program receipts:

9 (1) federal receipts;

10 (2) University of Alaska receipts (AS 14.40.491);

11 (3) individual, foundation, or corporation gifts, grants, or bequests that by their
12 terms are restricted to a specific purpose;

13 (4) receipts of the following funds:

14 (A) highway working capital fund (AS 44.68.210);

- 1 (B) correctional industries fund (AS 33.32.020);
2 (C) loan funds;
3 (D) international airports revenue fund (AS 37.15.430);
4 (E) funds managed by the Alaska Aerospace Development Corporation
5 (AS 14.40.821), the Alaska State Housing Authority (AS 18.55.020), the Alaska Housing
6 Finance Corporation (AS 18.56.020), the Alaska Railroad Corporation (AS 42.40.010),
7 the Alaska Energy Authority (AS 44.83.020), the Municipal Bond Bank Authority
8 (AS 44.85.020), or the Alaska Industrial Development and Export Authority
9 (AS 44.88.020);
10 (F) fish and game fund (AS 16.05.100);
11 (G) school fund (AS 43.50.140);
12 (H) training and building fund (AS 23.20.130);
13 (I) retirement funds (AS 14.25, AS 22.25, AS 26.05.222, AS 39.35, and
14 former AS 39.37);
15 (J) permanent fund (art. IX, sec. 15, Alaska Constitution);
16 (K) public school trust fund (AS 37.14.110);
17 (L) second injury fund (AS 23.30.040);
18 (M) fishermen's fund (AS 23.35.060);
19 (N) FICA administration fund (AS 39.30.050);
20 (O) [See effective date note] mental health trust fund (AS 37.14.031).

21 * Sec. 2. AS 44.25.020 is amended to read:

22 Sec. 44.25.020. DUTIES OF DEPARTMENT. The Department of Revenue shall

23 (1) enforce the tax laws of the state;

24 (2) collect, account for, have custody of, invest, and manage all state funds and
25 all revenues of the state except revenues incidental to a program of licensing and regulation
26 carried on by another state department;

27 (3) register cattle brands; and

28 (4) supply necessary clerical and administrative services for the Alcoholic
29 Beverage Control Board [; AND

30 (5) INVEST AND MANAGE THE BALANCE OF THE POWER
31 DEVELOPMENT FUND IN ACCORDANCE WITH AS 44.83.386].

1 * Sec. 3. AS 44.83.080 is amended by adding a new paragraph to read:

2 (17) to charge fees or other forms of remuneration for services or the recovery
3 of equity investments or capital costs for projects and activities described in (5), (6), and (8) of
4 this section in accordance with agreements described in (7) - (11) of this section, other
5 agreements pertaining to the projects, or with covenants or representations made in bond
6 documents pertaining to the projects or loan programs.

7 * Sec. 4. AS 44.83.090 is amended by adding a new subsection to read:

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

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

11 Sec. 44.83.107. ENERGY AUTHORITY REVOLVING FUND. (a) The energy
12 authority revolving fund is established in the authority. The revolving fund consists of

- 13 (1) appropriations made to the revolving fund by the legislature;
14 (2) money or other assets transferred to it by the authority;
15 (3) unrestricted payments on loans made or purchased by the authority;
16 (4) income and interest on amounts in the fund; and
17 (5) all revenue of the authority not otherwise required to pay the expenses of
18 authority projects.

19 (b) The board of directors of the authority may establish operations and self-insurance
20 reserve accounts within the revolving fund.

21 (c) Unless otherwise expressly stated, the funds created in this chapter, including the
22 power project fund, are accounts of the revolving fund. The authority may create additional
23 funds or accounts either within the revolving fund or outside the fund. Subject to agreements
24 made with the holders of the authority's bonds or with other persons, the authority may transfer
25 amounts in a fund or account in the revolving fund to another fund or account in the revolving
26 fund.

27 (d) The authority has the powers and responsibilities established in AS 37.10.071 with
28 respect to the investment of amounts held in the revolving fund.

29 (e) The authority may

- 30 (1) pledge amounts in the revolving fund; or
31 (2) enter into agreement with respect to the revolving fund that it considers

1 necessary to secure its bonds.

2 (f) The authority may spend amounts from the revolving fund for any purpose authorized
3 by this chapter. However, not more than 10 percent of the balance in the revolving fund,
4 determined as of the end of the preceding fiscal year, may be used for equity investment in a
5 project or program unless the project or program is expressly authorized by the legislature under
6 AS 44.83.185 or unless the legislature has appropriated the amount to the fund for the specific
7 purpose.

8 (g) The legislature may appropriate amounts in the revolving fund to the authority for
9 the cost of administering the fund.

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

11 (a) There is established [AS A SEPARATE FUND] the power project fund. The fund
12 consists of

13 (1) appropriations to the fund;

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

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

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

17 (5) other money deposited in the fund as directed by resolution of the board
18 of directors of the authority [THAT SHALL BE DISTINCT FROM ANY OTHER MONEY
19 OR FUNDS OF THE AUTHORITY, AND THAT INCLUDES ONLY MONEY
20 APPROPRIATED BY THE LEGISLATURE].

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

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

23 (1) to electric utilities, gas utilities, regional electric authorities, municipalities,
24 [CITIES, BOROUGHs,] regional and village corporations, village councils, and nonprofit
25 marketing 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 electric or gas transmission and
31 distribution facilities, including energy production, transmission, and distribution, and

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

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

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

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

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

12 (A) the loan is entered into under a [LEVERAGED LEASE] financing
13 arrangement that the authority considers provides satisfactory assurance of
14 repayment;

15 (B) the party that will be responsible for the power project is an electric
16 utility, gas utility, regional electric authority, municipality, [CITY, BOROUGH,] regional
17 or village corporation, village council, municipal school district, regional educational
18 attendance area, regional housing authority, business enterprise, or nonprofit
19 marketing cooperative; and

20 (C) the borrower seeking the loan demonstrates to the authority that the
21 financing arrangement for the power project will reduce project financing costs below
22 costs of comparable public power projects;

23 (3) to municipal school districts, regional educational attendance areas,
24 regional housing authorities, and business enterprises to pay the cost of

25 (A) waste energy conservation facilities;

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

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

29 (D) electric or gas distribution facilities for housing developments by
30 regional housing authorities;

31 (E) power generation facilities if those facilities provide wholesale

1 power or emergency reserve power for a community and if the utility certificated to
2 serve that community formally recommends approval of the loan application.

3 * Sec. 8. AS 44.83.179 is repealed and reenacted to read:

4 Sec. 44.83.179. REVIEW OF RECONNAISSANCE STUDY BY BOARD OF
5 DIRECTORS. The board of directors of the authority shall review reconnaissance studies of
6 proposed projects of the authority and shall make a written report. The report must include
7 findings and recommendations on whether to start, terminate, delay, modify, or continue a project
8 and must consider the costs of those actions. The authority shall maintain a record of decisions
9 made with respect to reconnaissance studies as part of its formal archives of board actions.

10 * Sec. 9. AS 44.83.181(a) is amended to read:

11 (a) The [UNLESS THE RECONNAISSANCE STUDY HAS BEEN DISAPPROVED BY
12 THE OFFICE OF MANAGEMENT AND BUDGET UNDER AS 44.83.179, THE] authority shall
13 complete a feasibility study and plan of finance for each [PROPOSED] project approved under
14 AS 44.83.179.

15 * Sec. 10. AS 44.83.181(b) is amended to read:

16 (b) A feasibility study must include

17 (1) information about the proposed project, including but not limited to estimates
18 of total project construction costs, total project operating costs, the costs of transmission systems,
19 a comparison of the economic costs and benefits affecting project feasibility [AND
20 RESERVE POWER REQUIREMENTS, THE TIMING AND AMOUNT OF ANTICIPATED
21 RETURNS FROM THE COMPLETED PROJECT, A BENEFIT-TO-COST RATIO], the
22 potential effect of the project on the environment of the area that will be served by the project
23 when completed [, AND THE AVAILABILITY OF ALTERNATIVE GOVERNMENT
24 FINANCING];

25 (2) a statement of all assumptions that affect the economic feasibility of the
26 project, including but not limited to the discount rate to be used for project evaluation [AND
27 INTEREST RATE OF AMOUNTS OF MONEY TO BE USED FOR THE PROJECT],
28 anticipated fuel prices, [AN ESCALATION RATE, STATE AND LOCAL] anticipated electric
29 loads in the affected project area [LOAD GROWTH], and estimates of indirect costs and
30 benefits; and

31 (3) a comparative analysis of all reasonable alternatives to construction of the

1 proposed project [; AND

2 (4) INFORMATION BASED ON ENGINEERING AND DESIGN WORK THAT
3 MEETS THE REQUIREMENTS FOR SUBMISSION OF A LICENSE APPLICATION FOR
4 THE PROJECT TO THE FEDERAL ENERGY REGULATORY COMMISSION].

5 * Sec. 11. AS 44.83.181(c) is repealed and reenacted to read:

6 (c) The plan of finance must include an estimate of the

7 (1) total cost of the project and a description of the sources of money that will
8 be used to finance the total cost of the project;

9 (2) operating cost of the project and a description of the source of the money that
10 is to be used to pay the operating [THIS] cost.

11 * Sec. 12. AS 44.83.181(e) is amended to read:

12 (e) The authority [, IN CONSULTATION WITH THE OFFICE OF MANAGEMENT
13 AND BUDGET,] shall adopt regulations defining

14 (1) the techniques that it shall apply to determine that the information required
15 by (b) - (d) of this section is obtained; and

16 (2) standard criteria and measures for comparative analysis of alternative financing
17 arrangements.

18 * Sec. 13. AS 44.83.187(a) is amended to read:

19 (a) The provisions of AS 44.83.177 - 44.83.185 [AND 44.83.189] apply only to a
20 proposed new project that will generate more than 1.5 megawatts of power and

21 (1) requires an appropriation from the state general fund, from the power project
22 fund, or from the renewable resources funds; or

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

25 * Sec. 14. AS 44.83.187(b) is amended to read:

26 (b) The provisions of AS 44.83.177 - 44.83.185 [AND 44.83.189] apply to a project that
27 generates more than 25 megawatts of power for which the authority will issue its revenue bonds
28 for costs of construction.

29 * Sec. 15. AS 44.83.187(d) is amended to read:

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

31 (1) an addition, modification, repair, reconstruction, design, acquisition, or

1 construction for the purpose of completing a project:

2 (2) the construction of a gas or [AN] electrical transmission or distribution
3 facility that is estimated to cost \$10,000,000 or less;

4 (3) the construction of a gas or electrical transmission line or distribution
5 facility that does not require state funds for construction [THAN \$3,000,000].

6 * Sec. 16. AS 44.83.187 is amended by adding a new subsection to read:

7 (e) For purposes of this section, a new project does not include

8 (1) an addition to or modification of an existing project unless the total cost of
9 the addition or modification exceeds \$10,000,000;

10 (2) repair or reconstruction of a project; or

11 (3) design, acquisition, or construction necessary to complete a project for which
12 bonds have been issued.

13 * Sec. 17. AS 44.83.500(a) is amended to read:

14 (a) There is established in the Alaska Energy Authority the power development revolving
15 loan fund [TO CARRY OUT THE PURPOSE OF AS 44.83.500 - 44.83.530. THE FUND MAY
16 BE USED FOR NO OTHER PURPOSE].

17 * Sec. 18. AS 44.83.940 is amended to read:

18 Sec. 44.83.940. ANNUAL REPORT. Before March 1 of each year, the authority shall
19 submit to the governor and the legislature a comprehensive report for the preceding 12-month
20 period describing operations, income, and expenditures, including a detailed accounting of the
21 loans and investment made from, and the income received by, the revolving fund
22 (AS 44.83.107) [FOR THE PRECEDING 12-MONTH PERIOD].

23 * Sec. 19. AS 44.83.950(a) is amended to read:

24 (a) Notwithstanding any other provision in this chapter, only the operating budget of
25 the authority is subject to the provisions of AS 37.07 (Executive Budget Act).

26 * Sec. 20. AS 44.83.990 is amended by adding a new paragraph to read:

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

31 * Sec. 21. In accordance with AS 44.83.185(c), and contingent on sec. 23 of this Act, the Alaska

1 Energy Authority is authorized to design and construct a 138 kilovolt electric transmission line between
2 Anchorage and the Kenai Peninsula at a cost of \$89,000,000 in 1992 dollars.

3 * Sec. 22. In accordance with AS 44.83.185(c), and contingent on sec. 23 of this Act, the Alaska
4 Energy Authority is authorized to design and construct a 138 kilovolt electric transmission line between
5 Healy and Fairbanks at a cost of \$82,000,000 in 1992 dollars.

6 * Sec. 23. The authorizations made in secs. 21 and 22 of this Act are contingent upon the execution
7 of written agreements between the Alaska Energy Authority and participating electric utilities providing
8 that the participating utilities agree to pay, for the electric transmission lines authorized by secs. 21 and
9 22 of this Act,

10 (1) the design and construction costs of the lines that are in excess of \$90,000,000; and

11 (2) the operation and maintenance costs of the lines.

12 * Sec. 24. AS 44.83.080(16)(G), 44.83.170(h), 44.83.189, 44.83.361, 44.83.363, 44.83.386,
13 44.83.388(b), 44.83.390, 44.83.392, 44.83.398(c), 44.83.920, 44.83.990(9) are repealed.

14 * Sec. 25. This Act takes effect July 1, 1992.